



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P.O. Box 468
Hamlin, WV 25523

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

October 23, 2008

Dear _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held October 1, 2008. Your hearing request was based on the Department of Health and Human Resources' action to deny your applications for Non-Emergency Medical Transportation (NEMT).

In arriving at a decision, the State Hearings Officer is governed by the Public Welfare Laws of West Virginia and the rules and regulations established by the Department of Health and Human Resources. These same laws and regulations are used in all cases to assure that all persons are treated alike.

Eligibility for the Non-Emergency Medical Transportation (NEMT) Program is based on current policy and regulations. Some of the regulations state that the OFA-NEMT-1 form may be used for verification of up to 4 trips. Each trip date must be entered in the space titled "Date of Appointment." (Chapter 19.3, B.7, of the Income Maintenance Manual) Regardless of the number of trips included on the form, all trips must have occurred within the 60-day period prior to the date the form is submitted to DHHR for payment. (WV Income Maintenance Manual section 19.3.B.7)

The information submitted at your hearing reveals that on your February 20, 2008 application, your physician's office failed to provide a date in the space titled "Date of Appointment" for the January 4, 2008 trip. On your March 10, 2008 application, you failed to submit the application for travel for the January 8, 2008 trip within sixty (60) days.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying both your Non-Emergency Medical Transportation reimbursement applications.

Sincerely,

Cheryl Henson
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Brenda Bailey, [REDACTED] DHHR

**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES
BOARD OF REVIEW**

_____,

Claimant,

v.

**Action Number: 08-BOR-1075 NEMT 2-20-08
08-BOR-2326 NEMT 3-10-08**

**West Virginia Department of
Health and Human Resources,**

Respondent.

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on October 13, 2008 for _____. This hearing was held in accordance with the provisions found in the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources. This fair hearing was convened on October 1, 2008 on timely appeals, filed March 11, 2008 and March 25, 2008.

II. PROGRAM PURPOSE:

The Program entitled Non-Emergency Medical Transportation (NEMT) is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

The Non-Emergency Medical Transportation (NEMT) program provides payment to or on behalf of eligible persons for transportation and other related expenses necessary to secure medical and other services covered by the Medicaid Program.

III. PARTICIPANTS:

_____, Claimant

Brenda Bailey, DHHR Representative

Presiding at the Hearing was Cheryl Henson, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question to be decided is whether the Department was correct in their action to deny the Claimant's requests for Non-Emergency Medical Transportation (NEMT) reimbursement for the dates of January 4, 2008 and January 8, 2008.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 19.3 B.7.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-A Department's Summary
- D-B OFA-NEMT-1 form dated February 20, 2008
- D-C Notification letters dated February 29, 2008
- D-D OFA-NEMT-1 received by DHHR on March 10, 2008
- D-E Notification letters dated March 24, 2008 and April 1, 2008
- D-F WV Income Maintenance Manual Section 19.3
- D-G Hearing Request forms and Attorney letters

Claimant's Exhibits:

None

VII. FINDINGS OF FACT:

- 1) The Claimant submitted to the Department two separate Non-Emergency Medical Transportation applications (D-B, D-D) on February 20, 2008 and March 10, 2008.
- 2) The first application (D-B), received on February 20, 2008 included three trips, specifically covering January 4, 2008, January 8, 2008, and February 5, 2008. The Department determined that the Claimant was eligible for reimbursement for the January 8, 2008 and February 5, 2008 trips, but denied the trip for the January 4, 2008 travel. The Department sent the Claimant a notification letter (D-C) on February 29, 2008 which included the following pertinent negative information:

ACTION: _____'s application for NEMT for 01/04/08 has been DENIED.

REASON: You did not turn in all requested information. The Date of Travel was not verified.

- 3) The second application (D-D), received on March 10, 2008 included several trips; however, the only trip in dispute is the one for the date of January 8, 2008. The Department denied this trip and sent the Claimant a notification letter (D-E) on March 24, 2008 which included the following pertinent information:

ACTION: _____'s application for NEMT for 01/08/08 has been DENIED.

REASON: This individual is already receiving this assistance.

The Department sent the Claimant a second notification letter (D-E) dated April 1, 2008 which included the following pertinent information:

ACTION: _____'s application for NEMT for 01/08/08 has been DENIED.

REASON: The date you traveled was more than sixty (60) days before the date you applied.

- 3) The Department contends they denied the travel on January 4, 2008 because the physician's office did not enter a date of appointment in the "Date of Appointment" field to verify the travel for the appointment. The Claimant contends that she was there on the date for the medical appointment and states she can provide verification from the physician's office. The Claimant was given until October 13, 2008 to provide verification to support her testimony. The Claimant submitted a one page document (C-1) by fax on October 17, 2008 which did not include verification from the physician's office. The form submitted is merely a handwritten cover sheet and does not provide any pertinent evidence.
- 4) The Department contends they denied the travel on January 8, 2008 because that date had previously been approved and because the application was submitted more than sixty (60) days after the actual travel occurred. The Claimant agrees with this denial and indicated she did not mean to apply for the same travel date again. She stated this was an oversight on her part, and she no longer has an issue with this particular denial.
- 5) WV Income Maintenance Manual Section 19.3 B.7 states in pertinent part:

The Application Form

The form may be used for verification of up to 4 trips. Each trip date must be entered in the space titled "Date of Appointment." Regardless of the number of trips included on the form, all trips must have occurred within the 60-day period prior to the date the form is submitted to DHHR for payment.

VIII. CONCLUSIONS OF LAW:

- 1) Policy is clear in that a “date of appointment” is required to be entered by the physician’s office into a specific section of the Non-Emergency Medical Assistance application, that being in the space titled “Date of Appointment.”
- 2) Policy also clearly states that trips must have occurred within the 60-day period prior to the date the form is submitted to the DHHR for payment.
- 3) It is clear that the “Date of Appointment” was not provided by the physician’s office on the application for travel on January 4, 2008. In regard to the second trip in question, that being January 8, 2008, the Claimant clearly has already been paid for the travel on this date, and she submitted her second request for payment more than sixty (60) days after the appointment.
- 3) The Department acted properly in denying the Non-Emergency Medical Transportation applications.

IX. DECISION:

After reviewing the information presented during the hearing, and the applicable policy and regulations, I am ruling to **uphold** the action of the Department in denying your applications for Non-Emergency Medical Transportation (NEMT) reimbursement.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant’s Recourse to Hearing Decision
Form IG-BR-29

ENTERED this 3rd Day of October, 2008.

**Cheryl Henson
State Hearing Officer**