



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
P.O. Box 970  
Danville, WV 25053

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

July 22, 2008

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear Ms. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held July 16, 2008. Your hearing request was based on the Department of Health and Human Resources' action to deny your application 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)

The information submitted at your hearing reveals that you provided an OFA-NEMT-1 form with all four sections for trips partially completed for the medical appointment of May 8, 2008; however none of the sections included a "trip date" in the space titled "Date of Appointment," which is the section the physician's office completes and signs.

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

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-1480**

**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 July 16, 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 July 16, 2008 on a timely appeal, filed May 19, 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  
\_\_\_\_\_, Claimant's spouse

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 request for Non-Emergency Medical Transportation (NEMT) reimbursement.

**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 May 8, 2008
- D-C Notification letters dated May 14, 2008 and May 15, 2008
- D-D WV Income Maintenance Manual Section 19.3

**Claimant's Exhibits:**

None

**VII. FINDINGS OF FACT:**

- 1) The Claimant submitted to the Department a Non-Emergency Medical Transportation application (D-B) dated May 8, 2008. This application was received by the Department on May 12, 2008. The Claimant entered the same information in all four of the sections titled "Verification of Travel and Attendance for NEMT." None of the four sections included the "trip date" in the section "date of appointment".

- 2) The Department sent the Claimant a denial letter (D-C) on May 14, 2008 which states in pertinent part:

Your application for Non-Emergency Medical Transportation for four trips has been denied effective May [sic], 2008.

Here is why: For the three trips to Dr. [REDACTED] the dates of the appointments were not provided. These dates are requested and are needed to verify the trips. Failure to provide them will result in the denial of the application.

For the fourth trip, the date of the trip was not provided, the name or address of the doctor was not provided and the doctor did not sign to verify the trip. Again, this information is requested because it is needed to verify both the trip and the mileage.

Therefore, failure to provide any of the requested information will result in denial of the non-emergency medical transportation application.

- 3) The Department sent the Claimant a second denial letter (D-C) on May 15, 2008 which states in pertinent part:

ACTION: \_\_\_\_\_'s application for NEMT for 05/08/08 has been denied.

REASON: Failed to complete the application.

These same entries were repeated in the letter for a total of four times. The Department testified that because there was no entry in the section marked "date of appointment," the Department assumed the entries were for four (4) separate trips. The Department contends that policy requires that a date be entered in the section marked "date of appointment," which is the section the physician completes and signs to verify that the appointment occurred on that date. Although the physician's signature is on the form, no "date of appointment" is entered.

- 4) The Claimant testified that the form was complete and indicated that although all four sections of the form were completed, the form was submitted for only one trip, that being the medical appointment on May 8, 2008. The Claimant contends that because the transportation provider signed the form with that date, it should have been sufficient verification for the Department to show that only one trip occurred on May 8, 2008 for that application. The Department contends that the transportation provider date only verifies that he signed the form on that date, and does not verify the actual date of appointment. The Claimant stated that she was told by a Department worker to complete all four sections each time she submitted the form, thus explaining why all four sections were completed for the same trip.

- 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 that a "date of appointment" is required to be entered into a specific section of the Non-Emergency Medical Assistance application, that being in the space titled "Date of Appointment."
- 2) It is clear that this information was not provided for this application.
- 3) The Department acted properly in denying the Non-Emergency Medical Transportation application.

**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 application 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 22<sup>nd</sup> Day of July, 2008.**

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**Cheryl Henson  
State Hearing Officer**