



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
2699 Park Avenue, Suite 100  
Huntington, WV 25704

Joe Manchin III  
Governor

Patsy A. Hardy, FACHE, MSN, MBA  
Cabinet Secretary

October 22, 2009

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held July 9, 2009. Your hearing request was based on the Department of Health and Human Resources' action to limit payment requested under the Non-Emergency Medical Transportation (NEMT) program.

In arriving at a decision, the State Hearing 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.

Some of the regulations for the NEMT program state that the Department may approve two round trips per hospitalization when a parent or family member chooses not to stay with the hospitalized patient. (West Virginia Income Maintenance Manual, Chapter 19.3.M.3)

Information submitted at your hearing revealed that you did choose not to stay with the hospitalized patient, and that the Department was correct to limit NEMT payment accordingly.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to approve a limited NEMT payment.

Sincerely,

Todd Thornton  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Kathy Marlow, Department Representative

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

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**Claimant,**

v.

**Action Number: 09-BOR-1145**

**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 22, 2009 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 9, 2009 on a timely appeal, filed April 23, 2009.

**II. PROGRAM PURPOSE:**

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  
Kathy Marlow, Department Representative

Presiding at the Hearing was Todd Thornton, State Hearing Officer and a member of the State Board of Review.

All persons offering testimony were placed under oath.

**IV. QUESTION TO BE DECIDED:**

The question to be decided is whether the Department is correct to limit payment to the Claimant under the NEMT program.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual, Chapter 19.3.M.3

**VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

None

**VII. FINDINGS OF FACT:**

- 1) The Claimant applied for payment on a series of trips under the Non-Emergency Medical Transportation (NEMT) program. These trips were from December 1, 2008 through January 26, 2009, on a daily basis, to visit the Claimant's child at the hospital. The Department approved payment for only one round trip – January 26, 2009 – at discharge. The Department failed to provide any notification documenting the denial of the remainder of the trips, the NEMT application in question, or the applicable policy.
- 2) The Claimant testified that her child – a newborn – was first in the hospital on November 20, 2008. She testified that she did not stay with her child during the hospitalization. The Department representative testified that because she did not stay with the patient, payment was only authorized for two round trips. Additionally, since the November 20, 2008 admittance trip was not submitted for payment, only the January 26, 2009 discharge trip could be paid.
- 3) Policy from the West Virginia Income Maintenance Manual, located at the time in Chapter 19.3.M.3 (*presently Chapter 27.13.C*), states, in pertinent part:

3. Requests Which Require Approval By The Worker

The following must be approved by the local DHHR Worker:

- Transportation of an immediate family member (parent, spouse, or child of the patient) to accompany and/or stay with the patient at a medical facility when the need to stay is based on medical necessity and documented by the physician. Exceptions require supervisory approval.
- Two round trips per hospitalization (1 for admittance and 1 for discharge) when the parent or family member chooses not to stay with the patient.

- 4) The Claimant testified that although she did not stay with her child during the hospitalization, she did not 'choose' to not stay with her child. She testified that the hospital did not allow 24-hour visitation in the neonatal intensive care unit, where her child was a patient. She contended that the lack of accommodations at the hospital eliminated her choice in the matter, and that the policy limitation of two round trips did not apply to her situation. She testified that she was trying to work some at the time, and that she also was needed at home during this time to prepare the nursery for her child, and could not stay at the hospital for these reasons.

#### **VIII. CONCLUSION OF LAW:**

- 1) Policy dictates that NEMT payments be limited to one round trip each at admittance and discharge when a parent chooses not to stay with a hospitalized child. The argument that the Claimant had no choice because the hospital did not provide accommodations is unconvincing; the Claimant failed to show the absence of other lodging options. Further, when the Claimant testified that she was choosing to make round trips to the hospital so she could continue to work and prepare her child's nursery at home, she did not document a lack of choice, but instead her reasons for making that choice. Without an admittance trip submitted for payment, the action of the Department to limit the Claimant's NEMT payment to the single round trip at discharge is correct.

#### **IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the action of the Department to limit the Claimant's NEMT payment to one round trip at hospitalization discharge.

#### **X. RIGHT OF APPEAL:**

See Attachment

#### **XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this \_\_\_\_\_ Day of October, 2009.**

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**Todd Thornton  
State Hearing Officer**