



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 Washington Street, West
Charleston, WV 25313

Joe Manchin III
Governor

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

December 1, 2009

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held December 1, 2009. Your hearing request was based on the Department of Health and Human Resources' action to deny full payment for miles traveled for certain Non-Emergency Medical Transportation (NEMT) applications.

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 when comparable treatment may be obtained at a facility closer to the patient's home than the one he chooses, mileage reimbursed is limited to the distance to the nearest facility. (Chapter 27.13.D of the WV Income Maintenance Manual)

The information submitted at your hearing reveals that although comparable treatment was available closer to your home, you chose to travel to destinations outside the area in order to obtain treatment for the trips in question which resulted in more mileage expense. Policy provides that the Department may reimburse you for the travel based on the distance of travel to the closest facility.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in reducing your NEMT payments for the period in question.

Sincerely,

Cheryl Henson
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Deborah Krazyk, [REDACTED] DHHR

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

-----,

Claimant,

v.

Action Number: 09-BOR-1880

**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 December 1, 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 December 1, 2009 on a timely appeal, filed July 10, 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

Deborah Krazyk, Department 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 reduce the amount of miles reimbursed for Non-Emergency Medical Transportation for trips traveled from March 4, 2009 through June 4, 2009.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 27.13.D

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 WV Income Maintenance Manual Section 27.13
- D-2 Case Comments for June 2006 and informational insert
- D-3 Non-Emergency Medical Transportation application date stamped March 3, 2009
- D-4 Non-Emergency Medical Transportation application date stamped March 3, 2009
- D-5 Non-Emergency Medical Transportation application date stamped April 16, 2009
- D-6 Non-Emergency Medical Transportation application date stamped June 26, 2009
- D-7 Case Comments for May 2006 through November 2006 and notification letter dated December 1, 2009

Claimant's Exhibits:

None

VII. FINDINGS OF FACT:

- 1) The Claimant submitted to the Department numerous Non-Emergency Medical Transportation (NEMT) applications (D-3, D-4, D-5, and D-6). The specific trips in question include fifteen (15) trips beginning March 4, 2009 and ending June 4, 2009 to medical facilities outside the Claimant's local area. For these trips, the Department determined that the Claimant was traveling away from her local area for medical treatment that is available closer to her home. Having determined this, the Department reduced the mileage reimbursement payment for the specific trips in question to represent payment for travel to a comparable facility closer to the Claimant's home.
- 2) The Department presented as evidence policy from the West Virginia Income Maintenance Manual §27.13.G.1 states in pertinent part:

...mileage is limited to the nearest comparable facility for services for routine services such as allergy shots, blood pressure readings, etc., when the physician has not specified that a specific facility must be paid.

- 3) The Department's position is that when comparable treatment is available closer to the applicant's home, policy provides that mileage reimbursement must be reduced to the amount required to travel to the nearest facility. The Department representative testified that the amounts were reduced based on this policy and that no allowance is made for when someone does not trust facilities that are closer to their home.
- 4) The Claimant's position is that the NEMT applications do not state this specific policy and that she does not trust the physicians in her local area. The applications do not specifically notify the applicant of this policy limitation. The application, under "APPLICANT RESPONSIBILITIES AND SIGNATURE" reads:

I understand that I am to use the least expensive transportation available, taking into consideration my physical condition and the travel locations.

The Claimant testified that she previously lived in the [REDACTED] area and has been seeing physicians there for the last seventeen (17) years, and has various medical conditions. She added that the policy cited by the Department in 27.13.G.1 refers to "routine services" such as allergy shots and blood pressure readings. She testified that she is seeing specialists including a Pulmonologist in that area and that this policy should not apply to her situation.

- 5) The West Virginia Income Maintenance Manual §27.13.D states in pertinent part:

Applicants may request reimbursement for costs related to automobile travel, such as mileage, tolls, and parking fees when free parking is not available. The travel must be for scheduled appointments and treatment. Mileage is paid from the patient's home to the facility and back to the home. When comparable treatment may be obtained at a facility closer to the patient's home than the one he chooses, mileage reimbursed is limited to the distance to the nearest facility.

- 6) The Claimant also purported that although she had asked for continued benefits until a decision was rendered, the Department had not reimbursed her fully for the trips from March 4, 2009 through April 7, 2009. The Department acted promptly (D-7) and took action to reimburse the Claimant the day of the hearing for these trips.

VIII. CONCLUSIONS OF LAW:

- 1) Policy is clear in that when comparable treatment may be obtained at a facility closer to the patient's home than the one he chooses, mileage reimbursement is limited to the distance to the nearest facility.
- 2) The Claimant clearly traveled greater distances to medical facilities for treatment for the fifteen (15) timeframes in consideration. She chose to do so because she trusts the facilities and has been seeing the physicians there for many years. Although these reasons are understandable and she is certainly free to make that choice, the Department's policy does not make allowances for exceptions which would allow full reimbursement for travel in these instances.
- 3) The Department is found to have acted properly in reducing the Claimant's fifteen (15) Non-Emergency Medical Transportation reimbursement payments.

IX. DECISION:

I am ruling to **uphold** the action of the Department in reducing the Claimant's fifteen (15) Non-Emergency Medical Transportation reimbursement payments for the period of March 4, 2009 through June 4, 2009.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

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

ENTERED this 1st Day of December 2009,

**Cheryl Henson
State Hearing Officer**