



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
1027 N. Randolph Ave.,  
Elkins, WV 26241

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

March 17, 2009

-----  
-----  
-----

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held March 4, 2009. Your hearing request was based on the Department of Health and Human Resources' action to deny Non-Emergency Medical Transportation (NEMT) reimbursement for costs associated with your January 2009 trip to Cleveland Clinic.

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.

Eligibility for the NEMT Program is based on current policy and regulations. Some of these regulations state that the transportation, lodging and meal expenses of an immediate family member to accompany and/or stay with a patient at a medical facility can be approved by the worker based on medical necessity. Exceptions require supervisory approval. (West Virginia Income Maintenance Manual Chapter 19.3)

Information submitted at your hearing reveals that the Department incorrectly denied payment for lodging, meals and parking fees incurred by your attendant during your hospitalization.

It is the decision of the State Hearing Officer to **reverse** the action of the Department in denying your application for NEMT benefits.

Sincerely,

Pamela L. Hinzman  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Lois Francis, ESS, DHHR

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

-----,

**Claimant,**

v.

**Action Number: 09-BOR-625**

**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 March 17, 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 March 4, 2009 on a timely appeal filed February 2, 2009.

**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 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's boyfriend and hearing representative

-----, Claimant's neighbor/friend

Lois Francis, Economic Service Supervisor, DHHR

Presiding at the hearing was Pamela L. Hinzman, 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 its action to deny the Claimant's application for NEMT benefits.

#### **V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual Chapter 19.3

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

##### **Department's Exhibits:**

- D-1 Notice of Decision dated January 29, 2009
- D-2 West Virginia Income Maintenance Manual Chapter 19.3
- D-3 NEMT application received by DHHR on January 20, 2009 with associated receipts
- D-4 Hearing information
- D-5 RAPIDS computer system case comments

#### **VII. FINDINGS OF FACT:**

- 1) The Claimant submitted an application (D-3) for Non-Emergency Medical Transportation, hereinafter NEMT, to receive reimbursement for expenses associated with her stay at Cleveland Clinic in Cleveland, Ohio. The Claimant had requested that the Department reimburse the cost of mileage, lodging, meals and parking fees incurred by her transportation provider, -----, for the period of January 4, 2009 through January 16, 2009.
- 2) The Economic Service Supervisor testified that the Department approved reimbursement for mileage and one day of lodging, meals and parking fees. She explained that the Department denied payments for additional lodging, meal and parking fees because the Claimant and her transportation provider did not seek prior authorization for reimbursement of additional overnight stays. The supervisor provided Exhibit D-5, case comments from the Rapids computer system dated December 26, 2008, which were entered by the previous Economic Service Supervisor. The comments state "1 trip approved to Cleveland Clinic for -----'s hosp. stay. Mileage, lodging, meals and parking approved. Pd to -----."
- 3) The Department notified the Claimant of the denial of additional payments in a Notice of Decision dated January 29, 2009 (D-1).

- 4) The Claimant's boyfriend/transportation provider contended that he had informed the Department he was transporting the Claimant – who has acute pancreatitis - to Cleveland Clinic for follow-up treatment and that the stay could be extended, depending on how the Claimant tolerated the procedure. He indicated that the Claimant had become ill from procedures in the past. The Claimant provided several lodging and parking receipts, along with a statement from Dr. [REDACTED] dated January 27, 2009, which states:

This is to confirm that ----- was hospitalized at Cleveland Clinic from 1/5/09 to 1/16/09. During this time, her husband ----- accompanied her and stayed in Cleveland, Ohio. It is usual practice that one attendant stays with the patient during hospitalization.

The Claimant's boyfriend testified that the Claimant has no immediate family members.

- 5) The Economic Service Supervisor maintained that the Claimant failed to telephone the Department to seek prior authorization for reimbursement after he became aware that the Claimant's reaction to treatment would require her extended hospitalization. She testified that the NEMT application (D-3) includes a statement indicating that prior approval must be obtained for lodging.
- 6) West Virginia Income Maintenance Manual Section 19.3, M, 2 and 3 states, in part:

**2. Transportation Requiring Prior Approval From BMS**

All requests for out-of-state transportation and certain related expenses must have prior approval from the Bureau for Medical Services, Case Planning Unit, except for travel to those facilities which have been granted border status and thus are considered in-state providers. The current list of providers with border status is located in Appendix C. The Worker must contact BMS at 558-7311 for the status of any facility not listed.

### **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.
- Lodging.
- Meals only when lodging is approved.
- Transportation via common carrier judged to be the most economical. If the applicant insists on incurring expenses beyond those approved by the Department, the Worker must inform the applicant that such costs will not be reimbursed.

West Virginia Income Maintenance Manual Chapter 19, Appendix C states that Cleveland Clinic is considered a border hospital for Medicaid purposes.

- 7) West Virginia Income Maintenance Manual Chapter 19.3, B, 5 states that a Medicaid recipient must obtain pre-authorization as necessary to be reimbursed for transportation and related expenses.
- 8) West Virginia Income Maintenance Manual Chapter 19.3, B, 7 states that when prior approval is required, the applicant may apply in person at the local DHHR office so that the required documentation can be made and/or obtained. Coordination of the process may be facilitated by telephone and/or fax with BMS and the physician, as necessary.

### **VIII. CONCLUSIONS OF LAW:**

- 1) Policy states that a DHHR worker must approve NEMT payments for the transportation, lodging and meals 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. Lodging and meals may also be approved by the worker.

- 2) The Claimant's boyfriend/transportation provider testified that he had informed the Department the Claimant's stay at Cleveland Clinic may be extended based on her intolerance of past procedures related to her medical condition. Case comments simply state that the former Economic Service Supervisor approved "one trip" to the Cleveland Clinic.

Based on his knowledge of the Claimant's condition and her previous reactions to treatment, it is reasonable that the Claimant's boyfriend was aware of the potential for an extended hospital stay and case comments neither confirm nor negate his contention that he informed the Department of this possibility. The Claimant also provided a statement from her physician indicating that it is "usual practice for one attendant to stay with a patient during hospitalization." Based on the distance of the hospital from the Claimant's home, it is reasonable to believe that the Claimant required an attendant to stay with her during her illness.

- 3) While the NEMT application itself states that prior approval must be obtained for an attendant to stay with an applicant at a medical facility, policy does not specifically state that prior authorization must be obtained for this reimbursement when the hospital has border status. Section 19.3, M, 2 specifically states that **prior approval must be obtained from the Bureau for Medical Services for out-of-state travel to a facility that does not have border status.** However, policy in Section 19.3, M, 3 states that requests for lodging and expenses for an immediate family member to accompany the patient to other medical facilities requires "**approval by the worker.**" While the Claimant's boyfriend is not an immediate family member, the Claimant has no immediate family and the supervisor had approved him as an acceptable transportation provider to a border status-approved medical facility.
- 4) In addition to mileage and lodging reimbursement previously authorized, the Claimant is entitled to NEMT payment for all lodging, meals and parking expenses incurred by her transportation provider during her extended hospitalization at Cleveland Clinic during the period of January 5-16, 2009.

## IX. DECISION:

It is the decision of the State Hearing Officer to **reverse** the action of the Agency in denying the Claimant's application for NEMT benefits. The Department is directed to reimburse the Claimant for lodging, meals and parking expenses incurred by the Claimant's boyfriend/transportation provider during a stay at Cleveland Clinic from January 5, 2009 through January 16, 2009.

## X. RIGHT OF APPEAL:

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 17th Day of March, 2009.**

---

**Pamela L. Hinzman  
State Hearing Officer**