



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
150 Maplewood Avenue
Lewisburg, WV 24901**

**Joe Manchin III
Governor**

**Martha Yeager Walker
Secretary**

April 17, 2006

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held November 29, 2005. Your hearing request was based on the Department of Health and Human Resources' action to deny payments for 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.

Eligibility for the Non-Emergency Medical Transportation (NEMT) Program is based on current policy and regulations. Some of these regulations state as follows: Anyone may volunteer to provide transportation for Medicaid recipients for reimbursement of expenses only. However, DHHR may not reimburse any individual for more than 6,000 miles in any calendar year except as follows: 1) No public transportation is available and the recipient does not drive and has no one else who can provide transportation; and or 2) The patient requires frequent medical treatment (such as dialysis, chemotherapy, etc.) and local staff has approved the continued use of the same provider. (Section 19.3M #7 (f) of the West Virginia Income Maintenance Manual)

The information which was submitted at your hearing revealed that you were reimbursed for 6,000 miles in 2005. You did not meet one of the exceptions to allow payment for more than 6,000 miles.

It is the decision of the State Hearing Officer to uphold the action of the Department to deny payments for the Non-Emergency Medical Transportation (NEMT) Program.

Sincerely,

Margaret M. Mann
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Melissa Kennedy, DHHR

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

_____,
Claimant,

Action Number: 05-BOR-6748

**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 November 29, 2005 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 November 29, 2005 on a timely appeal, filed September 30, 2005.

It should be noted here that the claimant's NEMT application has been denied.

II. PROGRAM PURPOSE:

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

The purpose of the Non-Emergency Medical Transportation Program is to provide reimbursement of transportation and certain related expenses to eligible Medicaid and Children With Special Health Care Needs Program recipients for travel to and from medical care providers. Benefits consist of payments made to transportation providers at a certain mileage rate or to commercial carrier at the rates allowed by the Public Service Commission.

Certain related expenses are comprised of meal and lodging allowances in certain situations during the duration of the travel and medical treatment. Tolls incurred on turnpikes and bridges are also allowed for certain related expenses.

III. PARTICIPANTS:

_____, Claimant
Harold Beaver, Department Hearing Representative

Presiding at the Hearing was Margaret M. Mann, 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 is correct in the decision to deny NEMT payments as DHHR cannot reimburse any individual for more than 6,000 miles in any calendar year except for certain exceptions.

V. APPLICABLE POLICY:

Sections 19.3M #7 (f) of the West Virginia Income Maintenance Manual

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Section 19.3 of the West Virginia Income Maintenance Manual
- D-2 Notification Letters
- D-3 Case Comments dated 01/05/05 through 11/15/05 with tape calculating mileage

VII. FINDINGS OF FACT:

- 1) The claimant reached the 6,000 mile limit for NEMT reimbursement.
- 2) On 08/31/05 the case worker spoke with an individual from [REDACTED] and also [REDACTED] questioning whether transportation was available in the claimant's area. The case worker was told if the claimant would notify them of appointment date they would gladly transport her to any of her doctor appointments. (D-3) The claimant had previously stated there was no public transportation in her area.
- 3) A notification letter was sent to the claimant dated 09/23/05 notifying her that her application for Non-Emergency Medical Transportation had been denied. Reason: Anyone may volunteer to provide transportation for Medicaid recipients for reimbursement of expenses only. However, DHHR will not reimburse any individual for more than 6,000 miles in any calendar year except as follows..... (D-2)
- 4) A hearing request on the above matter was received 09/30/05. There were several denials on the same issue after the date of the hearing request.
- 5) Testimony from the claimant revealed that she lives about twenty miles out of [REDACTED] and the [REDACTED] bus does not come down through there. In order to meet the

bus, she has to drive her car and meet up with the bus. She has tried transportation through the Committee on Aging and [REDACTED] but they will tell you they will pick you up and then they don't show up. She has not tried [REDACTED] for a while. She has to go to the doctor in [REDACTED] She has a bowel problem and must exit the bus quickly. She carries extra clothes with her.

- 6) Testimony from Mr. Beaver revealed that they have a number of customers that use [REDACTED] and have experienced no problems getting to their doctor's appointments. You have to let them know ahead of time.
- 7) Section 19.3M #7 (f) of the West Virginia Income Maintenance Manual reads in part that anyone may volunteer to provide transportation for Medicaid recipients for reimbursement of expenses only. However, DHHR may not reimburse any individual for more than 6,000 miles in any calendar year except as follows: 1) No public transportation is available and the recipient does not drive and has no one else who can provide transportation; and or 2) The patient requires frequent medical treatment (such as dialysis, chemotherapy, etc.) and local staff has approved the continued use of the same provider.

VIII. CONCLUSIONS OF LAW:

- 1) Policy is clear in that with a couple of exceptions, DHHR may not reimburse any individual for more than 6,000 miles in any calendar year.
- 2) The claimant has been reimbursed for 6,000 miles in 2005.
- 3) There was no testimony or evidence provided that would grant one of the exceptions to the above policy.

IX. DECISION:

It is the finding of the State Hearing Officer that the Department is upheld in the decision to deny the claimant's application for NEMT due to the fact she exceeded 6,000 miles in a calendar year.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 17th Day of April, 2006.

**Margaret M. Mann
State Hearing Officer**