



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

January 18, 2007

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held December 13, 2006. 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 NEMT is a reimbursement program for recipients of Medicaid and Children with Special Health Care Needs (CSHCN) for the cost of transportation and other expenses associated with receiving medical services covered by Medicaid. The regulations also state that DHHR will not reimburse individuals for more than 6,000 miles in any calendar year unless no public transportation is available and the recipient does not drive and no one else can provide transportation; and/or the patient requires frequent medical treatment. (Chapter 19.3,M.7.f, of the Income Maintenance Manual)

The information submitted at your hearing reveals that you have been reimbursed for 7,832 miles of medical transportation for 2006, public transportation is available in your area, and you are not required to attend frequent medical treatments. The Department appropriately denied the application for Non-Emergency Medical Transportation reimbursement.

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 McKinney
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Henrietta Martin, [REDACTED] DHHR

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

_____ ,

Claimant,

v.

Action Number: 06-BOR-3333

**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 13, 2006 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 13, 2006 on a timely appeal, filed November 15, 2006.

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
Henrietta Martin, _____ DHHR Representative

Presiding at the Hearing was Cheryl Mckinney, 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 M.7.f

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Department's Summary
- D-2 WV Income Maintenance Manual Section 19.3 M.7.f
- D-3 Case Comments dated February 2, 2006
- D-4 Case Comments dated February 2, 6 and 8, 2006
- D-5 Case Comments dated February 8, 15 and March 17, 2006
- D-6 Case Comments dated March 17, 2006
- D-7 Case Comments dated March 17, 2006
- D-8 Case Comments dated March 22, 2006
- D-9 Case Comments dated April 18, 2006
- D-10 Case Comments dated April 18 and May 24, 2006
- D-11 Case Comments dated May 24, 2006
- D-12 Case Comments dated May 24 and July 12, 2006
- D-13 Case Comments dated July 12, 2006
- D-14 Case Comments dated July 12 and September 1, 2006
- D-15 Case Comments dated September 1, 2006
- D-16 Case Comments dated September 1 and October 19, 2006
- D-17 Case Comments dated October 19, 2006
- D-18 Case Comments dated October 20, 2006
- D-19 Case Comments dated October 26, 2006
- D-20 Case Comments dated October 26 and November 14, 2006
- D-21 Case Comments dated November 14 and 16, 2006

Claimant's Exhibits:

None

VII. FINDINGS OF FACT:

1) The Claimant is a recipient of Medicaid based on disability, and has been receiving reimbursements from the Department through the Non-Emergency Medical Assistance program for medical trips taken during the year 2006. The Department processed a Non-Emergency Medical Transportation application for the Claimant on November 14, 2006 and denied payments for medical trips taken October 31, 2006, November 1, 2 and 7, 2006.

2) The Department sent Claimant a denial letter on November 14, 2006 that stated as follows:

Your application for Non-Emergency Medical Transportation Program has been denied effective for trips on 10/31/06, 11/01/06, 11/02/06, & 11/07/06.

Here is why: DHHR will not reimburse any individual for more than 6,000 miles in any calendar year except as follows:

No public transportation is available and the recipient does not drive and has no one else who can provide transportation; and/or the patient requires frequent medical treatment (such as dialysis, chemotherapy, etc.) and local staff has approved the continued use of the same provider.

We show you have been paid for 7600 miles for this calendar year 2006 already. This exceeds your limit by 1600 miles. There is currently no repayment procedure for the Non-Emergency Medical Transportation (NEMT).

3) The Department presented testimony and evidence that Claimant has been reimbursed for 7,832 medical transportation miles for the year 2006.

4) The Claimant testified that he traveled the same amount of miles in 2004 and 2005 and was never denied, and should not have been denied this time as he was unaware of the policy at the time. The Claimant testified that he is aware that public transportation is available to him, and he does not require frequent medical treatment as described in the policy listed in 19.3

5) WV Income Maintenance Manual Section 19.3 M.7.f states in pertinent part:

f. Limitations and Restrictions

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:

- No public transportation is available and the recipient does not drive and has no one else who can provide transportation; and/or
- 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 that DHHR will not reimburse individuals for more than 6,000 medical transportation miles unless they meet one of the exceptions to this rule listed in WV Income Maintenance Manual Section 19.3 M.7.f. The Claimant does not meet any of the exceptions listed. Public transportation is available to the Claimant and he does not require frequent medical treatments such as dialysis, chemotherapy, etc.
- 2) Although the client was unaware of the policy limiting the number of medical transportation miles that can be reimbursed in a calendar year, the policy does not allow an exception for this reason.
- 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 17th Day of January 2007.

**Cheryl McKinney
State Hearing Officer**