



**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**

March 22, 2007

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held March 13, 2007. Your hearing request was based on the Department of Health and Human Resources' decision 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: Reimbursement for transportation and related expenses is available to Medicaid recipients who: 1) Require transportation to keep an appointment for medical services covered under Medicaid coverage for which he was approved; 2) Receive scheduled Medicaid-covered services at a clinic, hospital or doctor's office; 3) Receive pre-authorization as necessary; and 4) Comply with the 60-day application submittal deadline. (Section 19.3 #5 of the West Virginia Income Maintenance Manual)

The information which was submitted at your hearing revealed that you made several trips to VA Medical Centers. The services provided were not charged to Medicaid.

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
Jennifer Phillips, DHHR

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

_____,
Claimant,

Action Number: 07-BOR-506

**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 13, 2007 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 13, 2007 on a timely appeal, filed December 26, 2006. It should be noted that this hearing was originally scheduled for January 24, 2007. The hearing date was changed by the State Hearing Officer twice due to inclement weather. These dates were February 2, 2007 and March 13, 2007.

It should be noted here that the claimant's NEMT applications have been denied for trips made to several Veteran's Administration facilities.

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 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

Claimant's Witness:

[REDACTED]

Jennifer Phillips, Department Hearing Representative

Department's Witness:

Tracy O'Dell, Economic Service Worker

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 trips were not covered by Medicaid.

V. APPLICABLE POLICY:

Sections 19.3B #5 of the West Virginia Income Maintenance Manual

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing Request dated 12/26/2006
- D-2 OFA-NEMT-1 received 11/22/2006
- D-3 OFA-NEMT-1 received 11/02/2006
- D-4 Notice of Decision dated 12/05/2006
- D-5 Notice of Decision dated 12/07/2006
- D-6 West Virginia Income Maintenance Manual Section 19.3B #5
- D-7 Department's Summary

VII. FINDINGS OF FACT:

- 1) Testimony from the Department's Representative revealed that the Claimant turned in Non-Emergency Medical Transportation forms on 11/02/2006 and 11/22/2006. (Exhibits D-2 & D-3) Trips were made on 10/26/2006, 10/30/2006, 11/02/2006, 10/31/2006, 10/27/2006, 10/24/2006, 10/20/2006, and 11/09/2006 to VA Medical Centers. From the form turned in on 11/22/2006, trips were made on 11/09/2006 and 11/01/2006 to VA Medical Centers. The VA Centers do not bill Medicaid. She called the [REDACTED] to verify this information. Since these visits were not billed to Medicaid, the Claimant cannot be reimbursed.

- 2) The Claimant was notified of the denial of the above payments in notification letters dated 12/05/2006 and 12/07/2006. Reason: The medical service obtained is not covered by Medicaid, therefore your request for payment is denied. (Exhibits D-4 and D-5)
- 3) Testimony from the Claimant and his witness revealed that they thought all of the above trips were pre-approved. The VA Medical Center took a copy of his medical card. He needed to keep the medical appointments at the VA hospitals in Clarksburg and Pittsburgh.
- 4) Testimony from the Department's representative and case worker revealed that there is no record of the above trips being pre-approved. There is no documentation in case comments that the trips were approved.
- 5) Section 19.3B #5 of the West Virginia Income Maintenance Manual reads in part that the services provided under this program include reimbursement for transportation and certain related expenses normally covered by Medicaid. Funding for this program is provided by three different sources: 1) Title XIX funds for all Medicaid recipients, including foster children; 2) Title V funds for non-Medicaid eligible recipients of the Children with Special Health Care Needs Program (CSHCN); and 3) Agency administrative funds for applicants for cash assistance or Medicaid who need a physical examination in order to complete the eligibility process. Reimbursement for transportation and related expenses is available to Medicaid recipients who: 1) Require transportation to keep an appointment for medical services covered under Medicaid coverage for which he was approved; 2) Receive scheduled Medicaid-covered services at a clinic, hospital or doctor's office; 3) Receive pre-authorization as necessary; and 4) Comply with the 60-day application submittal deadline.
- 6) Section 19.3M #1 of the West Virginia Income Maintenance Manual reads in part that when services are paid for by any other program, or otherwise not charged to Medicaid, NEMT is not approved.
- 7) Section 19.3M #3 of the West Virginia Income Maintenance Manual reads in part that all requests for out-of-state transportation and certain related expenses must have prior approval from the Bureau for Medical Services.

VIII. CONCLUSIONS OF LAW:

- 1) Policy is clear in that reimbursement for transportation and related expenses is available to Medicaid recipients who: 1) Require transportation to keep an appointment for medical services covered under Medicaid coverage for which he was approved; 2) Receive scheduled Medicaid-covered services at a clinic, hospital or doctor's office; 3) Receive pre-authorization as necessary; and 4) Comply with the 60-day application submittal deadline. Policy also dictates that when services are paid for by any other program, or otherwise not charged to Medicaid, NEMT is not approved.
- 2) The Claimant made the trips to the VA hospitals in Clarksburg and Pittsburgh. There was no clear evidence or testimony presented at the hearing that shows the service was

covered by Medicaid. The Department worker confirmed the VA Hospital does not bill Medicaid.

- 3) The denial of the NEMT payments is valid.

IX. DECISION:

It is the finding of the State Hearing Officer that the Department is upheld in the decision to deny payment for the trips to the VA Medical Centers.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 22nd Day of March, 2007.

**Margaret M. Mann
State Hearing Officer**