



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General

Board of Review  
P.O. Box 1736  
Romney, WV 26757

Earl Ray Tomblin  
Governor

Michael J. Lewis, M.D., Ph.D.  
Cabinet Secretary

July 14, 2011

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Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held July 8, 2011. Your hearing request was based on the Department of Health and Human Resources' decision to deny your Non-Emergency Medical Transportation (NEMT) application for reimbursement for overnight lodging for March 17, 2011.

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 Non-Emergency Medical Transportation is based on current policy and regulations. These regulations provide that requests for overnight lodging require approval by the worker. Lodging may be paid for the patient and one additional person if the patient is not the driver. Lodging prior to the day of the appointment is determined necessary when the appointment is scheduled for 8:00 A.M. or earlier and travel time to the facility is 2 hours or more from the patient's home. Lodging may also be determined necessary when the patient is required to stay overnight to receive additional treatment.

The information which was submitted at your hearing revealed that the Department was incorrect to deny your request for overnight lodging for March 17, 2011.

It is the decision of the State Hearing Officer to **Reverse** the action of the Department to deny Non-Emergency Medical Transportation reimbursement for overnight lodging on March 17, 2011.

Sincerely,

Eric L. Phillips  
State Hearing Officer  
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review  
Penny Tinsman, Economic Service Supervisor

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

**IN RE:    -----,**

**Claimant,**

**v.**

**ACTION NO.: 11-BOR-1190**

**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 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 a timely appeal, filed April 11, 2011.

**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  
Penny Tinsman, Economic Service Supervisor (ESS)

Presiding at the hearing was Eric L. Phillips, State Hearing Officer and a member of the Board of Review.

All participants participated telephonically.

**IV.    QUESTION TO BE DECIDED:**

The question to be decided is whether or not the Department was correct in its decision to deny the Claimant's Non-Emergency Medical Transportation application for reimbursement of overnight lodging for March 17, 2011.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual Chapter 27.13

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

**Department's Exhibits:**

- D-1 Hearing Summary
- D-2 Application for Non-Emergency Medical Transportation Program (NEMT)
- D-3 Notice of Decision dated April 4, 2011 and April 5, 2011
- D-4 West Virginia Income Maintenance Manual Chapter 27.13 and 27.2

**VII. FINDINGS OF FACT:**

- 1) On March 30, 2011, the Claimant submitted Exhibit D-2, Application for the Non-Emergency Medical Transportation program, hereinafter NEMT, to the Department. This application is the Claimant's request for reimbursement of travel costs associated with his travel to [REDACTED] Hospitals, [REDACTED] West Virginia. It shall be noted that the information submitted for the hearing in Exhibit D-2 is incomplete and only conveys reimbursement for March 15, 2011. However, testimony during the hearing revealed that the Claimant's application for reimbursement included mileage, overnight lodging, and meals for the dates of March 15-18, 2011.

- 2) On April 4, 2011, the Department issued the Claimant Exhibit D-3, Notice of Decision which documents in pertinent part:

My supervisor Ann Hubbard requested that I send you a denial letter. Department of Health and Human Resources did not pay for your lodging for the night of 3/17/11 as the appointment on 3/18/11 was not before 8:00 A.M.

- 3) The Claimant testified that he required overnight lodging on March 15, 2011 through March 17, 2011 and submitted eight pages of requests for reimbursement for his travel cost with his NEMT application (Exhibit D-2). The Claimant stated that he scheduled eight different physician's appointments, several "labs" and three procedures completed during the four day timeframe, including a cystoscopy and a CT scan. The Claimant reported that he received reimbursement for overnight lodging for March 15 and 16, but was denied reimbursement of \$84.00 for his overnight lodging on March 17, 2011. The Claimant believed that his appointment on the last day of his trip was for a "fasting lab" which occurred around 8:00 A.M.

The Claimant indicated that his case worker, Lu Ann Jamison, had previously informed him that he was not required to contact her concerning his physician's appointments which required overnight lodging due to the frequency of his visits. The Claimant stated that he has at least five hours of drive time for a round trip from his home to Morgantown, WV and he combines all of his appointments because it is cost efficient to stay overnight instead of submitting travel reimbursement for 260 miles of round trip travel for each occasion.

- 4) Penny Tinsman, Economic Service Supervisor testified that any travel consisting of overnight lodging for medical appointments must have prior approval as long as the services were covered by Medicaid. Ms. Tinsman cited West Virginia Income Maintenance Policy 27.2 G which documents that prior approval is required for out-of-state travel and the applicant may apply in person at the local office. However, the Claimant's requests for reimbursement were for in state travel rendering this testimony irrelevant to the issue to be decided. Additionally, Ms. Tinsman added that overnight travel is approved for individuals whose appointments are scheduled for 8:00 A.M. or earlier.
- 5) West Virginia Income Maintenance Manual Chapter 27.13 documents in pertinent part:

### C. REQUEST WHICH REQUIRE APPROVAL OF 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 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 of incurring expenses beyond those approved by the Department, the Worker must inform the applicant that such cost will not be reimbursed

...

### 3. Lodging

When an overnight or longer stay is required, lodging may be paid for the patient and one additional person if the patient is not the driver. Accommodations must be obtained at the most economical facility available. Resources such as Ronald McDonald Houses or facilities operated by the hospital must be used whenever possible.

...

Lodging prior to the day of the appointment is determined necessary when the appointment is scheduled for 8:00 A.M. or earlier and travel time to the facility is 2 hours or more from the patient's home. It may also be determined necessary when the patient is required to receive additional treatment. Exceptions require Supervisory approval.

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

- 1) Policy dictates that requests for overnight lodging under the Non-Emergency Medical Transportation program require approval by the worker. Furthermore, policy stipulates that lodging prior to the day of the appointment is determined necessary when the appointment is scheduled for 8:00 A.M. or earlier and travel time to the facility is two hours or more from the patient's home. Lodging may also be determined necessary when the patient is required to receive additional treatment. Exceptions for lodging require Supervisory approval.
- 2) The Claimant submitted an application for the Non-Emergency Medical Transportation program, requesting travel reimbursement for costs related to his travel to physician's appointments in [REDACTED] West Virginia on March 15, 2011 through March 18, 2011. Testimony revealed that the Claimant's requests for overnight lodging were approved for March 15-16, 2011, but were denied for March 17, 2011 because the Claimant's corresponding appointment on March 18, 2011 was not before 8:00 A.M.
- 3) Testimony revealed that the Claimant scheduled several medical appointments, at various times, during the timeframe of March 15 through March 18, 2011 and was scheduled for a "fasting lab" at approximately 8:00 A.M. on the last day of the trip.
- 4) The matter before the Board of Review is whether or not the Department was correct in its decision to deny the Claimant's reimbursement for overnight lodging for March 17, 2011. Policy provides for a supervisory exception to the rule related to the time of the individual's medical appointment. A review of a decision not to grant an exception must be based on whether that decision was reasonable. Credible testimony reveals that the Claimant completed a "fasting lab" on the morning of the last day of the trip. It is reasonable to assume that if the Claimant had not incurred overnight lodging on March 17, 2011, he would have incurred additional mileage related expenses from his home back to [REDACTED] West Virginia on March 18, 2011. This additional mileage reimbursement would have exceeded the cost related to the overnight lodging. In consideration of the fact that the Claimant was approved by the Department for overnight lodging for the first two nights of travel reimbursement, an additional night of March 17, 2011 is considered more cost efficient. Therefore, I do not find the Department's decision to not grant an exception reasonable.

## **IX. DECISION:**

It is the decision of the State Hearing Officer to **reverse** the Department's decision to deny the Claimant's application for Non-Emergency Medical Transportation for overnight lodging and related cost for March 17, 2011.

## **X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this \_\_\_\_ day of July, 2011.**

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**Eric L. Phillips**  
**State Hearing Officer**