



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
203 E. Third Avenue
Williamson, WV 25661

Earl Ray Tomblin
Governor

Rocco S. Fucillo
Cabinet Secretary

August 3, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held July 17, 2012. Your hearing request was based on the Department of Health and Human Resources' decision to deny your application for a Non-Emergency Medical Travel (NEMT) payment because it was submitted more than sixty days after the date of the Medicaid-related travel.

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. These regulations provide that in order to receive an NEMT payment, the applicant must submit the application for said payment no more than sixty (60) days after the Medicaid-related travel date. (West Virginia Income Maintenance Manual §27.2.G)

The information submitted at your hearing demonstrated that you submitted your NEMT application to the ----- County office of the WV DHHR on April 11, 2012, for Medicaid-related travel taken on February 6, 2012, outside the 60-day time frame.

It is the decision of the State Hearing Officer to **Uphold** the Department's denial of payment of your NEMT application dated April 11, 2012.

Sincerely,

Stephen M. Baisden
State Hearings Officer
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review
Tera Pendleton, WV DHHR, ----- County Office

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

IN RE: -----,

Claimant,

v.

ACTION NO: 12-BOR-1346

**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 Chapter 700 of the West Virginia Department of Health and Human Resources' Common Chapters Manual. This Fair Hearing was convened by telephone conference call on July 17, 2012, on a timely appeal filed May 29, 2012.

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

Tera Pendleton, WV DHHR, ----- County Office, Department's Representative

Presiding at the hearing was Stephen M. Baisden, State Hearing Officer and member of the Board of Review.

The Hearing officer placed both participants under oath at the beginning of the hearing.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Department was correct in its action to deny Claimant's NEMT application for travel related to medical treatment on February 6, 2012.

V. APPLICABLE POLICY:

WV Income Maintenance Manual Chapter 27

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 CMCC Screen print from RAPIDS System showing Income Maintenance worker case comments made on May 9, 2012, in Claimant's case
- D-2 Letter from Department to Claimant, dated May 10, 2012
- D-3 Copy of Income Maintenance Manual Chapter 27.2
- D-4 Copy of NEMT application signed by Claimant and dated February 10, 2012

VII. FINDINGS OF FACT:

- 1) Department's Representative stated that on April 11, 2012, the Department received from Claimant an application for medical travel reimbursement as part of the Non-Emergency Medical Transportation (NEMT) program. (Exhibit D-4.) Department's Representative stated that the worker who received it recorded in Claimant's case record on May 9, 2012, that the application was for a bus trip and that the trip was taken on February 6, 2012. (Exhibit D-1.) The recording indicates the payment for this travel was denied because Claimant submitted the NEMT payment application to the Department more than 60 days after the travel date. Department's Representative stated that the Department sent a denial letter (Exhibit D-2) to Claimant on May 10, 2012.
- 2) The Claimant testified that she took a trip from her home, which was in ----- County, West Virginia, at the time, to -----, by bus on February 6, 2012. She testified that she had an operation at ----- Hospital on February 7, 2012. She stated that when she returned home, she had to recuperate from the operation, and was not able to submit the NEMT application immediately upon her return. She stated that soon after the travel and operation, she moved from ----- County to ----- County, WV, but that when she recuperated from her operation, she submitted the NEMT application to the ----- County DHHR office because that was where she was living at the time of the travel. She stated that sometime after she submitted the application, the ----- County office returned it to her with a letter indicating she should submit it to the DHHR office for her county of residence, ----- . She said that she submitted the application to the ----- DHHR office on April 11, 2012. She added that she did not recall the exact date she submitted the application in ----- County, but that it was "sometime in early March."

- 3) West Virginia Income Maintenance Manual, Chapter 27.12.G states in pertinent part:

The submission deadline for the completed [NEMT application form] is 60 days from the date of the trip. Compliance is determined by comparing the date of the earliest trip entered on the form with the date the application is received by DHHR for processing.

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that for an application for medical travel reimbursement through the NEMT program to be approved, an applicant must submit it to the Department no more than 60 days from the date of the travel. Claimant submitted an NEMT application to the ----- County office of the WV DHHR on April 11, 2012, for medical travel undertaken on February 6, 2012, more than 60 days earlier.
- 2) Claimant testified that she submitted the application to the ----- County, WV, DHHR office because she lived in ----- County at the time of the travel and moved to ----- County after the travel date. She testified that the ----- County office returned it to her and informed her that she had to submit it to the ----- office.
- 3) While Claimant testified that she submitted her NEMT application in early March, there is no evidence or documentation to show that she did this. Evidence is clear that she submitted it to the ----- County DHHR on April 11, 2012, after the 60-day deadline.
- 4) Because the Department did not receive the NEMT application within 60 days from the date of the medical travel, the Department acted correctly in denying Claimant's NEMT application.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to deny Claimant's NEMT application submitted on April 11, 2012.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 3rd day of August 2012.

**Stephen M. Baisden
State Hearing Officer**