



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1400 Virginia Street
Oak Hill, WV 25901

Earl Ray Tomblin
Governor

Rocco S. Fucillo
Cabinet Secretary

October 18, 2012

Dear Ms. ----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held October 16, 2012. Your hearing request was based on the Department of Health and Human Resources' reduction of mileage for a Non-Emergency Medical Transportation (NEMT) trips.

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 unless the Worker has sufficient reason to suspect misuse or abuse, and/or finds reasonable proof that misuse or abuse has occurred, properly completed and signed applications will be assumed to be correct (WV Income Maintenance Manual § 27.14).

The information submitted at your hearing revealed that due to the insignificant amount of mileage discrepancy between the roundtrip mileage claimed by you and the Department's adjustment of the roundtrip mileage, your statement of the mileage is reasonable and should be paid as such.

It is the decision of the State Hearing Officer to **reverse** the action of the Department to adjust the mileage for your NEMT trips.

Sincerely,

Kristi Logan
State Hearing Officer
Member, State Board of Review

cc: Chairman, Board of Review
Mary Reynolds, Economic Services Supervisor

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

IN RE: ----,

Claimant,

v.

ACTION NO.: 12-BOR-2014

**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 held on October 16, 2012, by videoconference. This hearing was held in accordance with the provisions found in the West Virginia Department of Health and Human Resources Common Chapters Manual, Chapter 700. This fair hearing was convened on a timely appeal, filed August 17, 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

----, Witness for Claimant

Mary Reynolds, Economic Service Supervisor

Brenda Straight, Economic Service Supervisor

Rose Spears, Economic Service Worker

Presiding at the Hearing was Kristi Logan, State Hearing Officer and a member of the Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Department was correct to adjust Claimant's mileage for a NEMT trip.

V. APPLICABLE POLICY:

WV Income Maintenance Manual § 27.13 and 27.14

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Department's Summary
- D-2 Notification Letter dated September 4, 2012
- D-3 WV Income Maintenance Manual § 27.13 G
- D-4 NEMT Application for August 16, 2012
- D-5 State Mileage Rate Determination Memorandum dated August 1, 2012

VII. FINDINGS OF FACT:

- 1) Claimant submitted a NEMT application (D-4) to the Department on August 17, 2012, requesting reimbursement for driving her daughter, ----, to a medical appointment in [REDACTED]. The Department issued a notification letter (D-2) on September 4, 2012, which reads in pertinent part:

You submitted NEMT application with several trips, two of which were to [REDACTED] dated 8/2 and 8/16/12.

Within the next few days you will receive payment for the trip made 8/2 in the amount of \$163.92 which is incorrect. After checking Map Quest the worker processed your trip as 87.19 miles one way times 2 = 174.38 miles round trip time 2 = 348.76/miles times 47 cents per mile = \$163.92.

Your [REDACTED] [REDACTED] trip dated 8/16 will not be processed due to the over payment made to you on your 8/2 trip.

- 2) Mary Reynolds, Economic Service Supervisor, testified Claimant reported 180.2 miles on the NEMT application (D-4) for round trips from [REDACTED] WV to [REDACTED]. This mileage was adjusted using Map Quest, which showed the mileage for the trip as 174.38.

- 3) Claimant testified she has had problems with the Department since 2010 regarding her NEMT applications. Claimant stated her daughter, ----, lives across the street from her, and she drives Ms. ---- to [REDACTED] 2-3 times a month. Claimant stated she uses a Garmin GPS when travelling and was adamant that the Garmin GPS showed the one-way mileage to [REDACTED] is 90.2 miles. Claimant stated sometimes construction work causes detours and had been advised by the Department that extra mileage due to detours was not taken into consideration.

- 4) WV Income Maintenance Manual § 27.13 B states:

Applicants may request reimbursement for costs related to automobile travel, such as mileage, tolls, and parking fees when free parking is not available. The travel must be for scheduled appointments and treatment. Mileage is paid from the patient's home to the facility and back to the home. When comparable treatment may be obtained at a facility closer to the patient's home than the one he chooses, mileage reimbursed is limited to the distance to the nearest facility. The client's statement about the availability of a closer facility is accepted unless the information is questionable.

- 5) WV Income Maintenance Manual § 27.13 G(1) states

Round-trip mileage from the patient's home to the medical facility is paid at the current state mileage reimbursement rate. If more than one patient was transported, payment is approved for one trip only. The round trip must be made over the shortest route, as determined by a road map or certified odometer reading. The Worker may use the applicant's statement of the total mileage, unless the amount appears incorrect.

The Worker is encouraged to combine applications for trips to avoid issuing numerous checks for small amounts. A single check may be written to the applicant, who is then responsible for reimbursing the drivers if they have not already been paid. Case comments must reflect that mileage claimed is for more than one trip and may be for more than one provider.

As stated above, mileage is limited to the nearest comparable facility for routine services such as allergy shots, blood pressure readings, etc., when the physician has not specified that a specific facility must be paid.

NOTE: The client's choice of physician cannot be restricted. See Benefit Repayment Section below for additional information.

- 6) WV Income Maintenance Manual § 27.14 states:

There is currently no repayment procedure for NEMT. However, recipients must be informed that fraudulent claims will result in denial of subsequent requests up to the amount of the claim and could result in permanent ineligibility for NEMT. Workers who become aware that a client may be obtaining NEMT reimbursements to which he is not entitled must monitor all applications from the client to determine if misuse or abuse of the program is actually taking place. Any information deemed questionable must be verified, even if not routinely required. If the Worker has reason to suspect that reimbursement is being requested for trips that were not taken, he must contact the medical provider(s) listed and verify appointment dates and whether or not the appointments were kept. **Unless the Worker has sufficient reason to suspect misuse or abuse, and/or finds reasonable proof that misuse or abuse has occurred, properly completed and signed applications will be assumed to be correct.***[emphasis added]*

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that reimbursement paid under the NEMT program for a private carrier includes roundtrip mileage from the patient's home to the medical provider at the current state mileage reimbursement rate. Unless there is sufficient reason and or reasonable proof that misuse or abuse of the NEMT program has occurred, a properly completed and signed application will be assumed correct.
- 2) Claimant requested reimbursement for 180.2 roundtrip mileage to transport her daughter from her home in [REDACTED] WV to [REDACTED] and return, for trips made on August 2, 2012, and August 16, 2012. This mileage was adjusted using MapQuest to 174.38 miles roundtrip. The Department gave no explanation as to why Claimant's mileage was questionable and therefore adjusted. The difference in Claimant's mileage and the Department's adjustment of the mileage is 5.82 miles. It is reasonable based on sources used to determine roundtrip that mileage would differ slightly and therefore reasonable that Claimant's statement of the mileage is factual.
- 3) Claimant is entitled to reimbursement of her stated mileage roundtrip from [REDACTED] WV to [REDACTED] of 180.2 for trips that occurred on August 2, 2012, and August 16, 2012.

IX. DECISION:

It is the decision of the State Hearing Officer to **reverse** the decision of the Department to adjust Claimant's mileage on her NEMT application for trips made to Athens, OH.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 18th day of October 2012

Kristi Logan
State Hearing Officer