



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.,
Elkins, WV 26241

Earl Ray Tomblin
Governor

Rocco S. Fucillo
Cabinet Secretary

November 9, 2012

Dear Mr. ----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held November 7, 2012. Your hearing request was based on the Department of Health and Human Resources' action to deny Non-Emergency Medical Transportation (NEMT) reimbursement.

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. One of these regulations states that when a client is pending Medicaid approval and has not been instructed by the worker to apply for NEMT within the 60-day time limit, that client must be given a reasonable amount of time to submit NEMT applications for the time period prior to Medicaid approval. (West Virginia Income Maintenance Manual Chapter 27.2.C)

Information submitted at the hearing reveals that the Department incorrectly denied your NEMT application for travel on April 17, 2012, and May 4, 2012.

It is the decision of the State Hearing Officer to **reverse** the action of the Department in denying your application for NEMT benefits.

Sincerely,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Amanda Smith, ESS, WVDHHR

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

IN RE: ----,

Claimant,

v.

ACTION NO.: 12-BOR-2189

**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 via videoconference on November 7, 2012, on a timely appeal filed September 14, 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

Amanda Smith, Economic Service Supervisor, WVDHHR

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

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Department was correct in its action to deny the Claimant's application for NEMT benefits.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Chapters 27.2.C and 27.2.G

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Denial letter sent to Claimant on August 23, 2012
- D-2 West Virginia Income Maintenance Manual Chapter 27.2
- D-3 NEMT application date-stamped by Department on August 7, 2012
- D-4 Case Comments dated November 8, 2011, through August 27, 2012

VII. FINDINGS OF FACT:

- 1) The Claimant submitted an application (D-3) for Non-Emergency Medical Transportation, hereinafter NEMT, which was date-stamped by the Department on August 7, 2012. This NEMT application included reimbursement requests for medical-related travel for ---- ----, the Claimant's wife, on April 17, 2012, and May 4, 2012 (see Case Comments, D-4).
- 2) Economic Service Supervisor Amanda Smith testified that reimbursement for the trips was denied because the NEMT application was not submitted within 60 days of the dates of travel.
- 3) The Department sent the Claimant a denial notice on August 23, 2012 (D-1).
- 4) The Claimant contended that he made an application for Medicaid; however processing of the application was delayed by the Department. Testimony and Case Comments (D-4) indicate that the Claimant and his wife applied for SSI-Related Medicaid on June 18, 2012, and their application was processed by the Department on July 27, 2012. The application was backdated to April 2012 at the Claimant's request, and a spenddown was met on April 17, 2012. The Claimant cited NEMT policy and testified that he was not instructed by a worker to apply for NEMT benefits within the 60-day time limit while his Medicaid application was pending. He contended that his NEMT application should have been approved by the Department since a policy provision allows for the submission of

NEMTs for the time prior to Medicaid approval. The Claimant also indicated that he actually submitted the NEMT application on August 3, 2012, although the Department date-stamped the form on August 7, 2012.

The Department representative provided no testimony to indicate that the Claimant was instructed to submit his NEMT application within a 60-day time limit while his Medicaid application was pending.

- 5) West Virginia Income Maintenance Manual Section 27.2.G states that NEMT applications must be submitted within 60 days of the date of the trip(s).

- 6) West Virginia Income Maintenance Manual Chapter 27.2.C states:

Medicaid recipients are eligible for NEMT beginning the first day of the month for which Medicaid is approved, including months for which backdating occurred. Applicants awaiting approval must be instructed to apply for NEMT within the 60-day time limit, but applications must be held by the Worker until Medicaid is approved except for transportation expenses related to an appointment(s) scheduled by the Worker and/or requested by MRT.

When a client is pending Medicaid approval and has not been instructed by the Worker to apply for NEMT within the 60-day time limit, that client must be given a reasonable amount of time to submit NEMT applications for the time prior to Medicaid approval.

VIII. CONCLUSIONS OF LAW:

- 1) Policy provides that clients who are pending Medicaid approval and have not been instructed by a worker to apply for NEMT benefits within the 60-day time limit, must be given a reasonable amount of time to submit NEMT applications for the time period prior to Medicaid approval.
- 2) The Claimant applied for Medicaid benefits on June 18, 2012, and his application – backdated to April 17, 2012 – was approved on July 27, 2012. There is no indication that the Claimant was instructed to submit NEMT applications to be held by the worker pending Medicaid approval. The Claimant’s NEMT application for the April 17, 2012, and May 4, 2012, trips was date-stamped by the Department on August 7, 2012, 10 days after he was approved for Medicaid benefits. Whereas the Claimant submitted the application within a reasonable time period after his Medicaid approval, reimbursement is supported by NEMT policy, provided that the Claimant is otherwise eligible.

IX. DECISION:

It is the decision of the State Hearing Officer to **reverse** the action of the Department in denying the Claimant's application for NEMT benefits.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

IG-BR-29

ENTERED this 9th Day of November 2012.

Pamela L. Hinzman
State Hearing Officer