All-State Medicaid and CHIP Call
October 31, 2023

All State Call Agenda

Agenda

- Assurance of Transportation: A Medicaid Transportation Coverage Guide
- Open Mic Q and A

Background on the Assurance of Transportation

- Medicaid assurance of transportation
  - Applies to emergency medical transportation **(EMT)** and non-emergency medical transportation (**NEMT**)
  - **Not a requirement for states to pay for a ride**, but rather a requirement to make certain that **every Medicaid beneficiary who has no other means of transportation has access to transportation** needed to receive covered care
  - **Critical part of access to care** for many beneficiaries
  - Historically, the transportation assurance was based on the principles identified in section 1902(a)(4)(A) of the Social Security Act (the Act)
  - Recently, the Consolidated Appropriations Act (CAA), 2021, Division CC, Title II, Section 209 (section 209) codified the assurance of transportation
  - Transportation may be assured as an **optional medical service, an administrative activity, or both**

Background on Assurance of Transportation (continued)

- In addition to codifying the assurance of transportation, section 209:
  - Set minimum provider and driver standards
  - Required CMS to convene a series of listening sessions, assess current NEMT guidance, and submit a report to Congress
- To meet the requirements of section 209, CMS:
  - Held a series of listening sessions for interested parties between March and May of 2022
  - Submitted two reports to Congress
  - Issued the Assurance of Transportation: A Medicaid Transportation Coverage Guide (SMD# 23-006)

Navigating the Transportation Coverage Guide

- Assurance of Transportation
- Transportation Authorities: Flexibilities Under the State Plan
- Transportation Authorities: Other Flexibilities in the Medicaid Program
- Transportation as a Medicaid Program Requirement
- Transportation Access Requirements
- Consideration for Special Populations
- Transportation Under Specific Circumstances
- Broker
- Beneficiary Support
- Payment
- Public Transit Agencies
- State Plan Amendment Content Requirements


Medicaid Transportation Coverage Guide

Table of Contents – Transportation Policy Summaries

The contents of this document do not have the force and effect of law and are not meant to bind the public in any way, unless specifically incorporated into a contract. This document is intended only to provide clarity to the public regarding existing requirements under the law.

Guidance: New Policy (1/4)

- Transportation for the direct benefit of children under 21
  - Historically, CMS gave states the option to **build the cost of transporting a parent or caregiver into the rate** for the applicable benefit instead of paying directly under transportation
  - The new policy gives states the option to cover transportation for a parent or caregiver **if their participation is necessary to a child's care** and that **caregiver cannot otherwise access the child to participate in the care**
  - For example, if a child is receiving residential or facility-based care and the presence of their parent is necessary so that the parent can actively participate in the treatment/intervention for the direct benefit of the child, then the state may pay for transportation for the parent to ensure the child's medically necessary services are provided

Guidance: New Policy (2/4)

- Flexibilities for coverage of wait times and long distances
  - CMS has long interpreted our transportation regulations as requiring beneficiaries to be in the vehicle in order to cover the transportation
  - Generally, **a transportation provider cannot be paid for unloaded miles** (i.e., time in which beneficiaries are not in the vehicle for a portion of the trip) but states can build the cost of these unloaded miles into their rates

Guidance: New Policy (3/4)

- Under the new policy, **a state may cover wait times and time or mileage expenses** while the **beneficiary is not in the vehicle**, when:
  - Wait times: The **travel distance and transport time** (for trips to and from services) make it more economically feasible for the transportation provider to **remain at the medical provider while the beneficiary receives covered services**; and
  - Unloaded mileage: The most appropriate and economical transportation provider **must incur extraordinary costs for time and/or mileage** to pick up or drop off the beneficiary for the beneficiary to receive covered services. This means the expense of the unloaded portion of the trip that is not accounted for in the state's usual transportation payment rate or methodology would be prohibitive for the transportation provider, and the transportation provider is the most economical available resource capable of providing appropriate transportation.

Guidance: New Policy (4/4)

- This new flexibility is at state option for transportation covered as a **medical service and/or as an administrative expense**
- The trip must be **associated with a Medicaid coverable service**
- To elect this flexibility, States will need to **submit a state plan amendment (SPA) to update their coverage and payment pages**
- States can still **build these costs into their rates** instead of opting for this new flexibility
- States **cannot cover wait times or unloaded miles** in scenarios that **do not meet the criteria described in the Coverage Guide**

Guidance: Policy Reminders - Transportation Access Requirements

- The assurance of transportation require states to use the **least costly and most appropriate mode of transportation** suited to the needs of the beneficiary, and requires that transport is to the **nearest qualified provider**
- The least costly and most appropriate mode **must be appropriate** for the **physical and emotional condition of the beneficiary** and **ensure quality of services**
- In general, it is **not proper and efficient** to transport a beneficiary **a lengthy distance** to see a provider **when there are closer qualified providers**. However, a state must adhere to **the freedom of choice requirement** in its provision of transportation
- States need to take into consideration **a beneficiary's individual circumstances** in determining if transportation is necessary
- States should have processes in place to **help improve relationships** between **transportation providers and beneficiaries**

Guidance: Policy Reminders – Considerations for Special Populations

- States may experience unique challenges in assuring transportation for specific groups of Medicaid beneficiaries, and the following policies may help in addressing these challenges:
  - States **must consider a beneficiary's support and behavioral health needs** in determining the most appropriate mode of transportation
  - States **must ensure** that beneficiaries with disabilities are provided with modes of transportation that **meet their needs**
  - States are encouraged to cover transportation services **specifically tailored for beneficiaries with behavioral health needs**
  - States are encouraged to **use existing providers that service Tribal areas** including Indian Health Services, Tribal, and Urban Indian Organization providers
  - States are encouraged to **evaluate existing rate methodologies to ensure they recognize the unique rural transportation issues**

Guidance: Policy Reminders – Transportation Under Specific Circumstances

- Under the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) benefit, states must:
  - **Inform beneficiaries and families** in a clear and nontechnical manner that **necessary assistance with transportation is available**
  - **Cover the cost of transportation (*roundtrip*) for a person to accompany the child**, if the child needs to be accompanied to their medical service(s)
- School-based specialized transportation is coverable when such specialized transportation is **outlined in the child's Individualized Education Program**, and the transportation is **to a medically necessary service**, and provided in a **specially adapted vehicle**
- Treatment at the scene with no transport **is not coverable under a state's transportation program**, but may be coverable under other Medicaid benefits
- The transport of beneficiaries by law enforcement is generally **not coverable under the Medicaid program**

Guidance: Policy Reminders – Brokers

- States that elect the state plan broker option at 42 CFR 440.170(a)(4), **must ensure** that:
  - The broker contract is **competitively bid**;
  - Adequate oversight procedures are in place to **monitor beneficiary access and complaints**;
  - The **broker does not provide transportation** or refer or subcontract with a transportation provider in which it has a financial relationship, **except**:
    - **For non-governmental brokers, CMS has granted an exception** under one of the first three circumstances described at 42 CFR 440.170(a)(4)(ii)(B); or
    - **For governmental brokers, the conflict-of-interest requirements** at 42 CFR 440.170(a)(4)(ii)(B)(4) **are met**
  - **Broker payment rates** are sufficient to **ensure beneficiary access** to transportation

Guidance: Policy Reminders – Beneficiary Support

- States have **ultimate oversight responsibility** over the operation of their transportation program(s), **even if the transportation is administered by another entity**
- States should **inform beneficiaries of available services**, and **provide information about assistance** with transportation
- States should have in place processes to ensure **timeliness, effective communication, and efficient resolution for unanticipated interruptions in services** (e.g., needing to reschedule a ride, etc.)
- States should inform beneficiaries about how to report **when a drive is a no-show** and arrange for a **replacement transportation provider**

Guidance: Policy Reminders – Payment

- **Related travel expenses** are included as a cost of transportation as determined necessary by a state to secure covered services
  - Related travel expenses can include the cost of **meals, lodging, a transportation attendant, and wait times and long distances (if electing the new policy flexibility)**
  - Coverage of related travel expenses **is required for overnight long-distance trips**
- The cost of a provider of medical services conducting home visits **is not coverable under the assurance of transportation**
- Federal Financial Participation (FFP) is **not available for the use of advance of capital funds** to providers for the **purchase of capital assets (e.g., vehicles, etc.)**

Guidance: Policy Reminders – Public Transit Agencies

- States are **encouraged to explore partnerships** with their state departments of transportation to better service beneficiaries
- States **may pay more than the rate charged to individuals with disabilities for paratransit services**, but must ensure that the rate paid **does not exceed the rate paid for similar trips by other state human services agencies**
- States may pay for **fixed route public transit**, but must ensure that **rates do not exceed the rate charged to the general public**
- States may utilize **public transit passes**, as long as the cost of the pass is **no more than the cost of other payment methods for the trip**
- States may utilize public transit agencies to **coordinate transportation**, as long as there is **no conflict with Medicaid rules and policies**
- Medicaid funds may **not be used to purchase or subsidize** a public transit agency's **transportation infrastructure**

Guidance: Transportation State Plan Pages

- The state plan should describe the methods the state will employ to ensure necessary transportation
- Attachment 3.1-A and 3.1-B should describe the **amount, duration, and scope of NEMT and/or EMT** claimed as an **optional medical service**
- Attachment 3.1-D should describe the **transportation delivery model(s) for NEMT and EMT**
  - Pages should include the **types of transportation, types of providers, and how transportation will be made available** to beneficiaries
  - If transportation is provided under managed care authority or a section 1115 demonstration, **a general description should be included**
  - A **provider and driver screening attestation must be included,** in compliance with section 1902(a)(87) of the Act
- Attachment 4.19-B pages should describe **any transportation payment details** for transportation claimed as an **optional medical service**

Questions?