

## **Table of Contents**

**State/Territory Name: Massachusetts**

**State Plan Amendment (SPA) #: 19-020**

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form/Summary Form (with 179-like data)
- 3) Approved SPA Pages



**Center for Medicaid & CHIP Services**

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December 17, 2019

Marylou Sudders, Secretary  
Executive Office of Health and Human Services  
One Ashburton Place, Room 1109  
Boston, Massachusetts 02108

Dear Secretary Sudders:

We are pleased to enclose a copy of approved Massachusetts State Plan Amendment (SPA) No. 19-020, submitted to CMS on September 30, 2019. This SPA was submitted to revise your approved Title XIX State plan to update the coverage provisions and payment methodology for brokered non-emergency transportation services, including claiming these expenses as medical assistance. This SPA was approved on December 13, 2019, effective July 1, 2019.

Enclosed are copies of the following approved State plan pages:

- Attachment 3.1-A, pages 9, 9a and 9b;
- Attachment 3.1-B, pages 8, 8a and 8b;
- Attachment 3.1-D, pages 1 and 2; and
- Attachment 4.19-B, page 1o.

If you have any questions regarding this matter you may contact Julie McCarthy at (781) 961-1070 or by e-mail at [Julie.McCarthy@cms.hhs.gov](mailto:Julie.McCarthy@cms.hhs.gov).

Sincerely,

/s/

Francis T. McCullough, Deputy Director  
Financial Management Group

Enclosure/s

cc: Daniel Tsai, Assistant Secretary for MassHealth, Medicaid Director  
Kaela Konefal, Federal Authority Policy Analyst/State Plan Coordinator

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE &amp; MEDICAID SERVICES</b>	1. TRANSMITTAL NUMBER <u>1 9 - 0 2 0</u>	2. STATE MA
	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	

TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE & MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE  07/01/19
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5. TYPE OF PLAN MATERIAL (*Check One*)

NEW STATE PLAN       AMENDMENT TO BE CONSIDERED AS NEW PLAN       AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (*Separate transmittal for each amendment*)

6. FEDERAL STATUTE/REGULATION CITATION  42 CFR Parts 440 and 447	7. FEDERAL BUDGET IMPACT a. FFY 2019 \$ 2,035,000 b. FFY 2020 \$ 7,627,000
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8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT  Attachment 3.1-D page 1 and 2 Attachment 4.19-B page 1o Attachment 3.1-A pages 9, 9a, 9b Attachment 3.1-B pages 8, 8a, 8b	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT ( <i>If Applicable</i> )  Attachment 3.1-D pages 1 <del>and 2</del> Attachment 4.19-B page 1o Attachment 3.1-A pages 9, <del>9a, 9b</del> Attachment 3.1-B pages 8, <del>8a, 8b</del>
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10. SUBJECT OF AMENDMENT

Brokered Non-Emergency Medical Transportation (NEMT) Services

11. GOVERNOR'S REVIEW (*Check One*)

GOVERNOR'S OFFICE REPORTED NO COMMENT       OTHER, AS SPECIFIED  
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED  
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

Not required under 42 CFR 430.12(b)(2)(i)

12. SIGNATURE OF STATE AGENCY OFFICIAL  [Redacted] /s/	16. RETURN TO  Kaela Konefal State Plan Coordinator Executive Office of Health and Human Services Office of Medicaid One Ashburton Place, 11th Floor Boston, MA 02108
13. TYPED NAME Marylou Sudders	
14. TITLE Secretary	
15. DATE SUBMITTED 9/30/2019	

**FOR REGIONAL OFFICE USE ONLY**

17. DATE RECEIVED 09/30/2019	18. DATE APPROVED 12/13/2019
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**PLAN APPROVED - ONE COPY ATTACHED**

19. EFFECTIVE DATE OF APPROVED MATERIAL  07/01/2019	20. SIGNATURE OF REGIONAL OFFICIAL  /s/
21. TYPED NAME  Francis T. McCullough	22. TITLE Deputy Director, Financial Management Group

23. REMARKS

MA and CMS agreed by email 12/12/19 to pen&ink changes to correct pages numbers in Boxes 8 and 9.

Amount, Duration, and Scope of Medical and Remedial Care and Services  
Provided to the Categorically Needy

24. Any other medical care and any other type of remedial care recognized under state law, specified by the Secretary.

a. Transportation.

- Provided:                       No limitations                       With limitations\*\*
- Not provided.

Brokered Transportation

MassHealth provides non-emergency transportation to MassHealth Standard, CommonHealth and CarePlus members through selective broker contracts when no public transportation is available that is suitable to a member’s condition within a specified distance from an authorized point of origin and destination. Payment for the non-emergency transportation services arranged through a broker is claimed as medical assistance. Delivery methods consist of ambulatory and non-ambulatory transport, including taxi, livery, ferry, and chair car service, or other methods suitable to the member’s condition. MassHealth requires prior authorization to determine the medical necessity of non-emergency transportation provided through the brokerage system. Transportation requests are approved by EOHHS and implemented by the brokers. The state will operate the broker program without regard to freedom of choice of providers (section 1902(a)(23) of the Social Security Act).

The state assures that the six Regional Transit Authorities that serve as transportation brokers were selected by the MassHealth agency pursuant to a competitive procurement conducted consistent with federal requirements, and based on the state’s evaluation of the broker’s experience, performance, references, resources, qualifications, and cost. Each broker is responsible for arranging with its contracted network of transportation providers to deliver non-emergency transportation to and from medically necessary MassHealth covered services for members in the broker’s contractually designated service area.

The state assures that its brokerage contracts are subject to regular auditing and oversight by the state to ensure the quality and timeliness of the transportation services provided, and the adequacy of beneficiary access to medical care and services. In addition, the state requires each broker to undertake extensive oversight activities with respect to its network of transportation providers, and assures that brokers have oversight procedures to monitor beneficiary access and complaints and ensure that transportation is timely and transport personnel are licensed, qualified, competent and courteous.

The state assures that transportation services will be provided under contracts with brokers who comply with such requirements related to prohibitions on referrals and conflict of interest as the Secretary shall establish (based on prohibitions on physician referrals under Section 1877 and such other prohibitions and requirements as the Secretary determines to be appropriate). The brokerage contract requires the brokers to comply with 42 CFR § 440.170(a)(4) governing the provision of non-emergency medical transportation, including prohibitions on referrals and conflicts of interest, and provides for the broker to be liable for the full cost of services resulting from a prohibited referral or relationship, as specified in the contracts. Specifically, the brokers are prohibited from directly providing non-emergency medical transportation services, and are prohibited from making a referral or subcontracting to a transportation service provider if the broker has a financial relationship with the transportation provider, as defined at 42 CFR § 411.354(a); or if the broker has an immediate family member, as defined at 42 CFR § 411.351, that has a direct or indirect financial relationship with the transportation provider.

Amount, Duration, and Scope of Medical and Remedial Care and Services  
Provided to the Categorically Needy

The brokerage contract prohibits the broker from withholding necessary transportation from a MassHealth member for the purpose of financial gain or any other purpose; authorizing transportation that is not the most appropriate and a cost effective means of transportation for that member for the purpose of financial gain or any other purpose; soliciting or accepting any payment or other form of remuneration, including any kickback, rebate, cash, gift, or service in kind from a transportation provider or any other party in order to influence referrals or subcontracting for non-emergency medical transportation provided to a MassHealth member.

Payments under the brokerage contracts are structured to ensure cost-effectiveness. Brokers are required to competitively procure and contract with their network of transportation providers and develop competitive methods of awarding trips and routes to transportation providers. Brokers schedule trips with the lowest cost qualified transportation provider, and the brokers receive reimbursement at cost from the state for their payments to transportation providers.

Brokers are paid a broker-specific average monthly trip cost for each eligible trip. For demand-response trips, the average monthly trip cost is calculated by dividing the broker’s total expenditures for demand-response trips by the number of demand-response trips in that month. For program based trips, the average monthly trip cost for each broker is calculated by first determining route-specific average monthly trip rates, and then calculating a combined average trip rate for all routes. To further encourage cost savings, brokers also receive a shared ride incentive payment if they can achieve a target rate of shared ambulatory trips.

A fixed monthly broker management fee paid under the brokerage contract is claimed as an administrative expense. The broker management fee is negotiated between EOHHS and the broker based on the broker’s reasonable costs of performing the broker management function, exclusive of direct transportation costs.

The source of the non-federal share of payments for brokered transportation services to MassHealth members is general fund appropriations to the state Medicaid agency.

\*\* Description of non-brokered transportation is provided on **Attachment 3.1-D**

b. Services of Christian Science nurses.

- Provided:                       No limitations                       With limitations
- Not provided.

# OFFICIAL

Revision: HCFA-PM-91-4 (BPD)  
August 1991

Attachment 3.1-A

Page 9b

OMB No.: 0938-

State Plan under Title XIX of the Social Security Act  
State: Massachusetts

Amount, Duration, and Scope of Medical and Remedial Care and Services  
Provided to the Categorically Needy

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c. Care and services provided in Christian Science sanatoria.

Provided:             No limitations             With limitations  
 Not provided.

d. Nursing facility services for patients under 21 years of age.

Provided:             No limitations             With limitations\*  
 Not provided.

e. Emergency hospital services.

Provided:             No limitations             With limitations  
 Not provided.

f. Critical Access Hospital Services

Provided:             No limitations             With limitations  
 Not provided.

\* Description provided on **Supplement to Attachment 3.1-A.**

**Aged, Disabled, AFDC and Under 21**

22. Respiratory care services (in accordance with Section 1902 (e) (9) (A) through (C) of the Act).

- Provided:  No limitations  With limitations
- Not provided

23. Any other medical care and any other type of remedial care recognized under state law, specified by the Secretary.

a. Transportation

- Provided:  No limitations  With limitations\*\*
- Not provided.

Brokered Transportation

MassHealth provides non-emergency transportation to MassHealth Standard, CommonHealth and CarePlus members through selective broker contracts when no public transportation is available that is suitable to a member’s condition within a specified distance from an authorized point of origin and destination. Payment for the non-emergency transportation services arranged through a broker is claimed as medical assistance. Delivery methods consist of ambulatory and non-ambulatory transport, including taxi, livery, ferry, and chair car service, or other methods suitable to the member’s condition. MassHealth requires prior authorization to determine the medical necessity of non-emergency transportation provided through the brokerage system. Transportation requests are approved by EOHHS and implemented by the brokers. The state will operate the broker program without regard to freedom of choice of providers (section 1902(a)(23) of the Social Security Act).

The state assures that the six Regional Transit Authorities that serve as transportation brokers were selected by the MassHealth agency pursuant to a competitive procurement conducted consistent with federal requirements, and based on the state’s evaluation of the broker’s experience, performance, references, resources, qualifications, and cost. Each broker is responsible for arranging with its contracted network of transportation providers to deliver non-emergency transportation to and from medically necessary MassHealth covered services for members in the broker’s contractually designated service area.

The state assures that its brokerage contracts are subject to regular auditing and oversight by the state to ensure the quality and timeliness of the transportation services provided, and the adequacy of beneficiary access to medical care and services. In addition, the state requires each broker to undertake extensive oversight activities with respect to its network of transportation providers, and assures that brokers have oversight procedures to monitor beneficiary access and complaints and ensure that transportation is timely and transport personnel are licensed, qualified, competent and courteous.

The state assures that transportation services will be provided under contracts with brokers who comply with such requirements related to prohibitions on referrals and conflict of interest as the Secretary shall establish (based on prohibitions on physician referrals under Section 1877 and such other prohibitions and

State Plan under Title XIX of the Social Security Act  
State: Massachusetts  
Amount, Duration and Scope of Services Provided to Medically Needy Groups

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requirements as the Secretary determines to be appropriate). The brokerage contract requires the brokers to comply with 42 CFR § 440.170(a)(4) governing the provision of non-emergency medical transportation, including prohibitions on referrals and conflicts of interest, and provides for the broker to be liable for the full cost of services resulting from a prohibited referral or relationship, as specified in the contracts. Specifically, the brokers are prohibited from directly providing non-emergency medical transportation services, and are prohibited from making a referral or subcontracting to a transportation service provider if the broker has a financial relationship with the transportation provider as defined at 42 CFR § 411.354(a); or if the broker has an immediate family member, as defined at 42 CFR § 411.351, that has a direct or indirect financial relationship with the transportation provider.

The brokerage contract prohibits the broker from withholding necessary transportation from a MassHealth member for the purpose of financial gain or any other purpose; authorizing transportation that is not the most appropriate and a cost effective means of transportation for that member for the purpose of financial gain or any other purpose; soliciting or accepting any payment or other form of remuneration, including any kickback, rebate, cash, gift, or service in kind from a transportation provider or any other party in order to influence referrals or subcontracting for non-emergency medical transportation provided to a MassHealth member.

Payments under the brokerage contracts are structured to ensure cost-effectiveness. Brokers are required to competitively procure and contract with their network of transportation providers and develop competitive methods of awarding trips and routes to transportation providers. Brokers schedule trips with the lowest cost qualified transportation provider, and the brokers receive reimbursement at cost from the state for their payments to transportation providers.

Brokers are paid a broker-specific average monthly trip cost for each eligible trip. For demand-response trips, the average monthly trip cost is calculated by dividing the broker's total expenditures for demand-response trips by the number of demand-response trips in that month. For program based trips, the average monthly trip cost for each broker is calculated by first determining route-specific average monthly trip rates, and then calculating a combined average trip rate for all routes. To further encourage cost savings, brokers also receive a shared ride incentive payment if they can achieve a target rate of shared ambulatory trips. A fixed monthly broker management fee paid under the brokerage contract is claimed as an administrative expense. The broker management fee is negotiated between EOHHS and the broker based on the broker's reasonable costs of performing the broker management function, exclusive of direct transportation costs.

The source of the non-federal share of payments for brokered transportation services to MassHealth members is general fund appropriations to the state Medicaid agency.

\*\* Description of non-brokered transportation is provided on **Attachment 3.1-D**



# OFFICIAL

Revision: HCFA-PM-87-004 (BERC)  
March 1987

Attachment 3.1-B  
Page 8b

State Plan under Title XIX of the Social Security Act  
State: Massachusetts  
Amount, Duration and Scope of Services Provided to Medically Needy Groups  
OMB No.: 0938-0193

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b. Services of Christian Science nurses.

- Provided:             No limitations             With limitations  
 Not provided

c. Care and services provided in Christian Science sanitarium.

- Provided:             No limitations             With limitations  
 Not provided

d. Skilled nursing facility services provided for patients under 21 years of age.

- Provided:             No limitations             With limitations\*  
 Not provided.

e. Emergency hospital services.

- Provided:             No limitations             With limitations  
 Not provided.

\* Description provided on **Supplement to Attachment 3.1-B.**

**State Plan under Title XIX of the Social Security Act  
State: Massachusetts  
Transportation**

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MassHealth assures necessary transportation for eligible members to and from providers of medically necessary MassHealth covered services. MassHealth provides for cost-effective, suitable transportation as follows within a reasonable geographic area.

1. Brokered Transportation – see Attachment 3.1-A, item 24.a, and Attachment 3.1-B, item 23.a. for a description of brokered transportation

State Plan under Title XIX of the Social Security Act  
State: Massachusetts  
Transportation

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2. Non-brokered Transportation

MassHealth provides non-brokered in-state non-emergency and emergency transportation through MassHealth transportation providers, which is claimed as medical assistance. MassHealth also provides for non-brokered transportation to School-Based Medicaid services, which is claimed as an administrative expense. MassHealth claims school-based transportation expenditures only when the need for transportation is provided on a specially equipped or adapted vehicle. MassHealth uses an allocation method to approximate reasonable costs for time spent receiving transportation services to Medicaid-covered services. Delivery methods for in-state non-brokered, non-emergency transportation include chair car, ground ambulance, or other methods suitable to the member's condition. For in-state non-brokered non-emergency transportation claimed as medical assistance, all qualified and willing providers may participate as MassHealth providers. Such transportation is provided state-wide for any member eligible for non-emergency transportation services for whom such service is medically necessary and not otherwise furnished to such member under a selective broker contract. MassHealth makes direct payments to the MassHealth provider for such transportation services. Delivery methods for in-state non-brokered emergency transportation include ground ambulance, air ambulance, or other methods suitable to the member's condition.

MassHealth also provides for out-of-state non-brokered, non-emergency and emergency transportation by licensed carriers, which is claimed as an administrative expense. Delivery methods for out-of-state non-brokered, non-emergency transportation include airplane, bus, train, or other methods suitable to the member's condition. Prior authorization is required for out-of-state non-brokered, non-emergency transportation. Delivery methods for out-of-state non-brokered, emergency transportation include ground ambulance, air ambulance, or other methods suitable to the member's condition.

Members who use public transportation to MassHealth covered medically necessary services may receive reimbursement for their public transportation expenses. Members may also be reimbursed for expenses incurred for transportation other than public transportation. Personal reimbursement is claimed as an administrative expense.

State Plan under Title XIX of the Social Security Act  
State: Massachusetts  
Methods and Standards for Establishing Payment Rates – Other Types of Care

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**o. Any other medical care recognized under state law, including transportation services, oxygen, and podiatry:**

1. Medical Transportation – the fee-for-service rates for non-brokered transportation to MassHealth-covered medically necessary services that are claimed as medical assistance were set as of May 1, 2008, and are effective for services on or after that date. Those rates are published at [http://www.mass.gov/eohhs/gov/laws-regs/hhs/community-health-care-providers-ambulatory-care.html#114\\_3\\_27](http://www.mass.gov/eohhs/gov/laws-regs/hhs/community-health-care-providers-ambulatory-care.html#114_3_27). Except as otherwise noted in subsection 2 of Attachment 4.19-B, section 8.o below, state developed fee schedule rates are the same for both governmental and private providers. Brokered transportation services that are claimed as medical assistance are described in Attachment 3.1-A, item 24 and Attachment 3.1-B, item 23.

2. Governmental Ambulance Services Providers - EOHHS will recognize, on a voluntary basis, the allowable certified public expenditures of EOHHS-approved governmental ambulance service providers for providing services to MassHealth members as set forth below.

- (1) "Governmental ambulance services provider" means a provider of ambulance services that is a unit of government as specified in 42 CFR 433.50.
- (2) The allowable certified public expenditures of a participating governmental ambulance services provider who meets the required state enrollment criteria are eligible for federal reimbursement up to reconciled cost in accordance with (A) through (E) for services provided on or after April 1, 2013.

(A) The governmental ambulance services provider will be paid interim rates equal to the Medicaid reimbursement rates paid to other ambulance services providers in accordance with subsection 1 of Attachment 4.19-B, section 8.o above. The interim rates are provisional in nature, pending the submission of an annual cost report and the completion of cost reconciliation and a cost settlement for that period. Settlements are a separate transaction, occurring as an adjustment to prior year costs and are not to be used to offset future rates.

(B) The governmental ambulance services provider will submit a CMS approved cost report annually, on a form approved by EOHHS. The cost report will be completed on a state fiscal year basis and will be due to EOHHS no later than 120 days following the last day of the state fiscal year.

(C) Cost reconciliation and cost settlement processes will be completed within 24 months from the end of the cost reporting period.

(D) The provider's reported direct and indirect costs are allocated to the Medicaid program by applying a Medicaid utilization statistic ratio, to Medicaid charges associated with paid claims for the dates of service covered by the submitted cost report.

(E) A reconciliation will be computed by EOHHS based on the difference between the interim payments and total allowable Medicaid costs from the approved cost report.