



Proposals to Address Fraud, Waste and Abuse in Medicaid NEMT

In an April 2017 letter¹ to the Senate Finance Committee on Medicaid Integrity, the Government Accountability Office (GAO) examined the Centers for Medicare and Medicaid Services (CMS) oversight of high-risk program integrity areas nationwide, including nonemergency medical transportation (NEMT). In interviews with GAO, CMS officials said they generally found a lack of sufficient state oversight of NEMT and recommended states take action.

In response to this GAO report, this paper identifies a number of ways to improve NEMT program integrity through NEMT management:

1. Require states to manage the benefit by contracting with NEMT brokers or incentivize states to choose the broker option.
2. Require states to include NEMT program integrity requirements and policies used by transportation management brokers such as prior authorization in their state-managed NEMT programs (without an NEMT broker mandate);

Potential Savings from Brokerage

The 2006 Deficit Reduction Act (DRA) allows states “to establish a non-emergency medical transportation brokerage program without regard to statutory requirements for comparability, statewideness, and freedom of choice.” (See the full text of the provision, 1902(a)(70), below). CBO scored the state-option provision as saving \$235 million over 10 years.

Support for Use of an NEMT Broker as a Program Integrity Tool:

- The US HHS OIG identified NEMT brokerage (the report refers to brokers as Prime Vendor contracts) as a “proactive safeguard” and found that brokers reduce the price of products and services.²
- Arkansas contracted with the Stephen Group (TSG) to advise whether or not the state should eliminate non-emergency medical transportation coverage for the Medicaid expansion population. TSG found Arkansas has “a very effective brokerage model for non-emergency medical transportation (NEMT) with a capitated benefit structure that manages the program in a cost effective manner.” Arkansas decided not to drop the benefit and instead implemented prior authorization.³
- In the 2014 National NEMT Survey of Medicaid Agencies, 19% of respondents said that the most important reason for using a transportation broker option and/or including NEMT services in a managed care organization’s capitated payment is to reduce fraud and abuse.

¹ GAO, “Medicaid Program Integrity: CMS Should Build on Current Oversight Efforts by Further Enhancing Collaboration with States.” GAO-17-277: 4/17/2017. <http://www.gao.gov/products/GAO-17-277>.

² Medicaid Proactive Safeguards. OEI-05-99-00070. Washington, D.C.: July, 2000.

³ The Stephen Group. Volume II: Recommendation to the Arkansas Health Reform Task Force. October 2015. Pg. 21 Retrieved online on April 24th, 2017 at <http://www.arkleg.state.ar.us/assembly/2015/Meeting%20Attachments/836/114099/TSG%20Volume%20II%20Recommendations.pdf>

The other reasons were to achieve cost certainty and savings (37%) and improve access to care (30%).⁴

- A 2012 study⁵ by the North Carolina Department of Health and Human Services, Division of Medical Assistance (DMA) found that an NEMT broker would improve oversight, reduce program costs, provide cost certainty and improve access to care.

Proposals to Increase the Program Integrity of NEMT

Congress could require states to manage NEMT through brokers or transportation management organizations or could incentivize states to choose a broker option by decreasing the federal match for transportation services to states that do not utilize brokerage services. Alternatively, Congress could require states to implement the Section 1902(a)(70) requirements for brokerage contracts in their state-managed NEMT programs (See 1902(a)(70) below).

Having a broker serve as the gatekeeper for medically appropriate transportation services reduces costs, improves accountability, and enhances the quality of services. Key features of brokered models include:

- Capitated payments, which can be used in conjunction with Medicaid managed care or fee-for-service.
 - Capitated arrangements reduce waste as the transportation manager controls spending and creates predictability in state outlays.
- A local network of transportation companies and small businesses that provide transportation through public transit, sedans, taxis, wheelchair vans, volunteers, mileage reimbursement and ambulances (reimbursement to beneficiaries or family members only if paid as an administrative expense).
 - By accessing a wide variety of transportation services, brokers reduce waste by right-sizing the mode of transportation
- Right-sizing processes to ensure that the least costly and most appropriate means of transportation is assigned
 - This reduces abuse of unnecessarily expensive modes of transportation, such as stretcher van or ambulance.
- Verification of beneficiary's Medicaid eligibility before scheduling transportation and confirmation of the rider's identification at the time of the trip.
 - This reduces fraudulent use of transportation by unqualified beneficiaries.
- Pre and post authorization of services
 - Confirming a beneficiary's appointment for healthcare services beforehand reduces wasteful or fraudulent use of NEMT services.
 - This reduces fraudulent use of NEMT, where, for example, a beneficiary might attempt to use the NEMT benefit for transportation unrelated to a health care service.
 - Allow brokers access to encounter data

⁴ Texas A&M Transportation Institute. Examining the Effects of Separate Non-Emergency Medical Transportation (NEMT) Brokerages on Transportation Coordination. Prepared for: Transit Cooperative Research Program Transportation Research Board National Research Council. March 2014

⁵ NC Department of Health and Human Services Division of Medical Assistance. Non-Emergency Medical Transportation Services Management Report: Report to the Joint Legislative 31 | Page Oversight Committees on Health and Human Services and Transportation. State of North Carolina, 2012.

- Checking state Department of Motor Vehicles (DMV) vehicle and driving license records to ensure beneficiaries do not have access to a vehicle or have a license to drive.
 - Because beneficiaries must have no other source of transportation to be eligible for the Medicaid NEMT benefit, checking the DMV records ensures the benefit is necessary and not abuse.

SEC. 1902. [42 U.S.C. 1396a]

(a) A State plan for medical assistance must—

(70) at the option of the State and provide that the state shall, notwithstanding paragraphs (1)⁶, (10)(B)⁷, and (23)⁸, provide for the establishment of a non-emergency medical transportation brokerage program in order to more cost-effectively provide transportation for individuals eligible for medical assistance under the State plan who need access to medical care or services and have no other means of transportation which—

(A) may include a wheelchair van, taxi, stretcher car, bus passes and tickets, secured transportation, and such other transportation as the Secretary determines appropriate; and

(B) may be conducted under contract with a broker who—

(i) is selected through a competitive bidding process based on the State’s evaluation of the broker’s experience, performance, references, resources, qualifications, and costs;

(ii) has oversight procedures to monitor beneficiary access and complaints and ensure that transport personnel are licensed, qualified, competent, and courteous;

(iii) is subject to regular auditing and oversight by the State in order to ensure the quality of the transportation services provided and the adequacy of beneficiary access to medical care and services; and

(iv) complies with such requirements related to prohibitions on referrals and conflict of interest as the Secretary shall establish (based on the prohibitions on physician referrals under section 1877 and such other prohibitions and requirements as the Secretary determines to be appropriate);

⁶ Statewideness- Sec. 1902(a)(1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them.

⁷ Comparability-- Sec. 1902(a) (10)(B) that the medical assistance made available to any individual described in subparagraph (A)— (i) shall not be less in amount, duration, or scope than the medical assistance made available to any other such individual, and (ii) shall not be less in amount, duration, or scope than the medical assistance made available to individuals not described in subparagraph (A).

⁸ Freedom of choice of provider-- Sec. 1902(a)(23) provide that (A) any individual eligible for medical assistance (including drugs) may obtain such assistance from any institution, agency, community pharmacy, or person, qualified to perform the service or services required (including an organization which provides such services, or arranges for their availability, on a prepayment basis), who undertakes to provide him such services, and (B) an enrollment similar entity shall not restrict the choice of the qualified person from whom the individual may receive services under [section 1396d\(a\)\(4\)\(C\) of this title](#), except as provided in subsection (g), in [section 1396n of this title](#), and in [section 1396u–2\(a\) of this title](#), except that this paragraph shall not apply in the case of Puerto Rico, the Virgin Islands, and Guam, and except that nothing in this paragraph shall be construed as requiring a State to provide medical assistance for such services furnished by a person or entity convicted of a felony under Federal or State law for an offense which the State agency determines is inconsistent with the best interests of beneficiaries under the State plan or by a provider or supplier to which a moratorium under subsection (kk)(4) is applied during the period of such moratorium.