

**STATE OF RHODE ISLAND
EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES**

**9/6/2018 PUBLIC NOTICE OF PROPOSED AMENDMENT TO RHODE ISLAND
MEDICAID STATE PLAN**

In accordance Rhode Island General Laws 42-35, notice is hereby given that the Executive Office of Health and Human Services (EOHHS) proposes to make the following amendment to the Rhode Island State Plan under Title XIX of the Social Security Act:

Non-Emergency Medical Transportation (NEMT)

EOHHS is seeking federal authority to update the State Plan as it relates to the Non-Emergency Medical Transportation (NEMT) program. The State is proposing the following amendments:

- Clarification of the vehicle types that are available under the NEMT benefit
- Allow for mileage reimbursement
- Allow for member transportation to non-Medicaid providers (i.e. Veteran Health Administration providers)
- Allow for greater flexibility in quality standards and thresholds associated with performance withholds

This amendment is expected to have no budgetary impact. The proposed effective date of this amendment is January 1, 2019.

This proposed amendment is accessible on the EOHHS website (www.eohhs.ri.gov) or available in hard copy upon request (401-462-6348 or RI Relay, dial 711). Interested persons should submit data, views, or written comments by October 6, 2018 to Melody Lawrence, Executive Office of Health and Human Services, 3 West Rd, Cranston, RI, 02920, or Melody.Lawrence@ohhs.ri.gov.

In accordance with the Rhode Island General Laws 42-35-3, an oral hearing will be granted on the proposed State Plan Amendment if requested by twenty-five (25) persons, an agency, or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within fourteen (14) days of this notice.

The Executive Office of Health and Human Services does not discriminate against individuals based on race, color, national origin, sex, gender identity or expression, sexual orientation, religious belief, political belief, or handicap in acceptance for or provision of services or employment in its programs or activities.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
MEDICAL ASSISTANCE PROGRAM

State/Territory: Rhode Island

SECTION 3 – SERVICES: GENERAL PROVISIONS

3.1 Amount, Duration, and Scope of Services

Medicaid is provided in accordance with the requirements of sections 1902(a), 1902(e), 1903(i), 1905(a), 1905(p), 1905(r), 1905(s), 1906, 1915, 1916, 1920, 1925, 1929, and 1933 of the Act; section 245(A)(h) of the Immigration and Nationality Act; and 42 CFR Parts 431, 440, 441, 442, and 483.

A. Categorically Needy

24a. Any other medical care, and any other type of remedial care recognized under State law, specified by the Secretary in accordance with section 1905(a)(28) of the Social Security Act and 42 CFR 440.170.

- Non-emergency transportation is provided in accordance with 42 CFR §431.53 as an administrative Service.
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| Without limitations | With limitations (Describe limitations in a Supplement to 3.1B either a Supplement or in Attachment 3.1D) |
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- Non-emergency transportation is provided without a broker in accordance with 42 CFR §440.170 as an optional medical service, excluding “school-based” transportation.
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| Without limitations | With limitations (Describe limitations in either a Supplement to 3.1B or in Attachment 3.1D) |
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(If non-emergency transportation is provided without a broker as an optional medical service or as an administrative service, **the state should describe in Attachment 3.1D how the transportation program operates** including types of transportation and transportation related services provided and any limitations. Describe emergency and non-emergency transportation services separately. Include any interagency or cooperative agreements with other Agencies or programs.)

- Non-emergency transportation is provided through a brokerage program as an optional medical service in accordance with 1902(a)(70) of the Social Security Act and 42 CFR 440.170(a)(4).

- The State assures it has established a non-emergency medical transportation program in accordance with 1902(a)(70) of the Social Security Act in order to more cost-effectively provide transportation, and can document, upon request from CMS, that the transportation broker was procured in compliance with the requirements of 45 CFR 92.36 (b)-(i).

- (1) The State will operate the broker program without regard to the requirements of the following paragraphs of section 1902(a);

- State (1) state-wideness (Please indicate the areas of State that are covered by the broker. If the chooses to contract with more than one broker the State must provide a separate preprint for each broker)

- (10)(B) comparability

- (23) freedom of choice
- (2) Transportation services provided will include:
- wheelchair van
 - taxi
 - stretcher car
 - bus passes
 - tickets
 - secured transportation
 - other transportation (if checked describe below other types of transportation provided.) Public Motor Vehicle, Limited Public Motor Vehicle,
 - Non-emergency basic life support
 - Non-emergency advanced life support
 - mileage reimbursement is not provided
- (3) The State assures that transportation services will be provided under a 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 ensures that transportation is timely and 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 and
timeliness of the transportation services provided and the adequacy of beneficiary
access
to medical care and services:
 - (iv) complies 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.)
- (4) The broker contract will provide transportation to the following categorically needy mandatory populations:
- Low-income families with children (section 1931)
 - Deemed AFCD-related eligibles
 - Poverty-level related pregnant women
 - Poverty-level infants
 - Poverty-level children 1 through 5
 - Poverty-level children 6 – 18
 - Qualified pregnant women AFDC – related

- Qualified children AFDC – related
- IV-E foster care and adoption assistance children
- TMA recipients (due to employment) (section 1925)
- TMA recipients (due to child support)
- SSI recipients

(5) The broker contract will provide transportation to the following categorically needy optional populations:

- Optional poverty-level - related pregnant women
- Optional poverty-level - related infants
- Optional targeted low-income children
- Non IV-E children who are under State adoption assistance agreements
- Non IV-E independent foster care adolescents who were in foster care on their 18th birthday
- Individuals who meet income and resource requirements of AFDC or SSI
- Individuals who would meet the income & resource requirements of AFDC if child care costs were paid from earnings rather than by a State agency
- Individuals who would be eligible for AFDC if State plan had been as broad as allowed under Federal law
- Children aged 15-20 who meet AFDC income and resource requirements
- Individuals who would be eligible for AFDC or SSI if they were not in medical institution
- Individuals infected with TB
- Individuals screened for breast or cervical cancer by CDC program
- Individuals receiving COBRA continuation benefits
- Individuals in special income level group, in a medical institution for at least 30 consecutive days, with gross income not exceeding 300% of SSI standard
- Individuals receiving home and community based waiver services who would only be eligible under State plan if in a medical institution (please note that broker may only provide transportation to and from 1905(a) services)
- Individuals terminally ill if in a medical institution and will receive hospice Care
- Individuals aged or disabled with income not above 100% FPL
- Individuals receiving only an optional State supplement in a 209(b) State

- under
- Individuals working disabled who buy into Medicaid (BBA working disabled group)
 - Employed medically improved individuals who buy into Medicaid TWWIIA Medical Improvement Group
 - Individuals disabled age 18 or younger who would require an institutional level of care (TEFRA 134 kids).
 - Individuals eligible under 1902(a)(10)(A)(i)- new eligibility group VIII (very-low income adults who are not otherwise eligible under any other mandatory eligibility group)

(6) Payment Methodology

- (A) Please describe the methodology used by the State to pay the broker:

The state will pay the broker a capitated rate by calculating per member per month fee multiplied by the total number of eligible beneficiaries

- (B) Please describe how the transportation provider will be paid:

The transportation provider will be paid in accordance with provider's contract with broker.

- (C) What is the source of the non-Federal share of the transportation payments?

Describe below the source of the non-Federal share of the transportation payments proposed under the State plan amendment. If more than one source exists to fund the non-Federal

share

of the transportation payment, please separately identify each source of non-Federal share funding.

State general revenue constitutes the non-Federal share of the transportation payments. It is funded through two sources: Medicaid Funds and General Revenue.

A portion of the non-federal share is provided through an IGT from the Department of Human Services. The Department of Human Services is the State entity that administers the SNAP, TANF, and other human service programs. DHS has no taxing authority.

When EOHHS pays the claim through the MMIS, the State share amount is billed to the DHS account. There will be certain people who are Medicaid eligible, but whose transportation is funded from TANF or Title XX. The transportation PMPM associated with those individuals will not be claimed for Federal Medicaid Match. The MMIS is not allowed to report a federal expense for funding aside from Medicaid, therefore, these funds cannot be claimed as a Federal Medicaid match.

- (D) The State assures that no agreement (contractual or otherwise) exists between the State or any form of local government and the transportation broker to return or redirect any of the Medicaid payment to the State or form of local government (directly or indirectly). This assurance is not intended to interfere with the ability of a transportation broker to contract for transportation services at a lesser rate and credit any savings to the program.

- (E) The State assures that payments proposed under this State plan amendment will be made directly to transportation broker and that the transportation broker payments are fully retained by the transportation broker and no agreement (contractual or otherwise) exists between the State or local government and the transportation provider to return or redirect any of the Medicaid payment to the State or form of local

government (directly or indirectly).

- (F) The State has included Federal Medicaid matching funds as State match when drawing down FTA SAFETEA-LU grants.

- (7) The broker is a non-governmental entity:

The broker is not itself a provider of transportation nor does it refer to or subcontract with any entity with which it has a prohibited financial relationship as described at 42 CFR 440.170(4)(ii).

The broker is itself a provider of transportation or subcontracts with or refers to an entity with which it has a prohibited financial relationship and:

Transportation is provided in a rural area as defined at 42 CFR 412.62(f) and there is no other available Medicaid participating provider or other provider determined by the State to be qualified except the non-governmental broker.

Transportation is so specialized that there is no other available Medicaid participating provider or other provider determined by the State to be qualified except the non-governmental broker

The availability of other non-governmental Medicaid participating providers or other providers determined by the State to be qualified is insufficient to meet the need for transportation.

- (8) The broker is a governmental entity and provides transportation itself or refers to or subcontracts with another governmental entity for transportation. The governmental broker will:

Maintain an accounting system such that all funds allocated to the Medicaid brokerage program and all costs charged to the Medicaid brokerage will be completely separate from any other program.

Document that with respect to each individual beneficiary's specific transportation needs, the government provider is the most appropriate and lowest cost alternative.

Document that the Medicaid program is paying no more for fixed route public transportation than the rate charged to the general public and no more for public para-transit services than the amount charged to other human services agencies for the same service.

- (9) Please provide a complete description of how the NEMT brokerage program operates. Include all services provided by the broker (call center, over-sight of providers, etc.). If applicable, describe any transportation services that will not be provided by the broker and how these services will be provided

The Broker shall manage and oversee the quality of services by reviewing and modifying service rules and policies to establish a cost-effective service delivery system throughout the duration of the contract. Management oversight controls shall include the following:

- The Broker shall monitor beneficiary access and complaints.
- The Broker shall ensure that transportation is timely and that transport personnel are licensed, qualified, competent, and courteous.

- The Broker will perform annual audits and oversight to ensure the quality and timeliness of the transportation services.
- The Broker shall perform all services in compliance with local, state, and federal guidance and regulations (including, but not limited to 440.170(a)(4)(ii))
- Prior to the start date of the contract and throughout the duration of the contract, the Broker will assure that all transportation providers follow all sections of The Executive Office of Health and Human Services Regulations for Transportation.
- The Broker is liable for the full cost of services resulting from a prohibited referral or subcontract.
- Authorizing providers without appropriate credentialing will trigger a review to recoup for services paid to the Broker.
- Failure to submit annual audits will result in a possible financial adjustment to the contract for the next year.

The Broker shall coordinate call centers, trip assignment functions, and eligibility verification for all beneficiaries. Furthermore, the Broker shall ensure that call center staff are able to assign trips to all modes of transportation and have access to the least costly, most appropriate option.

- The Broker shall have a Rhode Island location and address, toll free phone line(s) that members and healthcare providers can call and speak to a live, courteous, trained customer service representative(s) for urgent care requests and ride assistance calls 24 hours a day, 7 days a week.
- The Broker shall have an after hour answering service available 365/24/7 and the response shall be consistent with that during regular business hours.
- The Broker must fully disclose all provider names and provide evidence that all transportation needs will be met on the first day of the contract.

The Broker is responsible for the ongoing recruitment and maintenance of a diverse and flexible statewide network of transportation providers that provide NEMT services to all eligible beneficiaries. The Broker will provide, in writing, the following information to EOHHS:

- Evidence that NEMT services are available and provided 24 hours a day, seven days a week, every day of the year, without exception.
- NEMT Transportation network is comprised of fixed route bus services, para-transit vehicles, multi-passenger vans, ambulances, wheelchair vans, taxi, ride-share companies and public motor vehicles (PMVs). Mileage reimbursement will be verified and paid by the Broker.
- Innovative strategies to reduce per trip costs and enhancements to the existing NEMT transportation system in an annual report to EOHHS
- Evidence that payments to transportation providers are reasonable and ensure adequate access to transportation services.
- Negotiated rates developed through competitive bidding or other strategies that ensure the provision of the most appropriate and least costly transportation services.
- Evidence of on-going collaboration with medical providers, adult day care providers, nursing homes, dialysis centers, methadone treatment clinics, and other medical provider facilities to achieve NEMT efficiencies.

Specifically, the Broker shall be able to implement or have the following in place:

- Ability accept daily member eligibility files (Medicaid and CNOM) members;
- Establish and maintain an effective Call Center, website, and printed materials for communication with members, transportation providers, and facilities such as nursing homes, dialysis centers, methadone clinics, adult day care centers, and meal sites;
- Seamless prior authorization mechanism for all NEMT requests, including:
 - a. Verification of member eligibility for Medicaid
 - b. Verification of appointment for Medicaid-covered services or verification that the trip purpose and destination meet the programmatic rules of the NEMT transportation program;
 - c. Conduct a functional assessment of the member;
 - d. Assignment to the least expensive, medically-appropriate mode of transportation.
- A diverse network of transportation providers to transport eligible members to Medicaid covered

- services throughout Rhode Island and to out-of-state medical providers only when medically necessary;
- Efficient method for arranging services that require members to request transportation with 48-hour advance notification (except for urgent or sick visits);
 - Manage and maintain rigorous quality assurance, utilization review, and auditing mechanisms to ensure that services are delivered to eligible members within performance standards;
 - Ensure that only appropriate claims and costs are paid;
 - Implement a mechanism to manage claims data including:
 - a) An industry-acceptable means to accept claims data from transportation providers and provide prompt payment;
 - b) A mechanism to match and verify claims data with prior authorizations and other required information;
 - c) An industry-acceptable means to authorize payments to transportation providers.
 - d) An industry-acceptable means to communicate and transmit HIPAA compliant paid claims data to EOHHS (or its designee) on a regular schedule.
 - Maintain records and supporting data (including but not limited to member data, trip authorizations, claims data and provider records) in a retrieval and storage mechanism that complies with all Federal and State requirements;
 - Provide prior authorization for all NEMT services for all modes of transportation;
 - Ensure that all Transportation providers will receive a prior authorization from the Broker before remitting payment for the transportation they provided to members;
 - Provide and operate a claims processing system sufficient to support the provider payment and data reporting requirements as specified in the agreement with EOHHS;
 - Expand claims processing or MMIS capacity when the volume of trips and/or eligible members or populations increase over time;
 - Perform utilization review functions by verifying requests for medical transportation to ensure that such requests for transportation are for scheduled Medicaid covered services and to verify that an appointment is actually scheduled for the Medicaid-eligible member.
 - Coordinate out-of-state travel for those members requiring such travel;
 - Verify the medical necessity for out-of-state travel appointments and determine the closest medical provider able to perform the service, including medical providers in border state communities
 - Have Policies and a Procedures Manual for all of the above thirty (30) days prior to the start date.

The Broker shall not provide transportation directly and will maintain the following performance standards:

- Routine: within 15 minutes of the scheduled pick up
- Urgent: within 3 hours of the Broker receiving the request
- Will-call: within 60 minutes of the Broker receiving the request
- Drop off: no more than 30 minutes early

The Broker shall ensure that all clients receive confirmation of their trip details by 6 pm the night before a scheduled trip.

The purpose of the call center is for the intake and processing of transportation needs for eligible Medicaid members that includes, but is not limited to:

- 100% of all calls will have verification of Medicaid
- 100% of all calls will determine the most appropriate and cost-effective transportation mode to meet the member's needs
- Authorization of transportation;
- Dispatching non-emergency transportation trips;
- Resolving problems that may arise during a trip;
- Responding to reports of fraud and/or abuse; &
- Responding to requests for general information about transportation services.
- The Broker is to provide documentation of trip confirmation prior to 6pm before a scheduled trip
- The Broker shall locate the Customer Service Call Center in Rhode Island to accept transportation requests, assign trips, and address trip concerns minimally during normal business hours, Monday

- through Friday from 9am-5pm.
- The Broker shall designate a Backup Call Center for business continuity purposes.
 - The Backup call center may be located inside or outside of Rhode Island and must be equipped to handle all the same services during anytime the main Customer Call Center is closed.
 - The Broker's Backup Call Center must have access to all the same resources and key management staff after hours, as those working at the call center Monday through Friday 9am - 5pm.

Key management staff shall be located during normal business hours in Rhode Island for ease of meeting with State staff, transportation, and medical providers.

During the course of the contract, the Broker shall increase the number of telephone lines, depending on demand or by request of the EOHHS.

- The Broker shall utilize an automated method to schedule member trips once they are authorized and shall ensure that dispatching activities are performed efficiently.
- The scheduling method must be capable of accommodating recurring trips, one-time trips, advance reservations, and requests for urgent trips.
- The Broker shall ensure that all clients receive confirmation of their trip details by 6 pm the night before a schedule trip.

The Broker shall comply with all Federal and State confidentiality policies and procedures in performance of the call center activities.

The Broker shall maintain records and supporting data (including but not limited to member data, trip authorizations, claims data, and provider records) in a retrieval and storage mechanism that complies with all federal and state requirements and ensure that records comply with state and federal record retention requirements which are ten (10) years for medical records, source records, and financial records, and seven (7) years for litigation.

Medicaid NEMT services delivered by the Broker are only reimbursable when the member is being transported to or from a Medicaid-covered service. Reimbursement is only available for the beneficiary with the medical appointment (i.e., if an adult with an appointment is accompanied by a child, FFP is only available for the adult's trip). The Broker shall provide NEMT transportation to all beneficiaries who request NEMT services and are currently enrolled in Medicaid, have a medical condition that prevents him/her from using fixed route bus services, or is requesting transportation to/from an origin/destination address that is more than 1/2 mile from the bus stop. The Broker must verify member Medicaid eligibility by accessing daily the Rhode Island Medicaid Management Information System (MMIS) using the unique Medicaid identification number. The Broker must verify member eligibility regardless of who initiates the request. The Broker shall have policies and procedures submitted to EOHHS that provide NEMT services on a non-discriminatory basis to eligible members irrespective of the regions, communities, or neighborhoods they live in or their age, race, religion, creed, national origin, sexual orientation, gender, ability, health status, or based on others with whom they live.

The Broker's Policies and Procedures shall comply with all applicable state and federal laws pertaining to member rights, privacy, and accommodation. The Broker shall require its employees and network providers to respect those rights when providing services to members. The Broker shall allow and/or arrange for no more than one attendant to accompany any member who requires one during transportation. The Broker shall ensure that an attendant accompanies all children under the age of 18. The Broker shall allow adult members who need transportation to their own medical appointments to have a child accompany them during transportation. The Broker shall identify and plan for the special needs of passengers (e.g. cannot be left alone, cannot identify him/herself by name).

The Broker shall be responsible for informing and educating members and key stakeholders including, health care providers, provider associations, community-based organizations, and consumer representatives about the NEMT management services. The Broker shall emphasize the availability of NEMT services, eligibility for these services, the authorization process for single trips and standing orders, medical documentation of need, and how to access and use these services properly. The Broker shall maintain and operate a telephone device (TDD) for

the deaf and hard of hearing callers who need such a device.

Performance Holdbacks

The State may hold back up to 2% of monthly payments if the Broker's performance falls below acceptable quality standards, described in the contract between the State and the transportation broker.