

ASSEMBLY, No. 1005

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

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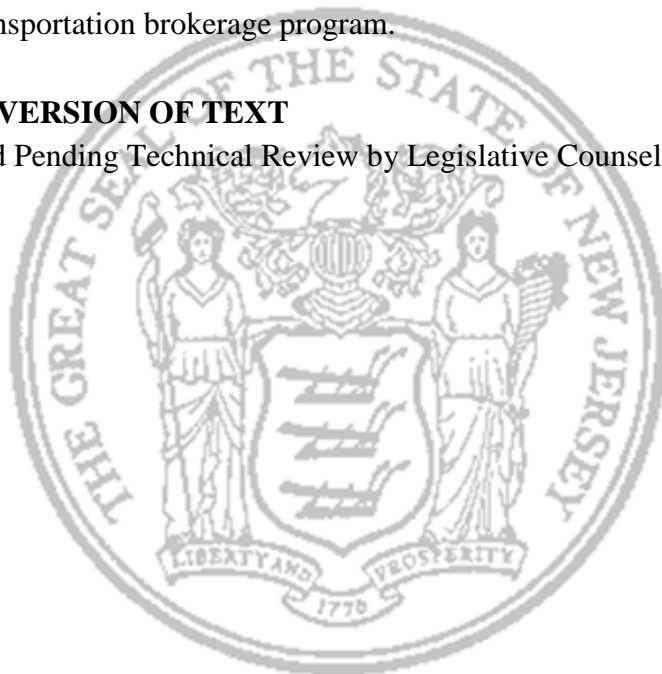
**Assemblywomen Tucker, Lopez, Jasey, Assemblyman Johnson and
Assemblywoman Murphy**

SYNOPSIS

“Medicaid Transportation Brokerage Program Oversight and Accountability Act”; establishes vehicle, staffing, and performance standards, and review and reporting requirements for non-emergency medical transport provided under Medicaid transportation brokerage program.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning non-emergency medical transport provided
2 under the State’s Medicaid transportation brokerage program,
3 and supplementing Title 30 of the Revised Statutes.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. This act may be known, and shall be cited as, the “Medicaid
9 Transportation Brokerage Program Oversight and Accountability
10 Act.”
11

12 2. As used in this act:

13 “Covered medical service” means a physical or behavioral health
14 care service that is provided to a Medicaid beneficiary and is
15 eligible for reimbursement under the State Medicaid program.

16 “Department” means the Department of Human Services.

17 “Initial trip” means the transport of a Medicaid beneficiary to a
18 medical provider for the purposes of receiving a covered medical
19 service.

20 “Livery vehicle” means a chauffeured vehicle, other than a
21 mobility assistance vehicle, which is used to transport ambulatory
22 Medicaid beneficiaries to and from health care providers to receive
23 covered medical services. “Livery vehicle” includes, but is not
24 limited to, a clinic van, a paratransit van, or a wheelchair van.

25 “Medicaid program” means the State Medicaid program
26 established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

27 “Medicaid transportation broker” or “broker” means LogistiCare
28 Solutions, LLC or another corporate entity, which is contracted by
29 the department, and is responsible for: developing and maintaining
30 a non-emergency medical transport provider network for use by
31 Medicaid program beneficiaries; verifying beneficiary eligibility for
32 non-emergency medical transport; determining and authorizing the
33 appropriate mode of transport for each beneficiary on the basis of
34 medical necessity; and dispatching an appropriate provider vehicle
35 to transport the beneficiary.

36 “Medicaid transportation brokerage contract” means the contract
37 that is executed between the department and the Medicaid
38 transportation broker for the purposes of the Medicaid
39 transportation brokerage program.

40 “Medicaid transportation brokerage program” or “brokerage
41 program” means the brokerage program operated by the department,
42 and pursuant to which the department contracts with a Medicaid
43 transportation broker to manage the provision of non-emergency
44 medical transport to Medicaid beneficiaries in the State.

45 “Medical necessity form” means a document that: is submitted
46 by a Medicaid beneficiary who is requesting that transportation
47 services be provided thereto through the use of a mobility assistance
48 vehicle; identifies the Medicaid beneficiary’s current medical

1 diagnoses, impairments, or functional disabilities, with particular
2 emphasis on factors that affect the beneficiary's ability to walk; and
3 demonstrates that other modes of transport are not appropriate or
4 available to the beneficiary.

5 "Mobility assistance vehicle" means a chauffeured vehicle that is
6 staffed by certified trained personnel, and which is used to transport
7 a non-ambulatory Medicaid beneficiary who is sick, has an
8 infirmity, or has a disability, and is under the care and supervision
9 of a physician, and whose medical condition is not of sufficient
10 magnitude or gravity to require transportation by ambulance, but is
11 of sufficient magnitude or gravity to require transportation from
12 place to place for medical care, and whose use of an alternate form
13 of transportation, such as a taxicab, bus, livery vehicle, private
14 vehicle, or public conveyance might create a serious risk to the
15 beneficiary's life or health.

16 "Multi-passenger load" means an initial trip or a return trip in
17 which a Medicaid beneficiary is transported simultaneously with
18 other Medicaid beneficiaries in the same vehicle, regardless of
19 whether all passengers are being transported to the same location,
20 or to different locations.

21 "Provider" means a person, company, firm, association,
22 corporation, or other entity that is participating directly, or
23 indirectly as a subcontractor, in the Medicaid program, and that is
24 providing transportation services as an authorized provider in the
25 Medicaid transportation broker's network.

26 "Return trip" means the transport of a Medicaid beneficiary from
27 a medical provider following the beneficiary's receipt of a covered
28 medical service.

29 "Transportation service" means the non-emergency medical
30 transport of a Medicaid beneficiary by a provider who is engaged in
31 the Medicaid transportation brokerage program, and which transport
32 is provided through the use of a mobility assistance vehicle or
33 livery vehicle and is necessary for the Medicaid beneficiary to
34 receive covered medical services.

35

36 3. a. A provider of transportation services shall ensure that
37 requested transportation services are provided within 15 minutes of
38 the pre-arranged pick-up time that is scheduled by the person
39 seeking the services and agreed to by the provider.

40 b. A provider of transportation services, before engaging in the
41 provision of transportation services to a Medicaid beneficiary, shall
42 demonstrate, in a form and manner specified by department
43 regulation, that the provider has a workers' compensation policy, a
44 general liability insurance policy, and an automobile liability
45 insurance policy that covers all vehicles that will be used in the
46 provision of transportation services. If a provider fails to
47 demonstrate that it has all three policies, and that each policy is

1 current, the provider shall be prohibited from providing
2 transportation services to Medicaid beneficiaries.

3 c. A provider of transportation services shall register each
4 vehicle used in the provision of transportation services as a
5 “commercial” or “livery” vehicle, as appropriate, and shall
6 additionally maintain a current vehicle inspection report for each
7 such vehicle. Any vehicle that is not appropriately registered, that
8 does not have a current vehicle inspection report, or that has failed
9 its most recent vehicle inspection, shall not be used to provide
10 transportation services to a Medicaid beneficiary under the
11 Medicaid transportation brokerage program.

12 d. Any vehicle that has been driven more than 150,000 miles
13 shall undergo an enhanced inspection process before commencing
14 or continuing operations as a livery or mobility assistance vehicle.
15 The enhanced inspection process shall include: (1) an evaluation of
16 all vehicle maintenance records to ensure that all appropriate oil
17 changes and air filter changes have been completed; (2) an
18 inspection of all four tires, and, if applicable, any spare tire; (3)
19 repacking of wheel bearings; (4) completion of engine tune-ups; (5)
20 an inspection of all seatbelts; (6) an inspection of the windshield to
21 ensure that it does not have clear damage; (7) an inspection of the
22 vehicle’s electrical systems; (8) the servicing of fluid levels; (9) the
23 lubrication of the vehicle’s chassis and doors; (10) an inspection of
24 the vehicle’s air conditioning and heating systems; (11) an
25 inspection of the vehicle’s hoses and fire extinguishers; (12) an
26 inspection of the vehicle’s brakes, headlights, and indicator lights;
27 and (13) an inspection of any body damage. Any vehicle that fails
28 the enhanced inspection shall immediately be withdrawn from
29 service as a livery or mobility assistance vehicle, and shall have its
30 inspection medallion removed, until such time as the vehicle has
31 been repaired and re-inspected, and is deemed safe to operate.

32 e. A provider shall not provide transportation services using
33 any vehicle that seats less than four passengers, in addition to the
34 driver.

35 f. A provider shall ensure that the drivers and other staff
36 members employed thereby are appropriately licensed or certified to
37 provide transportation services, as required by law.

38 g. A provider shall comply with all applicable criminal history
39 record background check requirements imposed by the department,
40 and shall not employ any driver or other person who has ever been
41 convicted of a disqualifying offense, as defined by department
42 regulation, regardless of the date of the offense or conviction
43 therefor.

44 h. A provider shall only be authorized to transport a Medicaid
45 beneficiary to or from a medical provider in order to receive a
46 covered medical service, and not for any other purpose.

1 4. a. A provider shall ensure that its drivers, and any other
2 staff members who come into direct contact with a person receiving
3 transportation services, successfully complete training as provided
4 by this section. A provider shall not employ, or shall dismiss from
5 employment, as appropriate, any person who fails to complete such
6 training.

7 b. A driver or other staff member who comes into direct
8 contact with a person receiving transportation services, and who
9 commences employment after the effective date of this act, shall
10 receive training upon the commencement of employment, and
11 biennial refresher training thereafter, as follows:

12 (1) training on how to satisfy the special needs of a beneficiary
13 who is receiving transportation services;

14 (2) training on the procedures that should be followed to
15 adequately respond to a complaint from a beneficiary who is
16 receiving transportation services; and

17 (3) training on how to provide appropriate and courteous
18 treatment and engage in positive interactions with a beneficiary who
19 is receiving transportation services.

20 c. A driver or other staff member who comes into direct
21 contact with a person receiving transportation services, and who is
22 employed as of the effective date of this act, shall complete the
23 training described in subsection b. of this section within six months
24 after the effective date of this act, and biennial refresher training
25 thereafter.

26 d. Training under this section shall be provided by the
27 department, a division of the department, or any agency that is
28 contracted by the department to provide such training.

29
30 5. a. Each provider shall maintain a monthly transportation
31 services log to document the transportation services that were
32 provided thereby to Medicaid beneficiaries during the month, and
33 shall make the log available to the department, upon request. The
34 transportation services log shall be updated on a daily basis, and
35 shall identify, for each Medicaid beneficiary served by the provider:

36 (1) the name of the Medicaid beneficiary;

37 (2) whether the Medicaid beneficiary was transported using a
38 mobility assistance vehicle or a livery vehicle;

39 (3) the model year and registration number of the vehicle used
40 for transport;

41 (4) the driver's name;

42 (5) the date and time for which pick-up was scheduled, for both
43 the initial trip and the return trip;

44 (6) the date and time at which the vehicle actually arrived to
45 pick up the beneficiary for the initial trip and the return trip;

46 (7) the name and address of the medical provider to or from
47 which the beneficiary was transported;

1 (8) the time at which the beneficiary was scheduled to arrive at
2 the medical provider's office for the provision of covered medical
3 services;

4 (9) the time at which the transport vehicle actually arrived at the
5 medical provider's office;

6 (10) whether the beneficiary, for both the initial trip and the
7 return trip, was the sole passenger in the vehicle, or was transported
8 as part of a multi-passenger load; and

9 (11) the actual number of miles traveled between the pick-up
10 location and the drop-off location, for both the initial trip and the
11 return trip, which mileage shall be calculated in accordance with the
12 provisions of subsection c. of section 9 of this act.

13 b. In addition to the transportation services log maintained
14 pursuant to subsection a. of this section, a provider of transportation
15 services shall maintain the following records:

16 (1) documentation for each driver of a mobility assistance
17 vehicle or livery vehicle certifying that the driver has completed
18 department-approved medical and safety training courses, as well as
19 the sensitivity training required by section 4 of this act, and
20 showing the date on which such training was successfully
21 completed;

22 (2) a copy of the driver's license possessed by each driver of a
23 mobility assistance vehicle or livery vehicle;

24 (3) a copy of any other licenses or certifications that are
25 required for the provider's staff members;

26 (4) a copy of all applicable licenses, registrations, and
27 inspection reports for each vehicle that is used by the provider in
28 the provision of transportation services;

29 (5) a copy of any complaints that were submitted directly to the
30 provider and forwarded thereby to the department's designated
31 evaluator, pursuant to subsection b. of section 7 of this act; and

32 (6) any other records required by department regulation, or by
33 the Medicaid transportation brokerage contract.

34 c. A provider, when submitting a claim for reimbursement
35 under the Medicaid program, shall also submit a copy of the
36 monthly transportation services log that is maintained under
37 subsection a. of this section for the reimbursement period, and shall
38 allow the broker or the department, upon request, to review copies
39 of the records that have been retained under subsection b. of this
40 section for each driver, other staff member, or vehicle used in the
41 provision of transportation services identified under the claim.

42
43 6. a. (1) The Medicaid transportation broker, upon receiving a
44 request for transportation services under the brokerage program,
45 shall require the beneficiary requesting the service to certify that the
46 transportation is necessary to enable the beneficiary to receive a
47 covered medical service.

1 (2) The department, as deemed appropriate, may additionally
2 require the broker, or the individual providers in the broker's
3 network, to obtain verification from the medical provider, prior to
4 the date of transport, as to whether a covered medical service will
5 be received by the beneficiary on the date of transport.

6 b. The Medicaid transportation broker, upon receiving a
7 request for transportation services to be provided through a mobility
8 assistance vehicle, shall ensure that the Medicaid beneficiary
9 submits a medical necessity form justifying the use of the mobility
10 assistance vehicle. The medical necessity form shall be submitted
11 by the Medicaid beneficiary before the vehicle is dispatched. If no
12 medical necessity form is submitted by the Medicaid beneficiary,
13 the broker shall not authorize a provider to use a mobility assistance
14 vehicle to provide transportation services to the beneficiary, and
15 transportation services shall instead be provided through the use of
16 a livery vehicle, where appropriate. A Medicaid beneficiary
17 seeking transportation services through the use of a mobility
18 assistance vehicle shall be required to submit a medical necessity
19 form, as provided by this section, regardless of the beneficiary's
20 medical condition or place of residence, and regardless of the
21 whether the broker or the individual provider has existing
22 knowledge of the beneficiary's medical condition.

23 c. The Medicaid transportation broker shall maintain the
24 following records, and shall make them available to the department,
25 upon request:

26 (1) a daily and monthly log showing each transportation service
27 that was requested and each transportation service that was
28 provided under the brokerage program during the period, and
29 additionally identifying the individual provider in the network who
30 provided each transportation service, and the type of vehicle that
31 was dispatched in each case;

32 (2) a copy of each medical necessity form that is submitted,
33 pursuant to subsection b. of this section, by a Medicaid beneficiary
34 who is seeking the use of a mobility assistance vehicle;

35 (3) a record showing the date and time on which a Medicaid
36 beneficiary provided oral or written certification, pursuant to
37 paragraph (1) of subsection a. of this section, that transportation
38 was required to enable the beneficiary to receive a covered medical
39 service; and, if required by the department pursuant to paragraph
40 (2) of subsection a. of this section, a log showing the date and time
41 on which the medical provider was contacted for verification
42 purposes, and indicating whether the medical provider confirmed
43 that a covered medical service was being provided to the
44 transportation recipient on the date of transport;

45 (4) a log of cases in which the waiting time for a transportation
46 service was in excess of 15 minutes;

47 (5) a record showing the types of insurance coverage that are
48 held by each individual provider in the network;

1 (6) a copy of any complaints that were submitted directly to the
2 broker and forwarded to the department's designated evaluator,
3 pursuant to subsection b. of section 7 of this act; and

4 (7) any other records required by the department.
5

6 7. a. The department shall designate an employee to conduct
7 an evaluation of the Medicaid transportation brokerage program, on
8 at least an annual basis, as provided by this section. The evaluation
9 shall not be conducted by the Division of Medical Assistance and
10 Health Services, or its successor, or by any employee of the
11 division. The designated evaluator shall:

12 (1) in accordance with the provisions of subsection b. of this
13 section, receive, catalogue, and report to the department on the
14 complaints that are submitted by Medicaid beneficiaries with regard
15 to the transportation services that are provided under the Medicaid
16 transportation brokerage program; and

17 (2) in accordance with the provisions of subsection c. of this
18 section, regularly evaluate the performance of the Medicaid
19 transportation broker and individual transportation service providers
20 in the broker's network, in order to ensure compliance with
21 applicable performance standards.

22 b. (1) The designated evaluator shall receive and catalogue all
23 complaints that are submitted by recipients of transportation
24 services provided under the Medicaid brokerage program. Any
25 complaints that are submitted directly to a provider, or to the
26 Medicaid transportation broker, shall be forwarded to the
27 designated evaluator, in a form and manner prescribed by
28 department regulation, within five business days, except that any
29 complaints alleging health or safety risks or violations shall be
30 forwarded to the designated evaluator within one business day.

31 (2) Upon receipt of a complaint about a transportation service,
32 the designated evaluator shall verify the facts of the complaint and
33 catalogue the complaint in a monthly report, as provided by
34 paragraph (3) of this subsection.

35 (3) On a monthly basis, the designated evaluator shall submit a
36 report to the commissioner, to the Director of the Division of
37 Medical Assistance and Health Services, and to the Medicaid
38 transportation broker, indicating: (a) the total number of Medicaid
39 beneficiaries who received transportation services during the month
40 under the brokerage program, and the total number of Medicaid
41 beneficiaries who received transportation services during the month
42 from each individual transportation provider within the broker's
43 network; (b) the total number of complaints that were filed during
44 the month, and the number and percentage of those complaints that
45 dealt with the broker, and with each individual provider in the
46 broker's network; (c) the percentage of transportation recipients
47 who filed a complaint during the month; and (d) the nature of the
48 complaints that were filed. The report submitted to the

1 commissioner shall additionally provide a recommendation as to the
2 amount of monthly liquidated damages, if any, that should be
3 imposed on the broker by the department, pursuant to section 8 of
4 this act, in response to the complaints.

5 c. (1) The designated evaluator, on at least an annual basis,
6 shall review the records maintained by the broker pursuant to
7 subsection c. of section 6 of this act, and the transportation service
8 logs and other records maintained by each individual provider
9 pursuant to section 5 of this act, in order to ensure that the broker
10 and the providers in its network are complying with applicable
11 vehicle, staffing, and performance standards. The designated
12 evaluator shall also perform random and follow-up reviews, as
13 deemed to be necessary.

14 (2) In conducting a performance review under this subsection,
15 the designated evaluator shall determine whether:

16 (a) the vehicles used to transport Medicaid beneficiaries are
17 fully compliant with all statutory, regulatory, and contractual
18 requirements;

19 (b) transport personnel are properly licensed and qualified to
20 provide non-emergency medical transportation services;

21 (c) prior authorization is being obtained and medical necessity
22 is being documented for beneficiaries who require the services of a
23 mobility assistance vehicle;

24 (d) individual providers consistently maintain all types of
25 insurance required by law or regulation;

26 (e) beneficiaries using a transportation service actually receive a
27 covered medical service on the date of transport; and

28 (f) the nature of transportation services provided to each
29 beneficiary, including the date and time the beneficiary was picked-
30 up and dropped-off for both the initial trip and the return trip, and
31 the actual miles driven, are being accurately and consistently
32 documented, as required by this act.

33 (3) Within 30 days after the completion of a performance review
34 pursuant to this subsection, the designated evaluator shall prepare
35 and submit to the commissioner, and to the Director of the Division
36 of Medical Assistance and Health Services, a report that identifies
37 the evaluator's findings with regard to the matters described in
38 paragraph (2) of this subsection. The report shall additionally
39 provide a recommendation as to the amount of monthly liquidated
40 damages, if any, that should be imposed on the broker by the
41 department, pursuant to section 8 of this act, in response to any
42 identified performance failures.

43 d. The department shall post, on its Internet website, the
44 findings that are set forth in each annual report submitted pursuant
45 to subsection c. of this section.

46
47 8. a. Monthly capitation fees that are paid by the department to
48 the Medicaid transportation broker for each Medicaid beneficiary

1 shall be offset by any liquidated damages that may be assessed by
2 the department against the broker for failing to comply with, or
3 failing to ensure that the individual providers in its network comply
4 with, applicable vehicle, staffing, or performance standards.

5 b. The amount of liquidated damages imposed under this
6 section shall be: (1) based on the reports that are filed by the
7 department's designated evaluator under subsections b. and c. of
8 section 7 of this act; (2) consistent with the provisions of the
9 Medicaid transportation brokerage contract, and the
10 recommendations that are made by the department's designated
11 evaluator under subsection c. of section 7 of this act; and (3)
12 sufficient to deter future non-compliance. Whenever the brokerage
13 contract is being considered for renewal, the department shall
14 review the contract's liquidated damage provisions, and revise the
15 contract appropriately, in order to ensure that the maximum
16 liquidated damage amounts specified therein are sufficient to deter
17 future non-compliance.

18 c. Liquidated damages shall be imposed, on a monthly basis, as
19 provided in this section, until the broker or individual providers, as
20 the case may be, are deemed to be in compliance with applicable
21 vehicle, staffing, and performance standards. The amount of
22 liquidated damages imposed by the department shall be increased,
23 on a monthly basis, until full compliance is achieved, at which time
24 liquidated damages may be reduced or eliminated, as deemed by the
25 department to be appropriate.

26

27 9. a. The department shall implement policies and procedures,
28 and review and appropriately revise the Medicaid transportation
29 brokerage contract, as may be necessary to ensure that the
30 reimbursement and capitation fees paid thereby under the Medicaid
31 transportation brokerage program are not paid in excess.

32 b. The department shall develop a system that enables the
33 department to: (1) periodically review the monthly capitation fees
34 that have been paid to the broker under the Medicaid transportation
35 brokerage contract; (2) identify when capitation payments have
36 been duplicated or made in excess; and (3) take action to fully
37 recover such excess or duplicate payments. The periodic review of
38 monthly capitation payments, and the recovery of excess or
39 duplicative payments, under the system established pursuant to this
40 section, shall occur not less than once per year.

41 c. (1) Mileage reimbursement payments made by the
42 department under the Medicaid transportation brokerage program
43 shall be based on the actual number of miles driven by the driver.

44 (2) A driver who provides simultaneous transportation services
45 to more than one Medicaid beneficiary on any initial trip or return
46 trip shall not receive mileage reimbursement in the same way as
47 would be true if the driver had provided separate trips for each
48 passenger. Instead, the mileage reimbursement provided to a driver

1 who is engaged in the provision of multi-passenger transportation
2 services shall be based on the number of miles actually driven for
3 the one passenger in the multi-passenger load who was transported
4 over the farthest distance. The contract executed between the
5 department and the Medicaid transportation broker shall specify
6 that a lower rate of mileage reimbursement will be authorized for
7 multi-passenger loads, as provided in this paragraph.

8 (3) The department shall not authorize a mileage reimbursement
9 payment, under this section, unless the Medicaid beneficiary being
10 transported actually received a covered medical service on the date
11 of transport. The department shall institute procedures and
12 protocols as necessary to verify that a covered medical service was
13 actually received by the beneficiary, for the purposes of authorizing
14 mileage reimbursements under this subsection.

15
16 10. a. The department shall annually submit to the Governor,
17 and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1) to the
18 Legislature, a report on the Medicaid transportation brokerage
19 program. The information that is contained in an annual report filed
20 pursuant to this section shall be based on the department's review
21 of the reports that were filed by its designated evaluator during the
22 reporting period, pursuant to section 7 of this act.

23 b. The report filed pursuant to this section shall: (1) describe
24 the transportation services that have been provided under the
25 Medicaid transportation brokerage program during the reporting
26 period; (2) describe and categorize the nature of complaints that
27 were filed during the reporting period; (3) include a performance
28 evaluation of the broker, and individual providers in the broker's
29 network; (4) incorporate statistical data on the brokerage program,
30 as provided by subsection c. of this section; (5) identify the actions
31 that were undertaken during the reporting period by the broker, or
32 by individual providers in the broker's network, in order to correct
33 previously identified problems or otherwise improve service
34 provision and fiscal responsibility under the brokerage program; (6)
35 identify the actions that were undertaken by the department during
36 the reporting period, including the imposition of liquidated damages
37 pursuant to section 8 of this act, or the ordering of corrective action,
38 which were designed to address identified problems and ensure
39 future compliance with vehicle, staffing, and performance
40 standards; and (7) provide recommendations for executive or
41 legislative actions that can be undertaken to improve the brokerage
42 program or ensure its proper and fiscally responsible
43 implementation.

44 c. The statistical data that is included in an annual report shall
45 identify, at a minimum: (1) the percentage of providers whose staff
46 members have not fully complied with applicable training
47 standards; (2) the percentage of providers whose vehicles are not
48 fully compliant with applicable vehicle standards; (3) the

1 percentage of transportation services that were not provided within
2 the 15-minute timeframe required by subsection a. of section 3 of
3 this act; (4) the number of complaints that were filed during the
4 reporting period; and (5) the percentage of total transportation
5 recipients during the period who filed a complaint.

6 d. The report filed pursuant to this section shall be posted on
7 the department's Internet website concurrently with its submission
8 to the Governor and the Legislature.

9
10 11. Sections 1 through 7, and sections 9 and 10, of this act shall
11 take effect immediately. Section 8 of this act shall take effect on
12 the first day of the third month next following the date of
13 enactment, except that the Commissioner of Human Services may
14 take such anticipatory administrative action in advance thereof as
15 shall be necessary for the implementation of that section

16

17

18

STATEMENT

19

20 This bill would establish vehicle, staffing, and performance
21 standards in association with the State's Medicaid transportation
22 brokerage program.

23 Under the State's Medicaid transportation brokerage program, the
24 Department of Human Services (DHS) contracts with a Medicaid
25 transportation broker to manage the provision of non-emergency
26 medical transport to Medicaid beneficiaries in the State. The
27 transportation broker is responsible for: developing and maintaining a
28 non-emergency medical transport provider network for use by
29 Medicaid program beneficiaries; verifying beneficiary eligibility for
30 non-emergency medical transport; determining and authorizing the
31 appropriate mode of transport for each beneficiary on the basis of
32 medical necessity; and dispatching an appropriate provider vehicle to
33 transport the beneficiary. The current Medicaid transportation broker
34 in the State is LogistiCare Solutions, LLC.

35 Although the Medicaid transportation brokerage program has been
36 in operation in the State since 2009, recent reports issued by the Office
37 of Inspector General and the Office of the State Auditor have indicated
38 that there are significant performance deficiencies in the provision of
39 non-emergency transport under the brokerage program. This bill is
40 designed to address the issues raised in those reports.

41 Specifically, the bill would clarify the requirements that are to be
42 applicable to the DHS, the Medicaid transportation broker, and the
43 individual providers within the broker's network, under the Medicaid
44 transportation brokerage program; and it would further establish a
45 procedure for the performance review of the broker and its authorized
46 providers, and the review of complaints that are submitted about the
47 brokerage program.

1 The bill would clarify, for instance, that the Medicaid
2 transportation broker is obligated to: 1) require a person requesting
3 transportation services to certify that the transportation services are
4 necessary for the person to receive a covered medical service under
5 Medicaid; and 2) require a person requesting transport through the use
6 of a mobility assistance vehicle (MAV) to submit a medical necessity
7 form justifying the use of the MAV.

8 Individual providers of transportation services under the brokerage
9 program would be required by the bill to comply with the vehicle,
10 staffing, and service delivery requirements specified therein. In
11 particular, each provider would be required to: 1) ensure that transport
12 services are provided within 15 minutes of the scheduled arrival time;
13 2) be covered by a workers' compensation policy, a general liability
14 insurance policy, and an automobile insurance policy that covers all
15 vehicles used in the provision of services; 3) register each vehicle as a
16 "commercial" or "livery" vehicle, as appropriate, and maintain a
17 current inspection report for each vehicle; 4) ensure that drivers and
18 staff members are appropriately licensed or certified, as required by
19 law; 5) prohibit the employment of any person who is convicted of a
20 disqualifying offense, as specified in department regulation, regardless
21 of the date of the person's offense or conviction; 6) transport a
22 Medicaid beneficiary to and from a medical provider only in order to
23 receive a covered medical service, and for no other purpose; and 7)
24 ensure that drivers and other staff members who engage in direct
25 contact with transportation recipients have completed sensitivity
26 training, as provided by the bill, as well as any medical and safety
27 training required by the department. In addition, any vehicle that has
28 been driven more than 150,000 miles would be required to undergo an
29 enhanced inspection process, as provided by the bill, before
30 commencing or continuing operations as a livery or mobility
31 assistance vehicle. Any vehicle that fails the enhanced inspection
32 would need to be immediately withdrawn from service, and would
33 have its inspection medallion removed, until such time as the vehicle
34 has been repaired and re-inspected, and is deemed safe to operate.

35 The bill requires individual providers to maintain, and daily
36 update, a monthly transportation services log that contains the basic
37 facts associated with each transportation request. Such facts would
38 include the date and time for which pick-up was scheduled, the date
39 and time at which pick-up actually occurred, the actual number of
40 miles traveled, the location of the medical provider, the model year
41 and registration number of the vehicle, and whether the beneficiary
42 was transported as part of a multi-passenger load. Each provider
43 would also be required to maintain records regarding the licensure and
44 training status of its employees, and the licensure, registration, and
45 inspection status of its vehicles. Whenever an individual provider
46 submits a claim for reimbursement under the Medicaid program, it
47 would be required to include with the claim, a copy of its

1 transportation service log. The department or the broker would also be
2 authorized to access the provider's other records, upon request.

3 The Medicaid transportation broker would similarly be required,
4 under the bill, to maintain certain records, including: 1) a daily and
5 monthly log showing each transportation service that was requested
6 and provided under the brokerage program during the period, and
7 additionally identifying both the individual provider who provided
8 each transportation service, and the type of vehicle that was
9 dispatched; 2) a copy of each medical necessity form submitted by a
10 beneficiary who is seeking the use of an MAV; 3) a record showing
11 the date and time on which a beneficiary certified that transportation
12 was necessary to receive a covered medical service; 4) a log of cases
13 in which the waiting time for a transportation service was in excess of
14 15 minutes; and 5) a record showing the types of insurance coverage
15 possessed by each individual provider.

16 The DHS would be required, under the bill, to designate an
17 employee to engage in the ongoing monitoring and oversight of the
18 Medicaid transportation brokerage program. The designated evaluator
19 would be responsible for: 1) receiving, cataloguing, and submitting a
20 monthly report to the department, the Director of the Division of
21 Medical Assistance and Health Services, and the broker, on all
22 complaints that are submitted about the brokerage program; and 2)
23 regularly reviewing the records of the Medicaid transportation broker
24 and individual transportation service providers in the broker's
25 network, in order to ensure compliance with applicable vehicle,
26 staffing, and performance standards. (Any complaints that are
27 submitted directly to the transportation broker, or to an individual
28 provider, would need to be forwarded to the department's designated
29 evaluator.) The designated evaluator would also be authorized to
30 make recommendations to the DHS about the proper amount of
31 liquidated damages to impose on the broker in response to identified
32 performance failures.

33 In conducting a performance review under the bill, the
34 department's designated evaluator would be required to determine
35 whether: 1) vehicles used to transport Medicaid beneficiaries are fully
36 compliant with all statutory, regulatory, and contractual requirements;
37 2) transport personnel are properly licensed and qualified to provide
38 non-emergency medical transportation services; 3) prior authorization
39 is being obtained, and medical necessity is being documented, for
40 beneficiaries who require MAV service; 4) individual providers
41 consistently maintain requisite insurance policies; 5) transportation
42 recipients actually receive a covered medical service on the date of
43 transport; and 6) the transportation services provided to each
44 beneficiary are adequately documented, as required by the bill.

45 The bill would require any monthly capitation fees, which are paid
46 by the DHS to the broker, to be offset by the amount of any liquidated
47 damages that are assessed by the department against the broker for
48 failing to comply with, or failing to ensure that the individual

1 providers in its network comply with applicable vehicle, staffing, or
2 performance standards. The amount of liquidated damages imposed is
3 to be based on the reports prepared by the department's designated
4 evaluator, is to be consistent with the evaluator's recommendations,
5 and is to be sufficient to deter future non-compliance. The amount of
6 liquidated damages is to be increased, on a monthly basis, until full
7 compliance with vehicle, staffing, and performance standards is
8 achieved.

9 The bill would further require the DHS to endeavor to reduce
10 unnecessary State expenditures under the brokerage program.
11 Specifically, the department would be required to develop a system
12 that allows it to identify when capitation fee payments have been
13 duplicated or made in excess to the broker, so that it may properly
14 recover such excess or duplicate payments. The review of monthly
15 capitation payments, and the recovery of excess or duplicative
16 payments would need to occur at least once per year.

17 The bill would additionally provide that mileage reimbursement
18 payments made by the DHS under the Medicaid transportation
19 brokerage program are to be based on the actual number of miles
20 driven by the driver. The mileage reimbursement provided to a driver
21 who is engaged in the provision of multi-passenger transportation
22 services would be based on the number of miles actually driven for the
23 one passenger in the multi-passenger load who was transported over
24 the farthest distance. Mileage reimbursement is to be authorized,
25 moreover, only if the transportation recipient actually received a
26 covered medical service on the date of transport.

27 The bill would require the DHS to file an annual report on the
28 Medicaid transportation brokerage program with the Governor and
29 Legislature. The report would also be posted on the DHS website.
30 The report would include relevant statistical data, a description of
31 existing performance or compliance issues, a list of actions that have
32 been undertaken to address previously identified performance and
33 compliance issues, and recommendations for executive and legislative
34 action necessary to improve the brokerage program.