

# SENATE, No. 2190

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MARCH 16, 2020

**Sponsored by:**

**Senator JOSEPH F. VITALE**

**District 19 (Middlesex)**

**Senator ROBERT W. SINGER**

**District 30 (Monmouth and Ocean)**

**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**

As introduced.



(Sponsorship Updated As Of: 5/6/2021)

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

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

42 Specifically, the bill would clarify the requirements that are to be  
43 applicable to the DHS, the Medicaid transportation broker, and the  
44 individual providers within the broker's network, under the  
45 Medicaid transportation brokerage program; and it would further  
46 establish a procedure for the performance review of the broker and  
47 its authorized providers and the review of complaints that are  
48 submitted about the 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  
6 use of a mobility assistance vehicle (MAV) to submit a medical  
7 necessity form justifying the use of the MAV.

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

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

1 program, it would be required to include with the claim, a copy of  
2 its transportation service log. The department or the broker would  
3 also be authorized to access the provider's other records, upon  
4 request.

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

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

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

1       The bill would require any monthly capitation fees, which are  
2 paid by the DHS to the broker, to be offset by the amount of any  
3 liquidated damages that are assessed by the department against the  
4 broker for failing to comply with, or failing to ensure that the  
5 individual providers in its network comply with applicable vehicle,  
6 staffing, or performance standards. The amount of liquidated  
7 damages imposed is to be based on the reports prepared by the  
8 department's designated evaluator, is to be consistent with the  
9 evaluator's recommendations, and is to be sufficient to deter future  
10 non-compliance. The amount of liquidated damages is to be  
11 increased, on a monthly basis, until full compliance with vehicle,  
12 staffing, and performance standards is achieved.

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

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

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