

DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services
601 E. 12th St., Room 355
Kansas City, Missouri 64106



Medicaid and CHIP Operations Group

May 25, 2021

Stephanie Stephens
State Medicaid Director
Texas Health and Human Services Commission
Mail Code: H100
Post Office Box 13247
Austin, TX 78711

Re: TX SPA 21-0003

Dear Ms. Stephens:

We have reviewed the proposed Texas State Plan Amendment (SPA) TX 21-0003, which was submitted to the Centers for Medicare and Medicaid Services (CMS) on January 26, 2021. This state plan amendment (SPA) updates the non-emergency medical transportation (NEMT) fee schedules. This SPA requires managed care organizations (MCOs) to provide NEMT services to their Medicaid managed care members. HHSC will continue to provide NEMT to Medicaid recipients in fee-for-service but will no longer use a transportation broker model.

Based upon the information provided by the State, we have approved the amendment with an effective date of June 1, 2021. We are enclosing the approved CMS-179 and a copy of the new state plan pages.

If you have any additional or need further assistance, please contact Ford Blunt of my staff at (214) 767-6381 or by email at Ford.Blunt@cms.hhs.gov.

Sincerely,

James G. Scott
Division of Program Operations

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE AND MEDICAID SERVICES	1. TRANSMITTAL NUMBER: 21-0003	2. STATE: TEXAS
	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE AND MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE: June 1, 2021	
5. TYPE OF PLAN MATERIAL (<i>Circle One</i>): <input type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> AMENDMENT		
COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (<i>Separate Transmittal for each amendment</i>)		
6. FEDERAL STATUTE/REGULATION CITATION: Social Security Act §1902(a)(30); 42 CFR §447.201(b).	7. FEDERAL BUDGET IMPACT: SEE ATTACHMENT a. FFY 2021 \$1,659 b. FFY 2022 \$4,282 c. FFY 2023 \$4,104	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: SEE ATTACHMENT TO BLOCKS 8 & 9	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (<i>If Applicable</i>): SEE ATTACHMENT TO BLOCKS 8 & 9	
10. SUBJECT OF AMENDMENT: The proposed amendment updates the non-emergency medical transportation fee schedules.		
11. GOVERNOR'S REVIEW (<i>Check One</i>): <input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input checked="" type="checkbox"/> OTHER, AS SPECIFIED: Sent to Governor's Office this date. Comments, if any, will be forwarded upon receipt. <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL		
12. SIGNATURE OF STATE AGENCY OFFICIAL: Stephanie Stephens <small>Digitally signed by Stephanie Stephens Date: 2021.05.13 15:15:32 -05'00'</small>	16. RETURN TO: Stephanie Stephens State Medicaid Director Post Office Box 13247, MC: H-100 Austin, Texas 78711	
13. TYPED NAME: Stephanie Stephens		
14. TITLE: State Medicaid Director		
15. DATE SUBMITTED: May 13, 2021		
FOR REGIONAL OFFICE USE ONLY		
17. DATE RECEIVED: May 13, 2021	18. DATE APPROVED: May 25, 2021	
PLAN APPROVED – ONE COPY ATTACHED		
19. EFFECTIVE DATE OF APPROVED MATERIAL: June 1, 2021	20. SIGNATURE OF REGIONAL OFFICIAL:	
21. TYPED NAME: James G. Scott	22. TITLE: Director Division of Program Operations	
23. REMARKS: This is a revised CMS-179. The original CMS-179 was submitted on January 26, 2021.		

Attachment to Blocks 8 & 9 of CMS Form 179

Transmittal Number 21-0003

**Number of the
Plan Section or Attachment**

**Number of the Superseded
Plan Section or Attachment**

Appendix 1 to Attachment 3.1-A
Page 55
Page 56
Page 57
Page 58
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Appendix 1 to Attachment 3.1-A
Page 55 (TN 17-0018)
Page 56 (TN 14-020)
Page 57 (TN 14-020)
Page 58 (TN 14-020)
Page 59 (TN 14-020)
Page 60 (TN 14-020)
Page 61 (TN 14-020)
Page 62 (TN 16-0015)
Page 63 (TN 16-0015)
Page 64 (TN 15-0032)

Appendix 1 to Attachment 3.1-B
Page 55
Page 56
Page 57
Page 58
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Appendix 1 to Attachment 3.1-B
Page 55 TN17-0018)
Page 56 (TN 14-020)
Page 57 (TN 14-020)
Page 58 (TN 14-020)
Page 59 (TN 14-020)
Page 60 (TN 14-020)
Page 61 (TN 14-020)
Page 62 (TN 16-0015)
Page 63 (TN 16-0015)
Page 64 (TN 15-0032)

Attachement 3.1-D
Page 2
Page 3
Page 4
Page 5
Page 6
Page 7

Attachement 3.1-D
Page 2 (TN 16-0015)
Page 3 (TN 17-0018)
Page 4 (TN 17-0018)
Page 5 (TN 16-0015)
Page 6 (TN 16-0015)
Page 7 (TN 16-0015)

Attachement 4.19-B
Page 4

Attachement 4.19-B
Page 4 (TN 16-0015)

28. 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)(29) of the Social Security Act and 42 C.F.R. § 440.170)

a. Transportation (provided in accordance with 42 C.F.R. § 440.170) excluding "school-based" transportation

- Not provided
- Provided without a broker as an optional medical service
- 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 C.F.R. § 440.170(a)(4).

TN: 21-0003
Supersedes TN: 17-0018

Approval Date: 05-25-21
Effective Date: 06-01-21

28. Any other medical care (continued)

a. Transportation (continued)

As an optional service, the following nonemergency medical transportation (NEMT) services meet the definition outlined in the Medicaid regulations (at 42 CFR 440.170(a)) and all other requirements relating to Medicaid services. These services include:

- (i) Demand response transportation services. Curb to curb transportation that involves using a transportation provider, including a transportation network company, who dispatches vehicles in response to requests for individual or shared one-way trips. Demand response transportation services are provided when fixed route services are either unavailable or do not meet the health care needs of clients. Services must be timely and provided by licensed, qualified, courteous, knowledgeable, and trained personnel.
- (ii) Mass transit. Transportation by bus, rail, air, ferry, or intra-city bus, either publicly or privately owned, which provides to the public general or special service on a regular and continuing basis. Mass transit is intercity or intra-city transportation. Mass transit also involves using commercial air service to transport an eligible Medicaid recipient to an authorized covered Medicaid service.

The single state agency purchases tickets from intra-city and intercity mass transit providers (e.g., bus, rail, air) with state funds as an administratively efficient way to assure the availability of NEMT service by participating mass transit providers for eligible recipients whose medical conditions allow. The claim for FFP will not be made until an eligible recipient uses the ticket to obtain transportation for a necessary medical service.

- (iii) Individual Transportation Participant. Transportation by an individual transportation participant (ITP) who is approved for mileage reimbursement at a prescribed rate to provide transportation for a prior authorized MTP client to a prior authorized health care service.

Exclusion: Mileage reimbursement made directly to a Medicaid beneficiary or to a beneficiary's immediate family member (ITP-Self) does not qualify for the federal medical assistance percentage (FMAP) match.

28. Any other medical care (continued)

a. Transportation (continued)

- (iv) Lodging. Transportation-related services authorized by the single state agency to provide overnight lodging for eligible recipients in conjunction with a healthcare service. Lodging services are arranged through a lodging establishment (e.g., hotel, motel, charitable home, or hospital that provides overnight lodging), that has agreed to provide lodging paid by the single state agency. Direct payment is made to a lodging establishment either as a reimbursement or direct bill or up front utilizing the State credit card.

Exclusion: Reimbursement of eligible lodging expenses directly to a Medicaid beneficiary or to a beneficiary's immediate family member is not eligible for FMAP.

- (v) Meals. Transportation-related services authorized by the single state agency for the purpose of funding meals for eligible recipients during an extended stay away from the recipient's residence.

Exclusion: Reimbursement of eligible meal expenses directly to a Medicaid beneficiary or to a beneficiary's immediate family member is not eligible for FMAP.

- (vi) Advanced Funds. Transportation-related services authorized by the single state agency and provided in advance and disbursed by the financial services vendor to a recipient, responsible party, or Individual Transportation Participant (ITP) for the purpose of funding transportation or transportation-related services (e.g., gasoline, meals and/or lodging, etc.). The state's claim for FFP in these expenditures will not be made until after the recipient has received the medical care for which the expenditures were necessary.

- (vii) Attendant. Cost to transport parent, responsible party, or services animal who accompanies a recipient for the purpose of providing necessary mobility or personal or language assistance to the recipient during the time that transportation and healthcare services are provided. Additionally, if a services animal is authorized to accompany a beneficiary, the state reimburses the provider for the space occupied by the services animal at the rate established in the services area for an adult attendant.

28. Any other medical care (continued)

a. Transportation (continued)

Exclusion of Transportation by a Prescribed Pediatric Extended Care Center (PPECC)

Transportation provided by a prescribed pediatric extended care center (PPECC) is not included as a non-emergency transportation service.

28. 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)(29) of the Social Security Act and 42 C.F.R. § 440.170)

a. Transportation (provided in accordance with 42 C.F.R. § 440.170) excluding "school-based" transportation

- Not provided
- Provided without a broker as an optional medical service
- 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 C.F.R. § 440.170(a)(4).

28. Any other medical care (continued)

a. Transportation (continued)

As an optional service, the following nonemergency medical transportation (NEMT) services meet the definition outlined in the Medicaid regulations (at 42 CFR 440.170(a)) and all other requirements relating to Medicaid services. These services include:

- (i) Demand response transportation services. Curb-to-curb transportation that involves using a transportation provider, including a transportation network company, who dispatches vehicles in response to requests for individual or shared one-way trips. Demand response transportation services are provided when fixed route services are either unavailable or do not meet the health care needs of clients. Services must be timely and provided by licensed, qualified, courteous, knowledgeable, and trained personnel.
- (ii) Mass transit. Transportation by bus, rail, air, ferry, or intra-city bus, either publicly or privately owned, which provides to the public general or special service on a regular and continuing basis. Mass transit is intercity or intra-city transportation. Mass transit also involves using commercial air service to transport an eligible Medicaid recipient to an authorized covered Medicaid service.

The single state agency purchases tickets from intra-city and intercity mass transit providers (e.g., bus, rail, air) with state funds as an administratively efficient way to assure the availability of NEMT service by participating mass transit providers for eligible recipients whose medical conditions allow. The claim for FFP will not be made until an eligible recipient uses the ticket to obtain transportation for a necessary medical service.

- (iii) Individual Transportation Participant. Transportation by an individual transportation participant (ITP) who is approved for mileage reimbursement at a prescribed rate to provide transportation for a prior authorized MTP client to a prior authorized health care service.

Exclusion: Mileage reimbursement made directly to a Medicaid beneficiary or to a beneficiary's immediate family member (ITP-Self) does not qualify for the federal medical assistance percentage (FMAP) match.

TN: 21-0003

Supersedes TN: 14-020

Approval Date: 05-25-21

Effective Date: 06-01-21

28. Any other medical care (continued)

a. Transportation (continued)

- (i) Lodging. Transportation-related services authorized by the single state agency to provide overnight lodging for eligible recipients in conjunction with a healthcare service. Lodging services are arranged through a lodging establishment (e.g., hotel, motel, charitable home, or hospital that provides overnight lodging), that has agreed to provide lodging paid by the single state agency. Direct payment is made to a lodging establishment either as a reimbursement or direct bill or up front utilizing the State credit card.

Exclusion: Reimbursement of eligible lodging expenses directly to a Medicaid beneficiary or to a beneficiary's immediate family member is not eligible for FMAP.

- (ii) Meals. Transportation-related services authorized by the single state agency for the purpose of funding meals for eligible recipients during an extended stay away from the recipient's residence.

Exclusion: Reimbursement of eligible meal expenses directly to a Medicaid beneficiary or to a beneficiary's immediate family member is not eligible for FMAP.

- (iii) Advanced Funds. Transportation-related services authorized by the single state agency and provided in advance and disbursed by the financial services vendor to a recipient, responsible party, or Individual Transportation Participant (ITP) for the purpose of funding transportation or transportation-related services (e.g., gasoline, meals and/or lodging, etc.). The state's claim for (FFP) in these expenditures will not be made until after the recipient has received the medical care for which the expenditures were necessary.

- (iv) Attendant. Cost to transport parent, responsible party, or services animal who accompanies a recipient for the purpose of providing necessary mobility or personal or language assistance to the recipient during the time that transportation and healthcare services are provided. Additionally, if a services animal is authorized to accompany a beneficiary, the state reimburses the provider for the space occupied by the services animal at the rate established in the services area for an adult attendant.

28. Any other medical care (continued)

a. Transportation (continued)

Exclusion of Transportation by a Prescribed Pediatric Extended Care Center (PPECC)

Transportation provided by a prescribed pediatric extended care center (PPECC) is not included as a non-emergency transportation service.

1. Non-emergency Medical Transportation

To ensure necessary transportation for clients to and from visits with enrolled Medicaid providers, the single state agency uses several types of transportation and related services that comply with federal assurance of non-emergency medical transportation (NEMT) rules and regulations, are efficient and cost effective, and meet the transportation needs of the client. The single state agency makes payment directly to provide the most effective and efficient transportation that meets the need for the client and does not endanger the client's health. These transportation and related services include the following:

- (1) Demand response transportation services. These services are provided when fixed route services are either unavailable or do not meet the health care needs of clients. Services must be timely and provided by licensed, qualified, courteous, knowledgeable, and trained personnel.
- (2) Mass transit tickets when determined to be the appropriate mode of transportation for the client, ensuring the client does not live more than a quarter (1/4) mile from a public fixed route stop, the appointment is not more than a quarter (1/4) mile from a public fixed route stop, and that mass transit tickets are received by the client before the client's appointment.
- (3) Mileage reimbursement for Individual Transportation Participant (ITP) services. An ITP signs a participation agreement and drives a client, including himself or herself, to and from a covered health care service in a personal car; ITPs are not reimbursed for "unloaded miles," or mileage incurred when the client is not in the vehicle.
- (4) Meal and lodging services for clients and an attendant when a covered health care service requires an overnight stay outside the client's county of residence or beyond adjacent counties. Clients and attendants must receive the same quality of services provided to other guests.
- (5) Transportation to and from renal dialysis services for clients enrolled in the Medicaid program who are residing in a nursing facility, as required by the Texas Human Resources Code.
- (6) Advanced funds disbursed before the covered health care service to clients when a lack of transportation funds will prevent a child from traveling to the service. Advanced funds are for clients through age 20. Advanced funds may be issued to cover meals, lodging, and/or mileage.

- (7) Out-of-state transport to contiguous counties or bordering counties in adjoining states (Louisiana, Arkansas, Oklahoma, and New Mexico) that are within 50 miles of the Texas border, if services are medically necessary and it is the customary or general practice of clients in a particular locality within Texas to obtain services from an out-of-state provider that is enrolled as a Texas Medicaid provider. Out-of-state transport also includes travel to states outside of the adjoining states for medically necessary medical care or other health care services that cannot be provided within the state of Texas.
- (8) Commercial airline transportation services for a client and attendant to a covered health care service, when it is the most cost-effective option or when necessary to meet the client's medical needs.
- (9) Transportation of an attendant, if necessary.

Transportation in Texas is provided through two models. NEMT will be provided for Medicaid recipients in managed care by managed care organizations under the authority of the 1115(a) Texas Healthcare Transformation and Quality Improvement waiver and Section 1915(a) of the Social Security Act. NEMT will be administered using a 1915(b)(4) Selective Contracting Program model for Medicaid recipients in fee-for-service.

2. Administrative Services

As an administrative activity, the following NEMT services are required to assure the availability of necessary transportation as outlined in the Medicaid regulations 42 CFR §431.53 and in addition to transportation provided as an optional Medicaid service. The following administrative NEMT services are provided by this state plan:

- a. Advanced Funds. Transportation-related services authorized by the single state agency and provided in advance of travel and disbursed to the eligible recipient, responsible party, or Individual Transportation Participant (ITP) for the purpose of funding transportation or transportation-related services (e.g., gasoline, meals and or lodging, etc.). The State's claim for federal financial participation in these expenditures will not be made until after the recipient has received the medical care for which the expenditures were necessary.
- b. Individual Transportation Participant - Self. Transportation by an individual transportation participant (ITP-Self) who is the Medicaid beneficiary or parent of a Medicaid beneficiary and who is approved for mileage reimbursement at a prescribed rate to provide transportation to a prior authorized health care service.
- c. ITP-Other, lodging and meals, mass transit, and commercial airlines transportation services when provided by an individual or entity that is not enrolled with the State.

3. Population Served

The single state agency ensures transportation services are provided to the categorically needy and medically needy optional populations as identified in Appendix 1 to Attachment 3.1-A/B.

4. Single State Agency Responsibilities

The single state agency is responsible for determining NEMT eligibility and benefit coverage. The single state agency is responsible for ensuring that the recipient is eligible for Medicaid. The single agency ensures the following:

- a. Transportation services are provided only by contracted or enrolled Medicaid transportation providers.
- b. Transportation services are provided only in conjunction to a covered Medicaid service.
- c. Medicaid is the payor of last resort, with certain exceptions allowed by federal regulations or law.
- d. Medicaid recipient is informed about rights and responsibilities.

Exceptions to the transportation provisions contained in this plan may be authorized by the Health and Human Services Commission or its designee when, in the opinion of the Commission, circumstances of medical necessity warrant such exceptions.

5. Procurement and Purchase of Services

All transportation service providers are selected based on an assessment that includes experience, references, qualifications and credentials, resources, and costs. Additionally, the transportation service providers must ensure that transport personnel are licensed, qualified, competent, and courteous. Transportation service providers must have oversight procedures in place to monitor beneficiary access and complaints.

6. Program Limitations

Transportation and related services are limited to trips for Medicaid beneficiaries and their approved attendants to and from Medicaid-covered services.

Transportation for full-benefit dual eligible beneficiaries to obtain prescription medications covered under the Medicare Part D benefit will be provided at the same level and under the same restrictions as is offered to all Medicaid beneficiaries.

7. Non-covered Services

Transportation to and from services that are not medically necessary or that are not provided in compliance with Texas Medicaid Program policy and procedures.

Transportation by ambulance or nonemergency ambulance, except as described in the relevant section of the state plan.

Transportation to and from a service or facility for which the reimbursement rate structure includes transportation funds, except for transportation to and from renal dialysis services for clients who are enrolled in the Medicaid program and residing in a nursing facility.

8. Program Monitoring and Validation

Monitoring activities are outlined in a risk-based monitoring plan that is developed using key contract requirements, agency rules, and state and federal laws. Each element is weighted based on the level of risk to program operations, agency business needs, and cost containment. HHSC conducts monitoring activities to determine a performing provider's compliance with contract requirements, including adherence to the contract provisions that relate to quality and service standards. The State ensures performing provider contract compliance through the following activities:

- Annual and random field audits.
- Targeted field and desk audits in response to client complaints, complaint trends, and incident and accident trends.
- Monthly desk reviews of vehicle credentialing records, including annual inspection and vehicle registration.
- Monthly desk reviews of driver records and training requirements, including validation of driver's license and driver records, drug and substance abuse checks, and criminal history checks.
- Federal and state screening requirements for driver: U.S. Department of Health and Human Services-Office of Inspector General's List of Excluded Individuals and Entities (LEIE) (applies to TNCs and their drivers); HHSC Inspector General exclusion list, Excluded Parties List System (EPLS) on the System for Award Management (SAM) (applies to TNCs and their drivers), Texas Comptroller of Public Accounts' Vendor Debarment List, and Social Security Administration's Death Master File.
- Monthly review and reconciliation of payment requests, including reviews of prior authorization approvals for submitted claims and comparison of driver logs to covered healthcare services.
- Auditing performance improvement plans initiated in response to corrective action plans put in place to address performance deficiencies.
- Matching transportation services against a covered healthcare service using a logic developed by HHSC and its claims administrator.
- Call center metrics are reviewed monthly to ensure compliance with *Frew* measures in areas subject to these requirements.
- Client satisfaction surveys conducted by the external quality review organization (EQRO).

The level of transportation capacity is reviewed by HHSC and adjusted accordingly to ensure clients are receiving timely and safe transportation services. Monitoring is ongoing and additional monitoring will be done principally through monitoring of complaints. HHSC uses an accelerated monitoring activity when complaint information analysis suggests that there is a decrease in the quality of service provided to eligible clients. HHSC performs monitoring through ride-alongs and on-site observations to ensure that clients are transported safely, comfortably, and in the manner that best suits their medical needs. HHSC also monitors quality of services including timely service delivery by reviewing vehicles, driver logs and reviewing complaints.

Exclusion of Transportation by a Prescribed Pediatric Extended Care Center (PPECC)

Transportation provided by a prescribed pediatric extended care center (PPECC) is not included as a non-emergency transportation service.

12. Medical Transportation

(a) NEMT Demand Response Transportation Services

- (1) NEMT Demand Response Transportation Services (DRTS) are reimbursed based on the lesser of the provider's billed charges or fees established by the Texas Health and Human Services Commission (HHSC). Fees established by HHSC are based on 1) an analysis of historical claims data; 2) Medicare fees; 3) a review of the fees paid by other states; or 4) a fee for comparable procedure codes.
- (2) Fees based off historical claims analysis were categorized into three county types based on population density: metro, micro, and rural. The three county types are identified by modifiers billed in conjunction with the payable procedure(s).
- (3) All fee schedules are available through the agency's website as outlined on Attachment 4.19-B, page 1.
- (4) The agency's fee schedule was revised with new reimbursement rates for NEMT Demand Response Transportation Services effective June 1, 2021, and this fee schedule was posted on the agency's website on June 5, 2021.

(b) Other transportation services

The table below outlines the payments for each transportation service provided on or after June 1, 2021.

Service	Policy
Air	HHSC pays general public airfare (non-refundable) at the best possible price to the location traveled at times that meet the client's medical needs.
Commercial & public fixed route transportation	HHSC pays the public fare price for the means of transportation that is most cost effective.
Individual Transportation Participant-Other	ITPs are paid the mileage reimbursement rate for State of Texas employees as adopted by the single state agency.
Individual Transportation Participant-Self	ITPs are paid the mileage reimbursement rate for State of Texas employees as adopted by the single state agency.
Lodging	HHSC negotiates the government rate when possible. HHSC pays the best rate that can be secured in the area that meets the client's medical needs.
Meals	Meals are paid at \$25.00 per day per person.
Advanced Funds	The rates are inclusive of mileage, hotels, meals, etc., and are determined as listed above.