

## **Table of Contents**

**State/Territory Name: NE**

**State Plan Amendment (SPA) #: 19-0009**

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) Additional Companion letter
- 3) Summary Form (with 179-like data)
- 4) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
601 East 12<sup>th</sup> Street, Suite 355  
Kansas City, Missouri 64106-2898



**Medicaid & CHIP Operations Group**

---

December 16, 2019

Matthew A. Van Patton, DHA Medicaid Director  
Division of Medicaid & Long-Term Care  
Nebraska Department of Health & Human Services  
301 Centennial Mall South, 5<sup>th</sup> Floor  
P.O. Box 95025  
Lincoln, NE 68509-5026

Dear Dr. Van Patton:

On September 13, 2019, the Centers for Medicare & Medicaid Services (CMS) received Nebraska's State Plan Amendment (SPA) transmittal #19-0009. This SPA removes references to "broker" or "brokering" from the description for non-emergency transportation (NEMT). NE no longer directly brokers with transportation providers for services. For beneficiaries receiving their Medicaid through Managed Care, NEMT services have been added to the MCO contracts as of July 1, 2019. NE will reimburse NEMT fee for service for all other Medicaid beneficiaries.

SPA #19-0009 was approved December 11, 2019, with an effective date of July 1, 2019, as requested by the state. However, during the review of SPA 19-0009, CMS performed an analysis of the reimbursement methodology that corresponded with the coverage pages. The analysis revealed that the reimbursement methodology regarding attendant lodging and meals (when medically necessary) for non-emergency transportation needed to be more comprehensive. Under separate cover, CMS will release a letter detailing the necessary updated and guidance.

Enclosed is a copy of the CMS-179 summary form, as well as the approved pages for incorporation into the Nebraska State Plan.

If you have any questions regarding this amendment, please contact Karen Hatcher or Barbara Cotterman at (816) 426-5925.

Sincerely,

12/16/2019

James G. Scott, Director  
Division of Program Operations

Signed by: James G. Scott -S

cc:  
Catherine Gekas-Steeby  
Dawn Kastens  
Nancy Keller  
Roxie Anderson

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
601 East 12<sup>th</sup> Street, Suite 355  
Kansas City, Missouri 64106-2898



## **Medicaid & CHIP Operations Group**

---

December 17, 2019

Matthew A. Van Patton, DHA, Medicaid Director  
Division of Medicaid & Long-Term Care  
Nebraska Department of Health & Human Services  
301 Centennial Mall South, 5<sup>th</sup> Floor  
P.O. Box 95026  
Lincoln, NE 68509-5026

Dear Dr. Van Patton:

This letter is being sent as a companion to our approval of Nebraska's State Plan Amendment (SPA) 19-0009. During our review of the SPA, the Centers for Medicare & Medicaid Services (CMS) performed a review of non-emergency medical transportation (NEMT) payment methodologies associated with the submitted coverage SPA pages.

Federal Regulations at 42 CFR 430.10 and 447.252, require that the state plan contain a comprehensive description of the rate methodologies. We have included comments below to address the issues identified and this Companion Letter is being issued to document CMS' intent to continue to work with Nebraska to resolve our concerns.

During the review process Nebraska provided feedback regarding payment for meals and lodging for attendant travel (when medically necessary) under NEMT. CMS has determined that the existing payment methodology for NEMT attendant meals and lodging is not comprehensively described on the attachment 4.19-B pages, as required by 42 CFR 430.10 and 447.252. Consequently, Nebraska should update their NEMT 4.19-B state plan pages to reflect the current payment methodology. Please note that the state will need to follow all CMS requirements, such making public notice and submitting a SPA to comprehensively describe payment for attendant meals and lodging within the State Plan.

### **Reimbursement Questions/Comments**

1. Attachment 4.19-B, Item 24 – CMS is requesting that Nebraska update the payment language on this page to comprehensively describe attendant care lodging and meals (when medically necessary). In previous discussions, Nebraska provided the below description of the payment methodology; this description could be used as the foundation to comprehensively describe the methodology. Please include all necessary detail, including any additional information not previously discussed, in the description of payment methodology. Below is sample language that Nebraska could build upon:

*Meals and lodging services are reimbursed on a negotiated rate with hospitals in the area where expenses occurred. The facilities must be enrolled with Medicaid as a room and*

*board provider. The rates are reflected on the fee schedule as by report or rates not established.*

CMS would be willing to review the pages in draft while Nebraska works on comprehensively describing the methodology used for reimbursement.

The state has 90 days from the date of this letter to address the issues described above. Failure to respond may result in the initiation of a formal compliance process. During the 90 days, CMS will provide any required technical assistance.

If you have any questions, please contact Karen Hatcher, of my staff, at (816) 426-5925 or Karen.Hatcher@cms.hhs.gov.

Sincerely,

12/17/2019



James G. Scott, Director  
Division of Program Operations

Signed by: James G. Scott -S

Enclosure

cc:  
Catherine Gekas-Steeby  
Dawn Kastens  
Nancy Keller



<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b>		1. TRANSMITTAL NUMBER: NE 19-0009	2. STATE Nebraska
<b>FOR: HEALTH CARE FINANCING ADMINISTRATION</b>		3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE July 1, 2019	
5. TYPE OF PLAN MATERIAL (Check One): <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 (Separate Transmittal for each amendment)			
6. FEDERAL STATUTE/REGULATION CITATION: 42 CFR 440.170		7. FEDERAL BUDGET IMPACT: a. FFY 2019      \$0 b. FFY 2020      \$0	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Att 3.1-A, Item 24a, Pages 4, 4a-f; Att 3.1-D		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): Att 3.1-A, Item 24a, Pages 4, 4a-f; Att 3.1-D	
10. SUBJECT OF AMENDMENT: Non-Emergency Medical Transportation (NEMT)			
11. GOVERNOR'S REVIEW (Check One): <input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input checked="" type="checkbox"/> OTHER, AS SPECIFIED: <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED      Governor has waived review <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL			
12. SIGNATURE OF STATE AGENCY OFFICIAL: 		16. RETURN TO: Dawn Kastens Division of Medicaid & Long-Term Care Nebraska Department of Health & Human Services 301 Centennial Mall South Lincoln, NE 68509	
13. TYPED NAME: Matthew A. Van Patton, DHA			
14. TITLE: Director, Division of Medicaid and Long-Term Care			
15. DATE SUBMITTED: September 13, 2019			
<b>FOR REGIONAL OFFICE USE ONLY</b>			
17. DATE RECEIVED: September 13, 2019		18. DATE APPROVED: December 11, 2019	
<b>PLAN APPROVED – ONE COPY ATTACHED</b>			
19. EFFECTIVE DATE OF APPROVED MATERIAL: July 1, 2019		20. SIGNATURE OF REGIONAL OFFICIAL: 	
21. TYPED NAME: James G. Scott		22. TITLE: Director, Division of Program Operations	
23. REMARKS:			

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT  
MEDICAL ASSISTANCE PROGRAMState/Territory: Nebraska**SECTION 3 – SERVICES: GENERAL PROVISIONS****3.1 Amount, Duration, and Scope of Services**

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

**A. Categorically Needy**

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)(28) of the Social Security Act and 42 CFR 440.170).

a. Transportation (provided in accordance with 42 CFR 440.170 as an optional medical service) excluding “school-based” transportation.

Not Provided:

Provided without a broker as an optional medical service: (If state attests “Provided without a broker as an optional medical service” then insert supplemental information.)

Non-emergency transportation is provided through a brokerage program as an optional medical service in accordance with 1902(a)(70) of the Social Security Act and 42 CFR 440.170(a)(4). (If state attests that non-emergency transportation is being provided through a brokerage program then insert information about the brokerage program.)

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

---

 TN No. NE 19-0009

Supersedes

Approval Date 12/11/2019 Effective Date 07/01/2019TN No. 10-23

State/Territory: Nebraska

1. The State will operate the broker program without the requirements of the following paragraphs of section 1902(a);
  - (1) state-wideness (indicate areas of State that are covered)
  - (10)(B) comparability (indicate participating beneficiary groups)
  - (23) freedom of choice (indicate mandatory population groups)
  
2. Transportation services provided will include:
  - wheelchair van
  - taxi/commercial carrier
  - stretcher car
  - bus passes
  
  - tickets
  - secured transportation
  - other transportation (if checked describe below other transportation)
  
- (3) The State assures that transportation services will be provided under a contract with a broker who:
  - (i) is selected through a competitive bidding process based on the State's evaluation of the broker's experience, performance, references, resources, qualifications, and costs:
  - (ii) has oversight procedures to monitor beneficiary access and complaints and ensures that transportation is timely and transport personnel are licensed qualified, competent and courteous:
  - (iii) is subject to regular auditing and oversight by the State in order to ensure the quality and timeliness of the transportation services provided and the adequacy of beneficiary access to medical care and services:
  - (iv) complies with such requirements related to prohibitions on referrals and conflict of interest as the Secretary shall establish (based on prohibitions on physician referrals under Section 1877 and such other prohibitions and requirements as the Secretary determines to be appropriate.)

TN No. NE 19-0009

Supersedes

Approval Date 12/11/2019Effective Date 07/01/2019TN No. NE 14-04

State/Territory: Nebraska

- (4) The broker contract will provide transportation to the following categorically needy mandatory populations:
- Low-income families with children (section 1931)
  - Deemed AFDC-related eligibles
  - Poverty-level related pregnant women
  - Poverty-level infants
  - Poverty-level children 1 through 5
  - Poverty-level children 6 – 18
  - Qualified pregnant women AFDC – related
  - Qualified children AFDC – related
  - IV-E foster care and adoption assistance children
  - TMA recipients (due to employment) (section 1925)
  - TMA recipients (due to child support)
  - SSI recipients
- (5) The broker contract will provide transportation to the following categorically needy optional populations:
- Optional poverty-level - related pregnant women
  - Optional poverty-level - related infants
  - Optional targeted low income children
  - Non IV-E children who are under State adoption assistance agreements
  - Non IV-E independent foster care adolescents who were in foster care on their 18<sup>th</sup> birthday
  - Individuals who meet income and resource requirements of AFDC or SSI
  - Individuals who would meet the income & resource requirements of AFDC if child care costs were paid from earnings rather than by a State agency
  - Individuals who would be eligible for AFDC if State plan had been as broad as allowed under Federal law
  - Children aged 15-20 who meet AFDC income and resource requirements
  - Individuals who would be eligible for AFDC or SSI if they were not in a medical institution
  - Individuals infected with TB
  - Individuals screened for breast or cervical cancer by CDC program
  - Individuals receiving COBRA continuation benefits
  - Individuals in special income level group, in a medical institution for at least 30 consecutive days, with gross income not exceeding 300% of SSI income standard

TN No. NE 19-0009

Supersedes

Approval Date 12/11/2019Effective Date 07/01/2019TN No. 10-23

State/Territory: Nebraska

- Individuals receiving home and community based waiver services who would only be eligible under State plan if in a medical institution (the broker will provide NEMT only to 1905(a) services)
- Individuals terminally ill if in a medical institution and will receive hospice Care
- Individuals aged or disabled with income not above 100% FPL
- Individuals receiving only an optional State supplement in a 209(b) State
- Individuals working disabled who buy into Medicaid (BBA working disabled group)
- Employed medically improved individuals who buy into Medicaid under TWWIIA Medical Improvement Group
- Individuals disabled age 18 or younger who would require an institutional level of care (TEFRA 134 kids).

(6) Payment Methodology

(A) The State will pay the contracted broker by the following method:

- (i) risk capitation
- (ii) non-risk capitation
- (iii) other (e.g., brokerage fee and direct payment to providers) (If checked describe any other payment methodology)

---

TN No. NE 19-0009

Supersedes

Approval Date 12/11/2019

Effective Date 07/01/2019

TN No. 10-23



Revised Submission 10.23.19

State/Territory: Nebraska

(B) Who will pay the transportation provider?

- (i) Broker  
 (ii) State  
 (iii) other

(C) What is the source of the non-Federal share of the transportation payments? Describe the source of the non-Federal share of the transportation payments proposed under the State plan amendment. If more than one source exists to fund the non-Federal share of the transportation payment, please separately identify each source of non-Federal share funding.

State General Funds

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

---

TN No. NE 19-0009

Supersedes

Approval Date 12/11/2019

Effective Date 07/01/2019

TN No. NE 14-04

State/Territory: Nebraska

- (E) The State assures that payments proposed under this State plan amendment will be made directly to transportation providers and that the transportation provider payments are fully retained by the transportation providers and no agreement (contractual or otherwise) exists between the State or local government and the transportation provider to return or redirect any of the Medicaid payment to the State or form of local government (directly or indirectly).
- (7) The broker is a non-governmental entity:
  - The broker is not itself a provider of transportation nor does it refer to or subcontract with any entity with which it has a prohibited financial relationship as described at 45 CFR 440.170(4)(ii).
    - The broker is itself a provider of transportation or subcontracts with or refers to an entity with which it has a prohibited financial relationship and:
      - transportation is provided in a rural area as defined at 412.62(f) and there is no other available Medicaid participating provider or other provider determined by the State to be qualified except the non-governmental broker.
      - transportation is so specialized that there is no other available Medicaid participating provider or other provider determined by the State to be qualified except the non-governmental broker.
      - the availability of other non-governmental Medicaid participating providers or other providers determined by the State to be qualified is insufficient to meet the need for transportation.
- (8) The broker is a governmental entity
  - The broker provides transportation itself or refers to or subcontracts with another governmental entity for transportation. The governmental broker will:
    - Maintain an accounting system such that all funds allocated to the Medicaid brokerage program and all costs charged to the Medicaid brokerage will be completely separate from any other program.
    - Document that with respect to each individual beneficiary's specific transportation needs, the government provider is the most appropriate and lowest cost alternative.
    - Document that the Medicaid program is paying no more for fixed route public transportation than the rate charged to the general public and no more for public para-transit services than the rate charged to other State human services agencies for the same service.

---

TN No. NE 19-0009

Supersedes

Approval Date 12/11/2019

Effective Date 07/01/2019

TN No. 10-23

Revised Submission 10.23.19

State/Territory: Nebraska

- (9) Please describe below how the NEMT brokerage program operates. Include the services that will be provided by the broker. If applicable, describe any services that will not be provided by the broker and name the entity that will provide these services.

---

TN No. NE 19-0009

Supersedes

Approval Date 12/11/2019

Effective Date 07/01/2019

TN No. NE 14-04

State Nebraska

ASSURANCE OF TRANSPORTATION

---

Nebraska Medicaid enrolls non-emergency medical transportation (NEMT) service providers to provide appropriate medical transportation to Medicaid-eligible clients.

Non-emergency medical transportation (NEMT) service providers may be an approved individual, exempt, or public service commission (PSC) provider. Individual providers, defined as a friend, non-legally responsible family member, or volunteer, are enrolled as individual Medicaid providers and receive direct vendor payment from the state. Any qualified and willing individual may enroll as a fee-for-service NEMT provider. Public Service Commission (PSC) providers require Nebraska Public Service Commission certification while exempt providers do not. Exempt and PSC providers are enrolled as Medicaid providers and receive direct vendor payment from the state.

Clients who receive NEMT through fee-for-service may contact the assigned transportation worker to make an appointment for pick-up. The assigned transportation worker then contacts the appropriate provider to complete the appointment process. Fee-for-service clients may request any enrolled provider unless the provider is not the least costly and most appropriate provider for their medical needs.

Medically necessary escort services are covered by Nebraska DHHS, Division of Medicaid and Long-Term Care and authorized by Central Office staff, unless appropriately covered in another service when the client is participating in the Personal Assistance Service program or the Aged and Disabled Waiver program.

In accordance with 42 CFR 440.170(a)(3)(ii - iii), Nebraska Medicaid covers medically necessary travel expenses for the client and the escort including transportation, meals, and lodging. If the escort is not a member of the recipient's family, a paid personal care assistant or facility staff, a salary is also provided.

The managed care plans are responsible for covering and arranging NEMT for their members enrolled in Medicaid.

Nebraska Medicaid covers medically necessary ambulance services that are provided during an emergency or while the client is receiving emergency medical care (see Item 24a of Attachment 3.1-A).

---

TN No. NE 19-0009

Supersedes

Approval Date 12/11/2019

Effective Date 07/01/2019

TN No. NE 14-004