

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
New York Regional Office
26 Federal Plaza, Room 37-100
New York, NY 10278



DIVISION OF MEDICAID AND CHILDREN'S HEALTH OPERATIONS

April 29, 2013

Jason Helgeson
Medicaid Director, Deputy Commissioner
Office of Health Insurance Programs
NYS Department of Health
Corning Towers (OCP-1211)
Albany, New York 12237

Dear Mr. Helgeson:

We have completed our review of New York's State Plan amendment (SPA) 12-33 received on September 28, 2012 and find it acceptable for incorporation into New York's Medicaid State Plan.

This SPA proposes to revise the State Plan to indicate that the Commissioner of Health is authorized to assume the responsibility of managing transportation services for any local social services district and, in such case, may choose to contract with a transportation manager or managers to oversee transportation services.

Please note the approval date of this SPA is April 29, 2013 with an effective date of October 1, 2012. Copies of the approved State Plan pages and the signed CMS-179 are enclosed.

Should you have any questions or concerns please contact Tara Porcher at (212) 616-2418.

Sincerely,



Michael Melendez
Associate Regional Administrator
Division of Medicaid & Children's Health

Enclosures

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL		1. TRANSMITTAL NUMBER: 12-33	2. STATE New York
FOR: HEALTH CARE FINANCING ADMINISTRATION		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 October 1, 2012	
5. TYPE OF PLAN MATERIAL (Check One): ☐ NEW STATE PLAN ☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN ☒ AMENDMENT COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)			
6. FEDERAL STATUTE/REGULATION CITATION: 1902(a) of the Social Security Act		7. FEDERAL BUDGET IMPACT: a. FFY 10/01/12-09/30/13 \$ (\$16,200,000) b. FFY 10/01/13-09/30/14 \$ (\$14,900,000)	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 3.1-A: Page 3(d) Attachment 3.1-B: Page 3(d) Attachment 3.1-D: Pages 1, 2, 3 **SEE REMARKS BELOW		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): Attachment 3.1-A: Page 3(d) Attachment 3.1-B: Page 3(d) Attachment 3.1-D: Pages 1, 2	
10. SUBJECT OF AMENDMENT: Medicaid Transportation Management (FMAP = 50%)			
11. GOVERNOR'S REVIEW (Check One): ☒ GOVERNOR'S OFFICE REPORTED NO COMMENT ☐ OTHER, AS SPECIFIED: ☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED ☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL			
12. SIGNATURE OF [REDACTED]		16. RETURN TO: New York State Department of Health Bureau of HCRA Oper & Financial Analysis 99 Washington Ave – One Commerce Plaza Suite 810 Albany, NY 12210	
13. TYPED NAME: Jason A. Helgeson			
14. TITLE: Medicaid Director Department of Health			
15. DATE SUBMITTED: November 8, 2012			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED:		18. DATE APPROVED: April 29, 2013	
PLAN APPROVED – ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: OCT 01 2012		[REDACTED]	
21. TYPED NAME: Michael Melendez		22. TITLE: Assistant Regional Administrator Division of Medicaid and State Operations	
23. REMARKS: **NYS proposes to revise the State Plan to indicate that the Commissioner of Health is authorized to assume the responsibility of managing transportation services from any local social services district and in such case, may choose to contract with a transportation manager or managers to oversee transportation services in any local social services district..			

OFFICIAL

New York
3(d)

**Attachment 3.1-A
Supplement**

- 24a. Prior approval is required for non-emergent transportation, including the services and subsistence of the attendant. Requests can be made by recipients or their family members; or medical practitioners acting on behalf of a recipient.

Transportation providers are assigned to requests for non-emergency transportation services based upon first, a recipient's choice of available participating vendors at the medically appropriate level of transportation; then, if the recipient indicates no preference, the ordering practitioner's choice among available participating vendors at the medically appropriate level of transportation; and finally, if no choice is made by the ordering practitioner, the request is given via rotation among the medically available and appropriate mode of transportation providers.

1. To assure comparability and statewide, each county's local department of social services manages transportation services on behalf of recipient's assigned to the county.

2. The Commissioner of Health is authorized to assume the responsibility of managing transportation services from any local social services district. If the Commissioner elects to assume this responsibility, the Commissioner may choose to contract with a transportation manager or managers to manage transportation services in any local social services district.

- [2.]3. Recipient, family member, or volunteer reimbursement is made as an administrative expense of the Medicaid Program. This applies to any personal vehicle mileage reimbursement, lodging, airfare, or other expense borne on behalf of the Medicaid recipient by a non-direct vendor.

- 24d. Prior approval is required for skilled nursing facility services except when admitted directly from a hospital, another skilled nursing facility or from a health related facility.

Medicaid payments shall not be authorized for skilled nursing facilities which are not certified or have not applied for certification to participate in Medicare.

26. Personal Care Services means some or total assistance with personal hygiene, dressing and feeding and nutritional and environmental support functions. Prior approval is required for all personal care services. The authorization period and amount of personal care services authorized depends upon patient need, as indicated in the patient's assessment.

Personal care services, shared aide and individual aide, furnished to an individual who is not an inpatient or resident of a hospital, nursing facility, intermediate care facility for the mentally retarded, or institution for mental disease, as determined to meet the recipient's needs for assistance, and when prescribed by a physician, in accordance with the recipient's plan of treatment and provided by individuals who are qualified to provide such services, who are supervised by a registered nurse and who are not members of the recipient's family, and furnished in the recipient's home or other location.

TN #12-33 _____

Approval Date APR 29 2013

Supersedes TN #09-47 _____

Effective Date OCT 01 2012

OFFICIAL

New York
3(d)

**Attachment 3.1-B
Supplement**

- 23a. Prior approval is required for non-emergent transportation, including the services and subsistence of the attendant. Requests can be made by recipients or their family members; or medical practitioners acting on behalf of a recipient.

Transportation providers are assigned to requests for non-emergency transportation services based upon first, a recipient's choice of available participating vendors at the medically appropriate level of transportation; then, if the recipient indicates no preference, the ordering practitioner's choice among available participating vendors at the medically appropriate level of transportation; and finally, if no choice is made by the ordering practitioner, the request is given via rotation among the medically available and appropriate mode of transportation providers.

1. To assure comparability and statewideness, each county's local department of social services manages transportation services on behalf of recipient's assigned to the county.

2. The Commissioner of Health is authorized to assume the responsibility of managing transportation services from any local social services district. If the Commissioner elects to assume this responsibility, the Commissioner may choose to contract with a transportation manager or managers to manage transportation services in any local social services district.

- [2.]3. Recipient, family member, or volunteer reimbursement is made as an administrative expense of the Medicaid Program. This applies to any personal vehicle mileage reimbursement, lodging, airfare, or other expense borne on behalf of the Medicaid recipient by a non-direct vendor.

- 23d. Prior approval is required for skilled nursing facility services except when admitted directly from a hospital, another skilled nursing facility or from a health related facility.

Medicaid payments shall not be authorized for skilled nursing facilities which are not certified or have not applied for certification to participate in Medicare.

25. Personal care services means some or total assistance with personal hygiene, dressing and feeding and nutritional and environmental support functions. Prior approval is required for all personal care services. The authorization period and amount of personal care services authorized depends upon patient need, as indicated in the patient's assessment.

TN #12-33 _____

Approval Date APR 29 2013

Supersedes TN #09-47 _____

Effective Date OCT 01 2012

OFFICIAL

New York

1

**Provisions for Providing
Medical Assistance Transportation**

The following provisions set forth the Department's policy concerning transportation services provided to Medical Assistance (MA) recipients for the purpose of obtaining necessary medical care and services which can be paid for under the MA program. These provisions set forth the standards which the Department will use in determining when the MA program will pay for transportation and describes the prior authorization process for obtaining payment.

The MA program covers all modes of transportation, including, but not limited to: emergency ambulance and non-emergency modes of transportation. Transportation is provided by service providers at Department-established fee schedules set at levels where the Department can successfully assure the availability of medically necessary transportation to services covered by the MA program.

A. Prior Authorization

1. Prior authorization is required for the following:

- a. all transportation to obtain medical care and services, except emergency ambulance transportation or Medicare approved transportation by ambulance service provided to an MA-eligible person who is also eligible for Medicare Part B payments.
- b. transportation expenses of an attendant for the MA recipient.

The provisions set forth the standards to be used in evaluating prior authorization requests and provides the prior authorization official (i.e., the Department or its contracted agents, the county department of social services[,], or their designated agents) with the authority to approve or deny reimbursement to MA recipients for the use of private vehicles (personal cars) or mass transportation which the recipient uses for the usual activities of daily living. A prior authorization official may approve reimbursement for the use of personal cars or mass transportation, however, if, in the opinion of the prior authorization official, circumstances so warrant. A prior authorization official may also approve reimbursement for the use of some other mode of transportation, such as ambulance, wheelchair or stretcher van, or taxi/livery, as required by the MA recipient.

2. Criteria to be used by the prior authorization official in making prior authorization determinations are:

- a. the MA recipient has access to necessary medical care or services by use of a private vehicle or by means of mass transportation which is used by the recipient for the usual activities of daily living;
- b. the frequency of visits or treatments within a short period of time whereby the recipient would suffer financial hardship if required to make payment for the transportation;
- c. the nature and severity of the MA recipient's illness which necessitates transportation by a mode other than that ordinarily used by the MA recipient (such as an acute event wherein an otherwise ambulatory recipient becomes physically disabled);

TN#: 12-33

Approval Date: APR 29 2013

Supersedes TN#: 09-47

Effective Date: OCT 01 2012

New York**Page 2**

- d. the geographic locations of the MA recipient and the provider of medical care and services;
- e. the medical care and services available within the common medical marketing area of the MA recipient's community;
- f. the need to continue a regimen of medical care or service with a specific provider; and,
- g. any other circumstances which are unique to a particular MA recipient and which the prior authorization official determines have an effect on the need for payment of transportation services.

The decision to require the MA recipient to travel using a personal vehicle, public transit, or taxi is made by the prior authorization official based upon the prior authorization official's knowledge of personal vehicle ownership and the local public transit routes. When a more specialized mode of transportation is required, such as wheelchair or stretcher van, or ambulance, the prior authorization official will make a decision on the proper mode of transport after consideration of information obtained from a medical practitioner, supervisors, the Department, program guidance materials, and any other source available, that will help the official to make a reasoned decision.

B. Payment**1. Criteria to be used when establishing payment for medical assistance transportation:**

- a. Social services districts, except those where the Commissioner of Health has assumed the management of transportation management, have the authority to establish payment rates with vendors of transportation services which will ensure the efficient provision of appropriate transportation for MA recipients in order for the recipients to obtain necessary medical care or services. Social services districts may establish such rates in a number of ways, which may include negotiation with the vendors. However, no established rate will be reimbursed unless that rate has been approved by the Department as the Department established rate.
 - i. The State defines "department established rate" as the rate for any given mode of transportation which the department has determined will ensure the efficient provision of appropriate transportation to MA recipients in order for the recipients to obtain necessary medical care and services.
 - ii. The department may either establish rate schedules at which transportation services can be assured or delegate such authority to the social services districts. Delegation of authority exists only in episodic circumstances in which immediate transportation is needed at a cost not considered in the established fee schedule. In order to ensure access to needed medical care and service, the social services districts will approve a rate to satisfy the immediate need.
 - iii. Plans, rate schedules or amendments may not be implemented without departmental approval.
 - iv. Social services districts have no authority to establish a fee schedule without the Department's involvement; there is no incongruity between the Department's and social services district's fee schedules.

TN#: 12-33**Approval Date:** APR 29 2013**Supersedes TN#:** 09-47**Effective Date:** OCT 01 2012

OFFICIAL**New York****3**

- v. Payment for reimbursement of the MA recipient's use of a personal vehicle will be made at the Internal Revenue Service's established rate for *Medical Mileage*. Payment of reimbursement for use of a personal vehicle of a volunteer driver or family member of a MA recipient will be made at the Internal Revenue Service's established rate for *Standard Mileage*.
- b. Payment for transportation is only available for transportation to and from providers of necessary medical care and services which can be paid for under the MA program. MA payment for transportation will not be made if the care or services are not covered under the MA program.
- c. MA payment to vendors of transportation services is limited to situations where an MA recipient is actually being transported in the vehicle.
- d. MA payment will not generally be made for transportation which is ordinarily made available to other persons in the community without charge. If federal financial participation is available for the costs of such transportation, the MA program is permitted to pay for the transportation.
- e. Vendors of transportation services must provide pertinent cost data to a social services district upon request or risk termination from participation in the MA program.

Finally, the provisions require social services districts to notify applicants for and recipients of MA of the procedures for obtaining prior authorization of transportation services.

C. Transportation Management

The following table depicts, for each county, whether the county department of social services or State manages the transportation program.

Managed by Local Department of Social Services		Managed by Department of Health Under Contract	
Allegany	Monroe	Albany	Queens
Cattaraugus	Nassau	Bronx	Rensselaer
Chautauqua	Niagara	Broome	Richmond
Chemung	Ontario	Cayuga	Rockland
Chenango	Orleans	Columbia	Saratoga
Clinton	Oswego	Delaware	Schenectady
Cortland	Otsego	Dutchess	Schoharie
Erie	Schuyler	Essex	Sullivan
Franklin	Seneca	Fulton	Ulster
Genesee	St. Lawrence	Greene	Warren
Hamilton	Steuben	Kings	Washington
Herkimer	Suffolk	Montgomery	Westchester
Jefferson	Tioga	New York	
Lewis	Tompkins	Oneida	
Livingston	Wayne	Onondaga	
Madison	Wyoming	Orange	
Suffolk	Yates	Putnam	

TN#: **12-33**

Approval Date:

APR 29 2013Supersedes TN#: **NEW**

Effective Date:

OCT 01 2012