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State/Territory Name: NV

State Plan Amendment (SPA) #: 21-0001

This file contains the following documents in the order listed:

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

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

April 6, 2021

Suzanne Bierman, Administrator
Department of Health and Human Services
Division of Health Care Financing and Policy
1100 East William Street, Suite 101
Carson City, NV 89701

Re: Nevada State Plan Amendment (SPA) 21-0001

Dear Ms. Bierman

We reviewed your proposed Medicaid State Plan Amendment (SPA) submitted under transmittal number (TN) 21-0001. This amendment proposes to add coverage and reimbursement for a new type of non-emergency medical transportation (NEMT) called Non-Emergency Secure Behavioral Health Transport as an optional medical service outside of the state's NEMT broker program.

We conducted our review of your submittal according to statutory requirements in Title XIX of the Social Security Act and implementing regulations 42 CFR 440.170 and 42 CFR 431.53. This letter is to inform you that Nevada's Medicaid SPA Transmittal Number 21-0001 is approved effective February 1, 2021.

If you have any questions, please contact Peter Banks at (415) 744-3782 or via email at Peter.Banks@cms.hhs.gov.

Sincerely,

James G. Scott, Director
Division of Program Operations

cc:

- Cody Phinney
- DuAne Young
- Kirsten Coulombe

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES		1. TRANSMITTAL NUMBER <u>2 1 - 00 0 1</u>	2. STATE NEVADA
		3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SSA (MEDICAID)	
TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE & MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE February 1, 2021	
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 CFR440.170, 42 CFR431.53		7. FEDERAL BUDGET IMPACT a. FFY 2021 \$ 758,903 b. FFY 2022 \$ 1,597,338	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT Attachment 3.1-A, Pages 9-9i Attachment 3.1-D, Pages 1-2 Attachment 4.19-B, Page 4.4		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable) Attachment 3.1-A, Pages 9-9h Attachment 3.1-D, Pages 1, 1a, and 2 Attachment 4.19-B, Page 4.4	
10. SUBJECT OF AMENDMENT			

Updates to include service and rate methodology for Non-Emergency Secure Behavioral Health Transports.

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 <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL	
12. SIGNATURE OF STATE AGENCY OFFICIAL	16. RETURN TO
13. TYPED NAME RICHARD WHITLEY	Cody Phinney, Deputy Administrator DHCFP/Medicaid
14. TITLE DIRECTOR, DHHS	1100 East William Street, Suite 101 Carson City, NV 89701
15. DATE SUBMITTED January 27, 2021	
FOR REGIONAL OFFICE USE ONLY	
17. DATE RECEIVED 1/27/21	18. DATE APPROVED April 6, 2021
PLAN APPROVED - ONE COPY ATTACHED	
19. EFFECTIVE DATE OF APPROVED MATERIAL 2/1/21	20. SIGNATURE OF REGIONAL OFFICIAL
21. TYPED NAME James G. Scott	22. TITLE Director, Division of Program Operations

23. REMARKS
Pen and Ink Request: Box 6: Remove "45 CFR 92.36". Box 8: Please update to read – "Attachment 3.1-A, Pages 9-9i / Attachment 3.1-D, Pages 1-2 / Attachment 4.19-B, Page 4.4". Box 9: Please update to read – "Attachment 3.1-A, Pages 9-9h / Attachment 3.1-D, Pages 1,1a, and 2 / Attachment 4.19-B, Page 4.4".

AMOUNT, DURATION, AND SCOPE OF MEDICAL
AND REMEDIAL CARE AND SERVICES PROVIDED TO THE CATEGORICALLY NEEDY

24. Any other medical care and any other type of remedial care recognized under State law, specified by the Secretary.

a.1. Transportation

☒ Provided: ☐ No Limitations ☒ With Limitations
☐ Not Provided.

a.2. Brokered Transportation

☒ Provided: Under Section 1902(a)(70) ☐ No Limitations ☒ With Limitations*
☐ Not Provided.

b. Services provided in Religious Health Care Institutions

☐ Provided: ☐ No Limitations ☐ With Limitations
☒ Not Provided.

c. Reserved

d. Nursing facility services for patients under 21 years of age

☒ Provided: ☐ No Limitations ☒ With Limitations*
☐ Not Provided.

e. Emergency hospital services.

☒ Provided: ☒ No Limitations ☐ With Limitations
☐ Not Provided.

f. Personal care services in recipient home, prescribed in accordance with a plan of treatment and provided by a qualified person under supervision of a registered nurse.

☐ Provided: ☐ No Limitations ☐ With Limitations
☒ Not Provided.

Covered under Item 26.

* Description provided on following pages

24.a.1. Transportation

General Transportation Operations and Requirements

Nevada has three types of transportation services. Emergency Transportation Services and Non-Emergency Secure Behavioral Health Transport Services are provided as optional medical services without a broker. Nevada uses the broker authority at 42 CFR 440.170(a)(4) for Non-Emergency Medical Transportation called the Non-Emergency Transportation (NET) Program.

All Medicaid transportation services must be:

1. Medically necessary;
2. Only to and from Nevada Medicaid covered services;
3. Provided by the least expensive means available which is in accordance with the recipient's medical condition and needs;
4. To the nearest appropriate Medicaid health care provider or medical facility.

Emergency Medical Transportation Services

Emergency medical transportation services are covered to the nearest, appropriate Medicaid health care provider or appropriate medical facility capable of meeting the recipient's medical needs, in an emergent situation, when other methods of transportation are contraindicated. Emergency medical transportation may be provided via ground ambulance or air ambulance which includes rotary or fixed wing transport. These services do not require prior authorization.

Medicaid does not reimburse the following for emergency transportation:

1. Transportation to non-covered medical services; or
2. Ambulance charges for waiting time, stairs, plane loadings and in-town mileage;
3. Deadheading;
4. Emergency transportation for recipients whose eligibility is pending at the time of transport.
5. Response with non-transport.

Non-Emergency Secure Behavioral Health Transport Services

Non-emergency secure behavioral health transport services means the use of a motor vehicle, other than an ambulance or other emergency response vehicle, that is specifically designed, equipped and staffed by an accredited agent to transport a person alleged to be in a mental health crisis or other behavioral health condition, including those individuals placed on a legal hold. All Nevada Medicaid recipients who meet the aforementioned criteria would be eligible for non-emergency secure behavioral health transports.

Accredited agents are licensed through the Division of Public and Behavioral Health (DPBH) which oversees issuance or renewal of a license and require the transport provider to develop and maintain certain operational policies. All requirements for the licensure are prescribed in Chapter 433 of the Nevada Administrative Code.

Before an employee of a non-emergency secure behavioral health transport provider may serve on a vehicle that transports patients or provide direct supportive services to patients, the employee must complete the following:

1. Four hours of evidence-based training concerning de-escalation of conflicts and obtain biennial recertification in de-escalation of conflicts.
2. Eight hours of evidence-based training concerning behavioral health which includes, without limitation, training concerning:
 - a. Suicide prevention and intervention;
 - b. The manner in which to respond when a person has overdosed on opioids; and
 - c. Awareness of issues relating to mental health and substance use.

In addition to the required training above, each such employee must be currently certified in the techniques of administering cardiopulmonary resuscitation.

Vehicles used for non-emergency secure behavioral health transports must include a driver's compartment that is separated from the passenger compartment in a manner that allows the driver and passenger to communicate and prohibits the passenger from accessing the driver or any control for operating the vehicle. The passenger compartment must have two or more traditional vehicle seats with appropriate seat belt restraints, is free from exposed sharp edges, equipped with doors that automatically lock and are not capable of opening while the vehicle is in motion, and has space for a gurney or stretcher that is capable of being lifted to the comfort level of a patient.

Non-emergency secure behavioral health transports may be used for the following transports:

1. Facility-to-facility transport from a mental health facility or medical facility to another mental health facility or medical facility;
2. Transport to and from a facility arranged by individuals authorized by NRS 433A.160 to arrange for transportation; or
3. Transport of an individual seeking voluntary admission pursuant to NRS 433A.140 to a public or private mental health facility.

Recipients must be transported to the nearest, most appropriate Medicaid health care provider or medical facility. Family members or other unaccredited agents are not allowed to ride in the non-emergency secure behavioral health transport vehicle with the recipient. These services do not require prior authorization.

24.a.2. Brokered Transportation

☒ 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).

(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

☒ stretcher car

☒ bus passes

☒ tickets

☒ secured transportation

☒ other transportation (if checked describe below other transportation).

In addition to the modes described above, NET may also be provided by the following modes of transportation, excluding non-emergency secure behavioral health transports:

1. Ground ambulance;
2. Commercial air flight;
3. Gas Mileage Reimbursement
4. Paratransit- Public;
5. Transportation Network Companies; and
6. Private vehicles

(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.)

The State assures that the NET broker itself is not a provider of transportation. The NET broker may not hold ownership in any NET provider with whom the broker subcontracts or arranges NET through a non-contractual relationship. This prohibition applies to the corporation, if the broker is incorporated and to the owners, officers or employees of the broker.

The State of Nevada assures the availability of medically necessary transportation to and from medical providers for eligible Medicaid recipients in the following ways:

1. Eligible Medicaid program recipients are informed verbally and in writing of the availability of non-emergency transportation services by the Nevada Medicaid contracted transportation broker.
2. NET is contracted by a broker to provide transportation to medically necessary covered services statewide 24 hours a day, seven days per week, including weekends and holidays. The NET broker operates within all applicable Federal, State and local laws.
3. All NET services require prior authorization by DHCFP's NET broker with the exception of NET services provided by Indian Health Services (IHS) clinics. The NET broker is required to authorize the least expensive alternative conveyance available consistent with the recipient's medical condition and needs.
4. The NET broker will facilitate rides for recipients requiring door-to-door transport (Paratransit). The DHCFP will reimburse the Regional Transportation Commission (RTC) directly for any costs incurred for these services.
5. Eligible recipients may be reimbursed the cost of meals and lodging en route to and from medical care for long distance medical appointments.

6. An attendant's cost may be covered if an attendant is required to ensure the recipient receives the required medical services.

The following are not covered under NET services:

1. Transportation to and from non-covered services;
2. Travel to visit a recipient in an inpatient treatment facility except in the case of parents visiting a newborn that is in a facility;
3. Transportation between hospitals for outpatient or inpatient care or services;
4. Deadheading;
5. The cost of renting an automobile for private vehicle transport;
6. Wages or salary for escorts;
7. Charges for waiting time, stairs, plane loading;
8. Routine or special supplies including oxygen;
9. Recipients requiring any medical care or supervision during transport;
10. Transportation of a recipient in a personal care attendant's private vehicle;
11. Transportation from a Nursing Facility (NF) to an outpatient medical appointment. NET is the responsibility of the NF as NET is included in the NF all-inclusive per diem rates.
12. When multiple recipients make the same trip in a private vehicle, reimbursement is made for only one recipient; and
13. Basic life support (BLS), and advanced life support (ALS) transports.

- (4) The broker contract will provide transportation to the following categorically needy mandatory populations:

- ☒ Low-income families with children (Section 1931)
- ☐ Deemed AFCD-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 18th 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 benefit
- ☒ 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
- ☒ Individuals receiving home and community-based waiver services who would only be eligible under State plan if in a medical institution
- ☒ 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 TWWIA 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)

(B) Who will pay the transportation provider?

☒ (i) Broker

☐ (ii) State

☐ (iii) Other (if checked describe who will pay the transportation provider)

(C) What is the source of the non-Federal share of the transportation payments?

Describe below 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.

☒ (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). For instance, the NET broker will facilitate rides for recipients requiring door-to-door transport (Paratransit). The DHCFP will reimburse the Regional Transportation Commission (RTC) directly for any costs incurred for these services. 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.

☒ (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 provide 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 and 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.
- (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.

The NET broker provides transportation to and from medically necessary Nevada Medicaid covered services. Transportation is provided by the least expensive means available which is in accordance with the recipient's medical condition and needs and to the nearest appropriate Medicaid health care provider or medical facility. NET is available to all eligible Medicaid recipients with limitations.

Recipients call the NET broker for reservations. The NET broker verifies the recipient's eligibility and the existence of a medical services appointment. Recipients are screened for the most appropriate level of service. Recipients who use the system frequently or require high cost transportation may be further assessed by the Medicaid District Office to ensure appropriate utilization. The

NET broker authorizes and schedules the rides with providers. The broker determines efficient routes.

The NET broker provides NET both statewide and out of state. Recipients traveling out of state may have the cost of meals and lodging en route to and from medical care, and while receiving medical care reimbursed. An attendant's costs may be covered if an attendant is required to ensure the recipient receives required medical services.

Medicaid does not reimburse the costs of non-emergency travel which had not been prior authorized or transportation to non-covered medical services. Ambulance charges for waiting time, stairs, plane loadings and in-town mileage and No shows, where a ride does not occur are also not reimbursable.

Full benefit dual eligible recipients may receive NET services to Access Medicaid only services.

Provider Qualifications

To be a NET provider, a vendor must have a current provider agreement with Nevada Medicaid NET broker, a State issued exemption from TSA regulation, proof of a liability insurance policy, pursuant to NRS 706.291 for a similar situated motor carrier, a criminal background check and an alcohol and substance abuse testing program in place for the drivers, and vehicles adequately maintained to meet the requirements of the contract. Vehicles shall comply with the Americans with Disabilities Act (ADA) regulations.

24.d. Nursing facility services for patients under 21 years of age require prior authorization from the Nevada Medicaid Office on Form NMO-49.

24.f. Personal care services covered under Item 26, Page 10a.

TRANSPORTATION

The State of Nevada Division of Health Care Financing and Policy (DHCFP) provides transportation services as an “optional medical service” which includes emergency medical transportation, non-emergency secure behavioral health transport and non-emergency transportation (NET) of eligible recipients to and from Nevada Medicaid covered services in accordance with 42 CFR440.170, 42 CFR431.53, 45 CFR92.36. Further detail on these services is outlined in Attachment 3.1-A: Amount, Duration, and Scope of Medical and Remedial Care and Services Provided to the Categorically Needy.

State/Territory: Nevada

Attachment 3.1-D

Page 2

OMB No.: 0938-

RESERVED

TN No.: 21-0001
Supersedes
TN No.: 10-006

Approval Date: April 6, 2021 Effective Date: February 1, 2021

period within three years of the postmark date of the cost report.

3. If the interim Medicaid payments exceed the actual certified costs of a provider, the State will recoup any overpayments and return the Federal share to the Federal government in accordance with 42 CFR 433.316. If the actual certified costs exceed the interim Medicaid payments, the DHCFP will pay the federal share of the difference to the provider in accordance with the final actual certification agreement.

III. Non-emergency transportation:

- A. Other than Non-Emergency Secure Behavioral Health Transports, Non-emergency transportation is authorized through a contracted NET Broker, as specified in Attachment 3.1-D.
- B. Effective for services provided on or after February 1, 2021, Non-Emergency Secure Behavioral Health Transports will be reimbursed for the following codes from Provider Type 32, Specialty 932 Ambulance, Air or Ground Fee Schedule as published at <http://dhcfp.nv.gov/Resources/Rates/FeeSchedules/> on February 1, 2021:
 1. T2003 UA will be the base rate and reimburse at 70% of the BLS A0429 rate.
 2. S0215 UA will be the mileage rate and reimburse at 70% of the mileage rate of A0380.
- C. Reimbursement Methodology for Non-Emergency Paratransit services provided by the Regional Transportation Commission (RTC) operated by local government entities:
 1. The lower of: A) billed charges; or b) a cost based rate.

The cost based rate is calculated annually using each public provider's annual operating budget and service utilization forecast and an applicable 10% indirect cost rate. Each public provider will submit an annual operating budget and service utilization forecast at least 60 days before the start of the next fiscal year. The budget forecast must reflect a projection for allowable, necessary and proper direct cost in providing services. The cost based rate is calculated as follows:

- a. Direct costs include the costs for fuel, tires and subcontracted costs that are directly related in providing the non-emergency transportation services. These costs must be in compliance with the Medicare reimbursement principle and OMB A-87.
- b. The total direct costs (from Item A) are reduced by any federal grant funds received for the same services to arrive at the net allowable direct costs.
- c. Indirect costs are determined by applying a ten percent indirect cost rate to the net allowable direct costs (from Item B).

Continued on Page 4 (Addendum)