Updated Medicaid Transportation Guidance Webinar Questions

2/28/24

Contents

Questions Submitted During the Webinar:

Links to the Medicaid Transportation Coverage Guide

- You can find it at https://www.medicaid.gov/sites/default/files/2023-09/smd23006.pdf and this is the Medicaid Transportation Assurance webpage where this guidance lives: https://www.medicaid.gov/medicaid/benefits/assurance-of-transportation/index.html.
- In addition, FTA's web page for the Coordinating Council for Access and Mobility (CCAM) is https://www.transit.dot.gov/coordinating-council-access-and-mobility.

Negotiating Rates and Contracting for Medicaid NEMT

- How does "no other option available" and "least costly" come into play when Section 5311 public transportation systems often offer low fares to the general public but are also the NEMT partners?
    - *Regarding "no other option available," from page 37 of the Medicaid Transportation Coverage Guide it says: "Medicaid-paid transportation should only be used when there are no other means for the beneficiary to be transported to their medical appointment." If NEMT service was not provided, it is unlikely that the trip would be made. Medicaid is the payor of last resort and is to be used only when there or no other options.*
    - *In terms of "least costly", depending on the Medicaid NEMT model used in the state, the NEMT contracting entity (e.g., broker, managed care organization (MCO), job and family services entity, or other) becomes aware that a trip needs to be provided, puts the trip out to available providers*

to see who wants to take it, and then based on that they assign it to the lowest cost and most appropriate option. Historically, they often made the decision based on the lowest cost, not which option is most appropriate. This is what the guidance is challenging the state Medicaid directors to do – to put more of a focus on the "most appropriate" consideration.

- Didn't you say it paid only as a last resort? If someone qualifies for 5311 (everyone does), then Medicaid NEMT is never the last resort if the trip is provided by the existing public transit. What am I missing?
    - *Medicaid beneficiaries are also members of the general public and can utilize public transit services as a member of the general public for any purpose including medical appointments. The individual would pay the fare. However, if the trip is sponsored by Medicaid requiring the public transit system to provide additional documentation, accept Medicaid payments, provide additional guarantees, or provide service outside of the public transit systems service area or hours of service, this is no longer the same service that is provided to members of the general public. If there are no other public or private sources of funding to transport the beneficiary within this framework, then Medicaid pays as the payor of last resort.*
    - *In addition, if a person is eligible for multiple funding sources for transportation, those other funding sources must be used first.*
- Least costly/Most appropriate - quality of service. Is there an expectation that the brokerage service provides NEMT transportation to Medicaid clients if there is no public transit or drivers available?
    - *Yes, the broker looks for a qualified transportation provider and is supposed to select the least costly/most appropriate provider for the trip. The private broker is prohibited from providing the service themselves unless there are no other providers available.*
- Is the rate the lowest that we charge another service or that we charge the general public?
    - *For fixed route service, the rates can be no more than what is charged the public (i.e. fare).*
    - *For ADA complementary paratransit and public demand-responsive transportation, is the lowest rate that you charge another human services agency to provide a similar transit service.*
- Have you ever encountered a totally fare free agency that then bills Medicaid? Do we just need to negotiate the "fare"?
    - *See above. If the fixed route system is fare-free, then no, you cannot bill Medicaid for the trip.*
- Does the new guidance help get around the restriction on paying no more than what the public pays. For example, our (small urban) ADA paratransit service is $4 per trip for members of the public who are certified as unable to ride fixed route. JFS feels they don't want to pay more than $4 for any demand response service, which is obviously well below our cost.
    - *If you already provide contracted transit service to other human service agencies, and your local Job & Family Services or other broker wants you to provide Medicaid NEMT services, then you can charge them the rate that is the lowest of the contract rates that you're doing for other human service agencies.*
    - *If you, however, are not providing any service for other human service agencies, you still can negotiate a rate, such as the actual cost for you to provide the trip. They may not want to, and don't have to, pay the rate you are asking for, but the guidance gives you the opportunity to negotiate. Previously, it was thought to be prohibited, but this guidance specifically says that that's not prohibited to negotiate rates. It says that a local State Medicaid Director has the flexibility to allow you to negotiate those rates for comparable transit service trips "and that the fiscal burden of transportation should not be unfairly placed on paratransit services." Also note, that if the local JFS only pays the fare, then you are not required to provide any service in addition to what is provided to members of the general public. If the JFS expects/requires that the public transit system provide additional services (i.e., invoice the JFS, scheduling preferences, additional documentation) that are not provided for members of the general public, this*

expectation sets this service apart and could be the basis for a negotiated rate in excess of the fare.
    - *So yes, you can negotiate a higher rate, and they don't have to accept the rate or give you those trips. But if you do negotiate a higher rate, that higher rate cannot be any greater than the lowest contract rate you charge other folks.*
    - *If an individual is acting as an individual, then they will get the same fare as any other individual would. If there is an agency that requires additional services to be provided that are above and beyond that provided for an individual, (they're basically negotiating this for the agency), then you can negotiate an agency rate per trip.*
- Can an ADA paratransit service collect the cost of the trip rather than the fare for the trip?
    - *Yes, if they negotiate for that rate. It depends on the specific contract and the Medicaid NEMT model in the state. See above for more information.*
- If you do not have any contracts due to charter rules, can a public transit agency bill the posted rate for ADA and Demand Response services?
    - *Yes. The public transit agency can also negotiate for a rate that accounts for the full cost to provide the Medicaid NEMT service. See above for more information.*
    - *For more about Charter Rules and the exception for Qualified Human Services Organizations (QHSOs), scroll to the Charter Service section on FTA's Transportation Coordination page at https://www.transit.dot.gov/regulations-and-programs/access/ccam/about/transportation-coordination. See below for the relevant excerpt:*
        - *"There is a Charter Rule exception for Qualified Human Service Organizations (QHSOs) that (1) are registered on the FTA website (updated biennially) or (2) receive funding from one of the sources listed in Appendix A - Federal Programs Providing Transportation Assistance. Recipients of FTA funds may provide service to clients of a QHSO without violating the Charter Rule." [Medicaid is listed in Appendix A.]*
- If a transit doesn't have any other contract for ADA services, can NEMT negotiate the rate for the human services rate?
    - *Yes. See above for additional information.*
- Would "comparable" service have more consideration than just having a contract; for example, higher volumes and group trips for an organization aren't the same as individual medical trips.
    - *Yes.*
- Who do we negotiate the price of the trip with?
    - *It depends on your state, and you need to research what's going on in your state to know who to talk to and to be able to ask the right questions. You can find contact information for your State Medicaid Office at https://www.medicaid.gov/about-us/beneficiary-resources/index.html#statemenu.*
    - *Some common examples of who providers negotiate with are listed below:*
        - *If your state uses managed care organizations (MCOs), some MCOs are dealing with transportation providers directly. Most, however, contract out with a broker who then works with (and negotiates with) the providers, under the guidance of the MCO.*
        - *If your state has a statewide broker or a regional broker, then the negotiation occurs with whoever your broker is.*
        - *If in your state the Medicaid funds are going through local governmental entities or departments, then that is who you would negotiate with.*
- Will the Transit System invoice the Medicaid provider?
    - *It depends on their contract and their state. See above.*

Using Medicaid NEMT Revenue as Match for FTA Grants

- I thought MCO fares were counted as revenue, which reduces your deficit when submitting 5310 & 5311 reports. We are not allowed to count this as match, only as fare revenue.
    - *Farebox revenue (including multiride/weekly/monthly passes, discounted passes for students and older adults, and fares/passes paid for by a local human services organization, university or employer) is deducted from operating expenses, and cannot be used as match. Farebox revenue is from payments made by (or on behalf of) riders for regular public transit services, not based on a separate contract.*
    - *Contract revenue from service agreements with state or local social services organizations or private human services organizations is considered a different type of revenue and can be used as cash match. (Similarly, if a university or employer sets up a contract to offer free or discounted service to all students/employees, and the agency is not paid on a per student/employee ride basis, that is not considered farebox revenue and can be used as local match.)*
    - *Contracts for NEMT trips that are provided using a negotiated rate can be used as local match. We suggest you work with your state DOT to clarify how they administer your Section 5311 program. You can also learn more about local match in National RTAP's Fundamental Financial Management Training, available at https://nationalrtap.eos-intl.net/N94067/OPAC/Details/Record.aspx?BibCode=526573*
- Can Managed Care reimbursements be used as match for 5310 and the other grants listed?
    - *Yes. See above and below.*
- What is the justification for matching Federal/State Medicaid funds with Federal 5310 and 5311 funds? Please explain how Medicaid funds can be used as match for 5310 and 5311. Appears to be a conflict.
    - *Revenue from contracts to provide Medicaid NEMT are like any other contract to provide transportation services, such as with your local council on aging. Revenue from those contracts can be used as local match to 5310 and 5311 programs.*
    - *FTA has three programs with explicit statutory authority to accept non-USDOT Federal funding as local match (e.g., Medicaid NEMT): Formula Grants for Rural Areas (Section 5311) 49 U.S.C. 5311(g)(3)(D) and (E); Formula Grants for Enhanced Mobility of Seniors and Individuals with Disabilities (Section 5310); and Formula Grants for Urbanized Areas (Section 5307) 49 U.S.C.5307(d)(1)(D).*
    - *From FTA's Transportation Coordination page https://www.transit.dot.gov/regulations-and-programs/access/ccam/about/transportation-coordination under Charter Service, it also addresses receiving funding from Medicaid:*
        - *"Charter service occurs when FTA grant recipients provide exclusive use of vehicle(s) to an individual or group for a price. FTA's Charter Service Regulation (49 C.F.R. Part 604), which implements 49 U.S.C. 5323(d), protects private charter operators from unauthorized competition from FTA grant recipients. The charter regulations were implemented to ensure that transit agencies subsidized with Federal money do not unfairly compete with privately owned bus companies. Under the Charter Rule, with limited exceptions, local transit agencies are restricted from operating charter services."*
        - *"There is a Charter Rule exception for Qualified Human Service Organizations (QHSOs) that (1) are registered on the FTA website (updated biennially) or (2) receive funding from one of the sources listed in Appendix A - Federal Programs Providing Transportation Assistance. Recipients of FTA funds may provide service to clients of a QHSO without violating the Charter Rule." [Medicaid is listed in Appendix A.]*
    - *From this article written by the National Aging and Disability Transportation Center (NADTC), funded by FTA and linked to from FTA's website https://www.nadtc.org/news/blog/section-5307-5310-and-5311-using-non-dot-funds-for-local-match/*

        - *"The ability to use non-U.S. Department of Transportation federal funds as local match began under SAFETEA-LU in 2005 when non-DOT match funds were approved for Section 5310, Section 5311, and for the former Section 5316 (JARC) and former Section 5317 (New Freedom) programs…Under SAFETEA-LU, the primary focus was use of human service funds as a local match for transit projects because, as stated in the U.S. House of Representatives report, the match leveraged the federal investment and increased 'coordination among Federal agencies that provide transportation services.'" [H.R. Rep. 109-203, Jul. 28, 2005]*
    - *From the CCAM Federal Fund Braiding Guide https://www.transit.dot.gov/regulations-and-programs/ccam/about/coordinating-council-access-and-mobility-ccam-federal-fund:*
        - *"Section 200.306(b) of Title 2, Code of Federal Regulations, prohibits Federal fund braiding for local match "except where the Federal statute authorizing a program specifically provides that Federal funds made available for such program can be applied to matching or cost sharing requirements of other Federal programs."" (Page 1)*
        - *"A project that receives funds from multiple Federal programs must meet all requirements of the participating Federal agencies, including eligibility requirements, reporting requirements, regulatory requirements, statutory requirements, and program guidance." (Pages 2)*
        - *FTA has specific statutory authority that permits the use of federal funds as match, whereas Medicaid does not. You may use Medicaid dollars to match FTA dollars, but you cannot use FTA dollars to match Medicaid.*

<u>Billing - Trip Sharing, Trip Purpose, Conflicts of Interest</u>

- Under Trip Sharing, does this mean that more than one Medicaid client can be transported at one time and bill for both or bill the difference in the mileage for the trips?
    - *You must follow the invoicing method that is currently utilized for your state, broker or MCO. However, the Guidance allows states to employ alternative cost allocation methods. The method that was developed by CCAM with the participation of CMS is based on the premise that you can transport more than one passenger at one time, and you would bill for each individual trip, even if they are going to the same place. This method bills for the shortest route from the individual's pick-up location to their appointment location, regardless of the route taken.*
- What if both passengers are going to the same place? Would that be two bills for the same miles?
    - *Yes. Utilizing the CCAM model, you would bill for each individual trip, even if they are going to the same place. For each passenger you would bill the shortest distance between the passenger's origin and their destination.*
- I have questions regarding conflicts of interest. What if you are already billing Medicaid for other services and you use a vendor currently for NEMT. Would a program be able to bill directly for NEMT?
    - *Probably, if the costs are distinct and not billed for twice. You need to check with your broker or State Medicaid Office as every state is different.*
- If you are a Government/County entity providing NEMT to seniors over 60, with hired full and part time staff and supplemental vendors, can you request Medicaid funds to cover operational costs to support your program?
    - *Not directly unless you have been selected as a broker through a competitive bid process. Even then, page 37 of the Medicaid Transportation Coverage Guide states: "In terms of financing, Medicaid is not responsible for the general operation or deficit financing of public or private transportation programs or providers." However, if your negotiated rate reflects your fully allocated costs, these costs may already be accounted for.*

- Can more than one NEMT trip be provided and billed for a beneficiary in one day?
    - *Probably, but you need to confirm with your broker or State Medicaid Office.*
- Has any thought been given to one client (Medicaid) with multiple pay sources (e.g., client wants multiple stops and Medicaid pays for a portion of the trip and personal pay for part of the trip)?
    - *Ask your broker, or whoever you are contracting with, about this. There are cases where clients use different funding sources for different types of trips and each trip is billed separately. As a possible example, a client goes to grocery store and pays the general public transit demand-response fare. From the grocery store they go to a medical appointment and then back home. They are on Medicaid, and Medicaid is billed for the leg of the trip from the grocery store to the appointment (so long as this distance is less than or equal to the distance from the client's home to the appointment) and then from the appointment to home. Again, you will need to clarify and confirm with your broker.*
- If you can bill for the service, do you still collect the posted fare from the rider?
    - *No. If you are being paid through a contract to provide transportation for Medicaid beneficiaries, then you would be paid through that contract and not charge a fare to the rider unless the contract specified such an arrangement.*

SBIR Cost Allocation Tool

- What is the link to the NEMT cost allocation tool?
    - *It is not yet live. You can read the report from Part I of the project at https://www.transit.dot.gov/access/ccam/cost-allocation-technology-non-emergency-medical-transportation-final-report.*
- When is the model expected to launch?
    - *Hopefully fall 2024. FTA will be handling the process of hosting the tool online, so much of the timing will depend on that.*
- If your transit service is County based, but operated by a non-profit, how would the price tool work if you must select the type of company at the beginning?
    - *The model is primarily designed for use by service providers. In this case, the non-profit would utilize the model.*

Administrative Burden of Requirements

- Contracted providers of federally funded municipal shared ride taxi services have indicated the requirements to be a federally funded public transit provider AND to be an NEMT trip provider are generally overly burdensome and often duplicative for things like driver training, background checks, drug testing, etc. As a result, providers are discouraged from working with the state NEMT broker to provide NEMT trips. In what ways does the new guidance help to unify requirements for providing public transit with those required to provide NEMT trips?
    - *The guidance does not directly address this issue, but it does encourage State Medicaid directors to work together with their State DOT to resolve some of these issues. For example, Ohio has been working for years to come up with one set of standards and training requirements that all state agencies that fund community and human services transportation can agree to. It will be valuable to learn from what happens in Ohio. (See Mobility Ohio to learn more.) If you have the ability and influence, this would be a major area to try to get all your state agencies together in one room and to bring those issues up and work together to streamline the requirements.*
- My transit agency is an approved NEMT provider. We've been providing NEMT trips, co-mingled with our paratransit trips, for approximately 2 years. Billing is one of the biggest issues that we've been dealing with. Is there an effort to streamline, improve, and make the billing process easier?

    - *See above.*
- The overlapping requirements for training, background checks, drug testing, etc., can be burdensome and potentially duplicative and discourages providers from offering both public transit and Medicaid-funded trips. What options do states have to streamline these requirements or allow for mutual recognition of certifications to reduce the administrative burden on providers?
    - *See above.*

<u>Lack of Public Transit and Driver Shortage in Rural Areas</u>

- Does the guidance address a lack of public transit in rural areas and shortages of drivers. Or increasing accessibility for Medicaid enrollees in rural areas?
    - *CMS recognizes that public transit is a great option for NEMT, in terms of quality of service and lower costs. It also states that public transit agencies should not bear the fiscal burden of transportation for Medicaid beneficiaries and transportation providers should not be offered payments too low, because it will result in a limited number of service providers.*
    - *In addition, in the Rural Areas section of the Medicaid Transportation Coverage Guide, on page 17: "States face unique challenges in meeting their obligation to assure transportation for beneficiaries residing in rural areas. More time and distance are generally needed to provide transportation services, as public transportation is generally absent or difficult to access and communication methods may be more limited than in urban areas…CMS strongly encourages states to evaluate rate methodologies that recognize the unique transportation issues faced by rural transportation providers."*
    - *In most communities, the demand for public transportation services and NEMT services in rural areas is greater than the available service. This is more of an issue given the driver shortage. This guidance does not directly address this concern, but CMS encourages state Medicaid Directors to explore partnerships with their counterparts at state Departments of Transportation to address common issues and find ways to better serve the Medicaid population.*
- Some rural areas in our state have a shortage of public transit services due to a shortage of drivers. Are there any discussions or updates about increasing accessibility?
    - *Not directly. See above.*

<u>Brokers</u>

- Are there successful Best Practice or pilot projects to operate NEMT at a regional level versus statewide brokerage program?
    - *Yes, there are regional systems. Many managed care organizations (MCOs) are regional, and they do brokerage within their regions. Many states have systems that are operated on a regional basis.*
    - *There are examples of different models available to states for providing NEMT in TRB's Transit Cooperative Research Program (TCRP) Research Report 202: Handbook for Examining the Effects of Non-Emergency Medical Transportation Brokerages on Transportation Coordination (2018) https://www.trb.org/Main/Blurbs/177842.aspx.*
    - *NCMM's page on NEMT provides basic NEMT information, including common state models, one of which is regional brokers: https://nationalcenterformobilitymanagement.org/non-emergency-medical-transportation-medicaid-transportation/*
- Who is to hold brokers accountable that states contract with? We hear many stories from our customers about private companies with their vehicles not being clean or trustworthy, erratic driving and making them wait for hours after their appointments. They make complaints but feel it falls on deaf ears.

- *CMS has heard these concerns and there are various areas in the Guidance where CMS addresses this, such as in the Oversight of Transportation Services for Beneficiaries section of the Medicaid Transportation Coverage Guide, on page 26:*
  - *"States have ultimate oversight responsibility to monitor beneficiary access and complaints, ensure transportation is timely, and ensure that transport personnel are licensed, qualified, competent, and courteous. States have a responsibility to ensure beneficiaries are aware of the processes and policies regarding accessing transportation, filing complaints and grievances, and requesting a fair hearing. State Medicaid agencies should have in place robust oversight programs that include conducting regular audits to ensure all state and federal Medicaid law, regulations, and policies are followed. States also have an obligation of oversight for all Medicaid-covered transportation, including where transportation is arranged by local jurisdictions."*
- *CMS, however, does not dictate how State Medicaid Directors meet these responsibilities. The guidance challenges them to come up with a better method of providing transportation coverage and improving the transportation services.*

Questions and Information Needs in Post-Webinar Survey:

- Can you provide more specific negotiation tactics to use with brokers, especially for newer transit managers?
  - *We are considering how to address this request. We will email the webinar registrants when more information is available.*
- What are states doing in response to the guidance? Any examples of how states are reacting to this would be great.
  - *We are hoping to hold a virtual event for State DOTs to share how their states are reacting to the guidance. Stay tuned for additional information.*
- I'm a Mobility and Transportation Advocate for the Rural Health Network of SCNY. A lot of our clients live in rural areas that have insufficient or no public transit options, mostly due to a shortage of drivers. Is there information or resources that address efforts to increase public transportation availability for rural residents and Medicaid enrollees?
  - *Resources related to hiring and retaining drivers:*
    - *National RTAP held a webinar in June 2023 on "Successful Strategies for Hiring Rural and Tribal Transit Operators." View the Webinar Recording or the PowerPoint. Or find the links on https://www.nationalrtap.org/Training/Webinars#PreviousWebinars.*
    - *National RTAP's Transit Manager's Toolkit has a section on Driver Recruitment, Training, and Retention: https://www.nationalrtap.org/Toolkits/Transit-Managers-Toolkit/Administration/Driver-Recruitment-Training-and-Retention#DriverRecruitmentTrainingandRetention*
    - *The Transit Workforce Center has resources to support the efforts to hire and retain frontline transit workers at https://www.transitworkforce.org/connectingmycommunity/*
  - *Resources related to funding and grants for public transportation:*
    - *National RTAP has a Funding Topic Guide with a list of numerous funding sources as well as resources related to writing grants at https://www.nationalrtap.org/Resource-Center/Topic-Guides/funding*
    - *National RTAP's Transit Manager's Toolkit has a section on Funding Sources for Rural Public Transportation: https://www.nationalrtap.org/Toolkits/Transit-Managers-*

Toolkit/Administration/Budgeting-and-Finance-101#PotentialFundingSourcesforRuralPublicTransportation

- *You can also speak about the unmet transportation needs you are seeing with the leaders in your community, region, or state or with your representatives in Congress to explore opportunities for transportation coordination or additional funding.*

- Is there a place to keep the discussion going after this webinar?
  - *We are considering ways to continue the discussion and provide additional training and technical assistance on this topic. We will email all webinar registrants with information when it is available, or you can subscribe to our eNews to stay abreast of updates.*
- We need training on NTD Annual Reduced Reporting.
  - *FTA offers NTD reporting trainings https://www.transit.dot.gov/ntd/trainings-and-conferences and webinars https://www.transit.dot.gov/ntd/presentations-and-webinars.*
  - *The National Transit Institute (NTI) offers training for Rural Reporting https://www.ntionline.com/rural-ntd-reporting/ and Reporting for Indian Tribes https://www.ntionline.com/national-transit-database-annual-reporting-for-indian-tribes/*