

# Medicaid and Transportation for Older Adults

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# Housekeeping

- All on mute. Use Questions function for substantive questions and for technical concerns.
- Problems with getting on to the webinar? Send an e-mail to [NCLER@acl.hhs.gov](mailto:NCLER@acl.hhs.gov).
- Slides and a recording will be available at [NCLER.acl.gov](http://NCLER.acl.gov). See also the chat box for this web address.

# About NCLER

The National Center on Law and Elder Rights (NCLER) provides the legal services and aging and disability communities with the tools and resources they need to serve older adults with the greatest economic and social needs. A centralized, one-stop shop for legal assistance, NCLER provides Legal Training, Case Consultations, and Technical Assistance on Legal Systems Development. Justice in Aging administers the NCLER through a contract with the Administration for Community Living's Administration on Aging.

# About Justice in Aging

Justice in Aging is a national non-profit legal advocacy organization that fights senior poverty through law. Formerly the National Senior Citizens Law Center, since 1972 we've worked for access to affordable health care and economic security for older adults with limited resources, focusing especially on populations that have traditionally lacked legal protection such as women, people of color, LGBT individuals, and people with limited English proficiency. Through targeted advocacy, litigation, and the trainings and resources we provide to local advocates, we ensure access to the social safety net programs that poor seniors depend on, including Medicare, Medicaid, Social Security, and Supplemental Security Income (SSI).

# Introduction/Table of Contents

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- Rules and Regulations Governing Medical Transportation
- Types of Non-Emergency Medical Transportation
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# Why Transportation Matters

A Lifeline for Older Adults

# Definition

- Non-Emergency Medical Transportation
  - Non-emergency context Reason for transportation is to obtain medical services
    - Doctor's visit
    - Pharmacy pick-up
    - Lab tests
  - May or may not be a medical mode of transport

# Transportation and Numbers

- 3.6 million Americans delay or miss medical care because they lack affordable or available transportation.
- 1% of all trips prevent one-day stay in a hospital, resulting in a 11:1 return on investment.
- Adults who lack transportation are disproportionately poor, elderly, and disabled with multiple chronic conditions.
- More than 50% of non-drivers 65+ stay at home without another form of transportation.
- 40% of women 75+ do not drive.
- People of color more likely to have unmet care need due to lack of transportation.
  - Blacks – 83% higher
  - Latinos – 31% higher

# Transportation for What?

- Most frequently cited reasons for using NEMT include accessing:
  - Behavioral health (mental health and substance abuse treatment)
  - Dialysis
  - Preventative Services
  - Specialist visits
  - Physical therapy/rehabilitation
  - Adult day health care services
- Duals: Medicare-covered services as well

# Example of Maria

- Maria is a 88 year old low income senior who lives by herself at home.
- She does not own a car and lives in a rural part of the state.
- She has an upcoming ophthalmology appointment and needs to get to and from her appointment.

# Rules and Regulations Governing Transportation

# Medicaid Regulations

- Not explicitly enshrined in statute as a benefit
- Required via federal regulation
- Medicaid must “ensure” necessary transportation for beneficiaries to/from providers and “describe” methods to meet this requirement.
- Transportation may include expenses for transport and other related travel expenses to secure Medicaid services.
- Separate requirements for EPSDT population

# NEMT Structure and Administration

- States can decide whether to offer NEMT as an administrative expense, medical service, or both.
  - Administrative expense – freedom of choice does not apply.
  - Medical service – still benefit from typical FMAP.

# NEMT Structure and Administration (cont.)

- States can arrange NEMT through broker model, managed care, fee-for-service, or other delivery models.
- Beneficiaries may need to demonstrate “unmet” transportation need.
  - E.g. not having a license, car, or possessing some cognitive or physical limitation

# The NEMT Broker Model

- Deficit Reduction Act (DRA) in 2005 encouraged states to adopt broker model.
- Broker model allows state to offer NEMT as medical expense, keeping beneficial FMAP, while disregarding some basic Medicaid requirements.
- Since 2005, at least 39 states relying on broker model.

# The NEMT Broker Model (cont.)

- Broker companies are often not directly involved in transporting the older adult but rely on third party companies.
- Broker model can complicate delivery of transportation services by introducing at least one middle person.
- Model makes it difficult to know who the right entity is to hold accountable.

# Types of Transportation

# Types of NEMT

- Taxis
- Cars
- Wheelchair Vans
- Vans
- Stretcher Cars
- Ambulances (non-emergency context)
- Transit Passes/Tickets
- Secured Transportation
- Public Bus
- Subway
- Mileage Reimbursement for Private Conveyance

# Types of NEMT (cont.)

- Ridesharing applications like Lyft and Uber have started contracting with transportation brokers like Logisticare.
- Sometimes people make distinction between NEMT and non-medical transportation (NMT), with “medical” describing the mode, not the purpose.
- Types of transportation are important because some individuals need specialized medical forms of transportation.

# Common Problems and Troubleshooting Tips for Advocates

# Common Problems

- Late or absent drivers
- Wrong mode of transport
- Inappropriate shared rides
- Medicaid is responsible for ensuring “access” without regard to complicating factors. Advocates should continue to hold transportation companies responsible as well as Medicaid (agency or plan) for access.

# Maria's Transportation Problems

- Despite calling and setting up her transportation well in advance, the driver does not show up on the day of Maria's appointment.
  - Assume Maria's Medicaid *agency* works directly with a transportation company.
  - Alternatively, assume Maria's Medicaid *plan* has contracted with a transportation broker.

## Maria's Transportation Problems (cont.)

- Regardless of delivery model, Medicaid is responsible for ensuring beneficiaries have transportation to covered services.
- Advocates should consider filing a complaint or grievance with the Medicaid plan or seek assistance from a Medicaid ombudsman.

# Medicare Advantage

- Dual eligibles may be enrolled in a Medicare Advantage plan.
- Some plans offer supplemental transportation services. Similarly, Medicare-Medicaid plans (MMPs) that combine both under one health plan may offer transportation as well.
- Check to see if your client has transportation through their Medicare product!

# Medicaid Managed Care

- As more states adopt Medicaid managed care, many beneficiaries may find that their NEMT is arranged through managed care. The rules that govern are generally the same.
- Pay attention to carve outs, and think of the Medicaid plan as an additional advocacy lever.

# Problem Solving Tips

- Remember private right of action has been limited by judicial interpretation.
- Contact Rachelle Brill at Community Catalyst to share stories ([rbrill@communitycatalyst.org](mailto:rbrill@communitycatalyst.org)).
- Keep Medicaid plan and broker policies organized through a chart or matrix.
- Work with Medicaid agency, plans, brokers on beneficiary education.
- Assist the older adult in filing the appropriate grievances and complaints.

# Additional Resources

- Denny Chan, [dchan@justiceinaging.org](mailto:dchan@justiceinaging.org)
- Georgia Burke, [gburke@justiceinaging.org](mailto:gburke@justiceinaging.org)
- 42 C.F.R. sec. 431.35
- 42 C.F.R. sec. 440.170(a), 440.170(a)(2).
- 42 C.F.R. sec. 441.56(a)
- CMS, State Medicaid Manual, sec. 2113.
- Harris v. James, 127 F.3d 993, 1112 (11<sup>th</sup> Cir. 1997); Avila v. Smith, No. 2:05-CV-309, 2006 WL 1519420 (D. Vt. May 26, 2006).
- [Community Catalyst](#)
- [Justice in Aging](#)
- [National Health Law Program](#)

# Case Consultations

Case consultation assistance is available for attorneys and professionals seeking more information to help older adults. Contact NCLER at [ConsultNCLER@acl.hhs.gov](mailto:ConsultNCLER@acl.hhs.gov).