October 26, 2023

Dear Non-Emergent Medical Transportation (NEMT) Provider,

Due to a significant potential risk of fraud, waste, and abuse, and irregularities in recent enrollments and billing by some Non-Emergent Medical Transportation (NEMT) providers, the Department recently placed some NEMT providers on prospective payment review and instituted a temporary moratorium on all new and pending NEMT provider enrollment applications.

As part of the Department's review, concerning patterns have come to light, including but not limited to:

- An unprecedented surge of provider enrollment applications within a few months of each other, much higher than the normal number of applications the Department receives over the course of a year.
- Unusually high combined expenditures for NEMT in the past three months.
- Drastically increased billing errors and failures to provide information required for NEMT claims.
- Billing transportation with excessively high mileage, far from members' residences or locations, despite numerous closer enrolled Medicaid providers available to provide services to Colorado Medicaid members.
- Billing for transportation of multiple members at the same time.
- Reports of aggressive solicitation of members, including while members are in the midst of receiving services from other providers.
- Reports of unsafe conditions while members are being transported, including gambling and illegal drug use while in transit.

What You Need to Know

Our members' safety is our top priority. At the Department's request, the Centers for Medicare & Medicaid Services has approved a temporary moratorium, or freeze, on all new and pending NEMT provider enrollments for the next six (6) months as authorized by 42 CFR § 455.470 and 10 CCR 2505-10, § 8.125.14. The purpose of this moratorium is to allow the Department to fully investigate the concerning patterns described above. It is possible that this moratorium may be renewed for longer.

The Department is actively reviewing billing irregularities and conducting both prospective and post-payment reviews to determine whether services and billing are in compliance with federal and state law. Prospective payment reviews will be conducted in the most efficient manner possible and appropriate claims will be paid within 365 days of the receipt of claims, as permitted under federal Medicaid law.

If the review reveals evidence of noncompliance or intentional fraud, the Department will initiate additional actions, including but not limited to referrals to law enforcement.

NEMT Program Regulations

NEMT services are covered only if they are required by a member, without another form of transportation, for transportation "required to obtain a non-emergency service(s) that is medically necessary." 10 CCR 2505-10, § 8.014.5.B.1. Transportation unrelated to medically necessary health care services is not covered.

Department regulations at 10 CCR 2505-10, § 8.014.4.A. state in relevant part:

- NEMT must be provided to the closest provider available qualified to provide the service the client is traveling to receive. The closest provider is defined as a provider within a 25-mile radius of the client's residence, or the nearest provider if one is not practicing within a 25-mile radius of the client's residence. If the closest provider is not willing to accept the client, the client may use NEMT to access the next closest qualified provider.

Under no circumstances is transportation to an unnecessarily distant location from the member's home or place of residence a covered or permitted practice.

Claims to transport multiple members at the same time are not allowed. In fact, "NEMT providers may not transport more than one client at the same time, unless the additional passenger" is "a person who accompanies an At-Risk Adult or minor client." 10 CCR 2505-10, § 8.014.3.D; § 8.014.1.I.

Please refer to the Department's NEMT regulations at 10 CCR 2505-10, § 8.014 for more information.

Finally, all Colorado Medicaid providers are required to "maintain legible, complete, and accurate records necessary to establish that conditions of payment for Medical Assistance Program covered goods and services have been met, and to fully disclose the basis for the type, frequency, extent, duration, and delivery of goods and/or services provided to Medical Assistance Program members." 10 CCR 2505-10, § 8.130.2.A.1.

Thank you,

Fraud, Waste and Abuse Division - Medicaid Operations Office
Colorado Department of Health Care Policy & Financing