



TAXICAB, LIMOUSINE &
PARATRANSIT ASSOCIATION

Representing taxicab, limousine, sedan, airport
shuttle, paratransit, Medicaid & non-emergency
medical fleets worldwide.

March 24, 2008

Kerry Weems
Acting Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-2232-P
Post Office Box 8016
Baltimore, Maryland 21244-8016

RE: Comments to Docket Number CMS-2232-P (RIN-0938-A048)

Dear Administrator Weems:

The Taxicab, Limousine & Paratransit Association appreciates this opportunity to provide comments on the Centers for Medicare and Medicaid Services Proposed Rule on *State Flexibility for Medicaid Benefits Packages*, published in the Federal Register on February 22, 2008.

Industry Overview

The Taxicab, Limousine & Paratransit Association (TLPA), formed in 1917, is the national organization that represents the owners and managers of non-emergency medical, paratransit, taxicab, limousine, sedan, and airport shuttle fleets. TLPA has over 1,000 member companies that operate over 100,000 passenger vehicles. TLPA member companies transport over 2 million passengers each day — more than 900 million passengers annually.

The paratransit, taxicab, and limousine industry is an essential part of public transportation that is vital to this country's commerce and mobility, to the relief of traffic congestion, and to improving the environment. The private taxicab, limousine, and paratransit industry transports 2 billion passengers annually, compared with the 10 billion passengers transported by public transit; provides half of all the specialized paratransit services furnished to persons with disabilities; serves as a feeder service to major transit stations and airports; and provides about half of its service to transportation disadvantaged people.

Provisions Of The Proposed Rule

Section 6044 of the Deficit Reduction Act of 2005 (DRA) (Pub. L. 109-171, enacted on February 8, 2006), amended the Act by adding a new section 1937 that allows States to amend their Medicaid State plans to provide for the use of benefit packages other than the standard benefit package, namely benchmark benefit packages or benchmark-equivalent packages, for certain populations.

Under section 1937 of the DRA, a State may require that medical assistance to individuals, within one or more groups of individuals specified by the State, be provided through enrollment in a benchmark or benchmark-equivalent benefit coverage package. A State has the option to amend its State plan to provide benchmark or benchmark-equivalent coverage without regard to comparability, statewide, freedom of choice, the assurance of transportation to medically necessary services and other requirements in order to tailor and provide the coverage to the individuals. The purpose of this section, as indicated in the title of section 6044 of the DRA, was to provide States with increased flexibility. In order to maximize that flexibility, the Centers for Medicare and Medicaid Services (CMS) are proposing

“to interpret the statutory clause “notwithstanding any other provision of this title” to relieve States of the responsibility to assure transportation to and from providers, which is the regulatory requirement at 42 C.F.R. 431.53 that is based on sections 1902(a)(4) and 1902(a)(19) of the Act. The statute provides benchmark options available to States that are equivalent to those found in the private health insurance market. Generally, private health insurance plans do not offer non-emergency medical transportation as a benefit to enrollees. It would be a strong disincentive for States to offer benchmark coverage through private health insurance plans if States had to supplement benchmark benefit plans with additional transportation benefits. We are therefore proposing to exempt States that elect benchmark coverage from the transportation assurance requirement. This provides maximum flexibility to states and is consistent with the stated purpose of section 6044.”

TLPA Opposes The Proposed Rule As Being Too Costly

The great fallacy with the proposal is that it fails to take into account that people with private health care plans do not live at the poverty level and have many transportation options to get them to medical appointments. However, there are millions of Americans that are transportation disadvantaged because they cannot provide or purchase their own transportation. Often, these transportation-disadvantaged citizens have special needs that qualify them to participate in the Medicaid program as they are elderly, poor, mobility impaired, disabled, or some combination of these conditions. Since their transportation options are extremely limited, it is virtually a certainty that the majority of transportation disadvantaged Medicaid clients will not receive regular non-emergency medical treatment if states are allowed to set up a set of Medicaid benefits that do not include payment for non-emergency medical transportation (NEMT).

The result of removing NEMT assistance to these special needs persons is that overall Medicaid costs will increase as medical visits become less frequent resulting in much more serious medical problems once the delayed treatment is obtained. The old adage that an ounce of prevention is worth a pound of cure is truly applicable to this situation and the pound of cure is dramatically higher medical treatment costs for persons who no longer have ready access (transportation) to medical facilities.

There is room to improve Medicaid's NEMT program both in terms of the safety of the transportation service provided and in the cost of providing the transportation services. TLPA's recommended improvements to the NEMT portion of the program are reviewed later in this testimony.

Transportation Helps Keep Costs Down

Transportation to treatment facilities is needed to keep overall program costs down. If transportation costs are cut, then medical costs will increase well beyond the short-term transportation cost savings,

resulting in higher overall costs for Medicaid. There are at least three studies, one local, one statewide and one national that illustrate the value and necessity of NEMT.

The finest medical services are of little value to individuals who cannot access them. A 2001 report by the Cabarrus Health Alliance, Kannapolis, NC, stated that transportation is a key component in the health care equation. Lack of access to medical services results in:

- Decreased usage of preventive care services and health improvement programs, in other words, delayed medical attention, leading in turn to more serious illnesses, reduced quality of life, and an overall increased cost of care.
- The unnecessary use of emergency room facilities and staff, which increases costs and prevents those persons requiring immediate assistance from receiving necessary care.
- An increased dependence on expensive ambulance services for non-urgent care, resulting in increased cost and less ambulance availability for true emergencies.

The Florida Commission for the Transportation Disadvantaged commissioned The Marketing Institute at the Florida State University College of Business to calculate the return on investment generated by funds invested by the State of Florida on transportation disadvantaged programs. The report, which was released this month (March 2008), defined transportation disadvantaged as those individuals who because of age, disability or income restraints do not have access to public transportation options. The report notes that in 2006 Florida had 6.6 million persons who were transportation disadvantaged and it cites the 2000 U.S. Census as defining the potential national size of this transportation disadvantaged group as substantial given that 35.1 million people were reported over age 65, 44.5 million were over the age of 21 and disabled and 33.9 million had income below the poverty line. The report lists the five most common transportation disadvantaged services as: medical, employment, nutrition, education, and life sustaining (shopping/social).

The report states that one of the primary purposes of transportation disadvantaged funding efforts is to support preventative medical care. Preventative medical care trips assist in keeping low income, elderly, and disabled Florida residents out of the hospital and nursing homes. Given that a nursing home cost approximately \$5,000 per month, daily hospital stays costs approximately \$7,900 and adult day care costs from \$25 to \$100 per day, the benefits that result from providing transportation disadvantaged Florida residents access to preventative medical care are substantial based on the state's ability to avoid nursing home, hospital and/or adult day care costs.

The report uses an extremely conservative estimate that if 1 out of every 100 trips prevents a one-day stay in the hospital, the resulting benefit would be a payback of \$11.08 for every dollar invested by the state of Florida. A 1108% return on investment for NEMT makes it one of, if not the single most, cost effective programs that Medicaid or any other federal or state program offers.

In response to the importance of examining the need for improved access to NEMT nationally, in 2006 the Transit Cooperative Research Program, which operates under the auspices of the Transportation Research Board of the National Academy of Sciences, published Project B-27, "Cost Benefit Analysis of Providing Non-Emergency Medical Transportation." The goal of this study was to compare the costs and benefits, including potentially large net health benefits, of providing NEMT to those who lack access to it.

The study researchers conducted an analysis of nationally representative healthcare datasets for the year

2004, which revealed that about 3.6 million Americans miss or delay non-emergency medical care each year because of transportation issues. (Note that about 36 million Americans covered under Medicaid depend on NEMT. This study concentrated on 10 percent of that total population.)

This target population of 3.6 million persons was found to have a higher prevalence of chronic diseases and a higher rate of multiple chronic conditions. The researchers determined that the most appropriate method of evaluating the benefits of improved access to medical care is cost-effectiveness analysis. For all 12 medical conditions analyzed, the researchers found that providing additional NEMT is cost-effective; for four of these conditions, the researchers found that providing additional NEMT is actually cost saving—additional investment in transportation leads to a net decrease in total costs when both transportation and healthcare are examined.

The study concludes that the net healthcare benefits of increased access to medical care for the transportation-disadvantaged exceed the additional costs of transportation for all of these conditions. These benefits include both actual decreases in healthcare costs for some conditions (e.g., emergency care replaced by routine care) and improved quality of life for those who receive access. For three of the chronic conditions (asthma, heart disease, and diabetes), results show net cost savings; for the other four (depression, hypertension, chronic obstructive pulmonary disease, and end-stage renal disease), improvements in life expectancy or quality of life were determined to be sufficient to justify the added expense.

In today's economy, NEMT is inexpensive compared to the high and rapidly growing cost of health care, therefore, while implementation of this proposed rule may result in a very brief period of short-term savings for state Medicaid programs, the long-term medical costs for the care of the 36 million or more America citizens that will be affected will certainly rise as their quality of life diminishes.

Transportation Can Be Less Costly and More Safe

Medicaid transportation should be required to meet safety and competition standards to assure safe and cost effective NEMT. Service levels are not going to improve until standards of compliance are monitored and enforced. Raising the standards of service includes developing uniform quality standards. TLPA has developed the following criteria that we believe should be included in CMS guidance. TLPA recommends that the uniform standards include:

- Financial stability — agencies need continuity in their Medicaid transportation programs, which requires the providers to have reasonable financial resources;
- Vehicles — every company qualified to provide Medicaid transportation must pass a rigorous vehicle inspection and have adequate vehicles in reserve;
- Insurance levels — insurance levels should be the same as state or local insurance requirements for commercial carriers, with each provider submitting proof of adequate insurance before being qualified to provide Medicaid transportation;
- Driver standards — companies eligible to provide Medicaid transportation services should be required to have a written comprehensive driver-training program of at least 20 hours;
- Licensing requirements — transportation companies chosen to provide Medicaid transportation services must meet all applicable federal, state and local licensing requirements for companies, drivers and vehicles;
- Inspection — the agency should maintain an annual inspection schedule for oversight, which may include unannounced on-site inspection visits. In fact, it is suggested that each entity

employ field investigators to ensure that transportation providers (and brokers if applicable) are meeting all the standards listed in this section; and

- Company experience — transportation companies providing Medicaid transportation services should have experience and expertise in providing high-quality passenger transportation services.

TLPA also urges CMS to require states to use competitive procurements to select NEMT providers. All providers who meet the NEMT service standards outlined above, which would include taxicab, sedan, shuttle, paratransit, non-emergency medical, and other providers, should be encouraged to compete to provide NEMT. Studies by the Federal Transit Administration of the U.S. Department of Transportation indicate that competitive procurement of public transit services results in 20 to 40 percent savings over service provided by transit agencies that choose to provide all service in-house. These same competitive principles should be applied to procurement of NEMT services.

It also should be stressed that for NEMT procurement, the Request for Proposal (RFP) process is superior to the Request for Bid (RFB) process. The RFP process is better because the product that results is from a qualified transportation provider who may not necessarily be the lowest bidder. This helps ensure that the liability exposure to the agency is minimized and provides for safe and reliable service for the clients. The state agency responsible for Medicaid should realize that it is in their best interest to limit the agency's exposure by ensuring that the Medicaid transportation management entities are using qualified, licensed transportation providers.

Conclusion

Assurance of transportation services is a key component in accessing necessary health care for 36 million Medicaid recipients. Studies show that Medicaid clients will not receive regular non-emergency medical treatment if states are allowed to set up a set of Medicaid benefits that do not include payment for NEMT. The studies also show that the result of removing NEMT assistance to these special needs persons is that overall Medicaid costs will increase as medical visits become less frequent resulting in much more serious medical problems once the delayed treatment is obtained. Even though it is critical that NEMT be provided in the Medicaid program, there is room to improve NEMT both in terms of cost and safety by adopting a competitive transportation procurement model that has uniform standards set to assure that safe and reliable NEMT service is provided.

TLPA appreciates the opportunity to provide comments on this Notice of Proposed Rulemaking. If there are any questions, you may contact Hal Morgan, TLPA's Executive Vice President at 301-984-5700 or via e-mail to hmorgan@tlpa.org.

Sincerely,



Brian Hunt
President

