

Bulletin Number: MSA 16-05

Distribution: Bridges Eligibility Manual (BEM) and Bridges Administrative Manual (BAM) Holders, Medicaid Health Plans, Medicaid Non-Emergency Medical Transportation Contractor

Issued: September 28, 2016

Subject: Medicaid Non-Emergency Medical Transportation (NEMT) Provider Enrollment Requirements

Effective: As Indicated

Programs Affected: Medicaid, Healthy Michigan Plan, MICHild

In compliance with Sections 6401 and 6501 of the Affordable Care Act (ACA), the Medical Services Administration is amending the Fee-for-Service (FFS) Medicaid and Healthy Michigan Plan NEMT policy, located in BAM 825. Beginning March 1, 2017, all Non-Emergency Medical Transportation (NEMT) providers, unless otherwise specified, must be properly enrolled into the Community Health Automated Medicaid Processing System (CHAMPS), operated by MDHHS, prior to being authorized, approved, or reimbursed to provide NEMT services through the Medicaid program. This policy applies to Medicaid FFS services only. Per Medicaid policy, Medicaid Health Plans are allowed to develop their own requirements which may differ from Medicaid FFS requirements. Refer to the Michigan Department of Health and Human Services (MDHHS) BAM 825 for additional information regarding Medicaid FFS NEMT policy.

In addition to the provider screening and enrollment requirements described in MSA 12-55, issued November 1, 2012, all NEMT providers must consent to necessary background screenings related to criminal offense, business transaction and federal exclusion disclosures, as well as adverse action reporting. These disclosures must be verified monthly. At this time, requirements outlined in this bulletin will not apply to employees of demand responsive transit services (i.e., public and paratransit agencies) or commercially hailed or street taxicabs.

For the purposes of this policy, a provider is any individual who delivers a direct (i.e., driver) or an indirect (i.e., attendant) NEMT service to an enrollee of the Medicaid program. Providers may be Medicaid beneficiaries themselves, individuals with a vested interest in the livelihood of a Medicaid beneficiary, volunteers, employees of non-profit or commercial entities, or transportation subcontractors, or employees thereof, of Medicaid's NEMT contractor. Valid identifying information, including name, home address, date of birth, and Social Security Number, must be provided by all providers and applicants.

For the purpose of this bulletin the following terms are being defined:

Americans with Disabilities Act

The federal law that prohibits discrimination based on an individual's disability.

Attendant

An employee of a commercial provider who, in addition to the driver, is required to assist in the transport of the beneficiary due to their physical, mental, or developmental status.

Commercial Provider

A provider who uses a motor vehicle that belongs to a transportation company or corporation to provide transportation services to a Medicaid beneficiary.

Individual with a Vested Interest

A person who has a personal stake or interest in the livelihood of a beneficiary (i.e., a friend or a family member).

Non-profit Provider

A transportation provider who utilizes a motor vehicle that belongs to an entity that has been organized to carry out a charitable, educational, religious, or scientific purpose, and meets specific tax-exempt purposes, to provide transportation services to a Medicaid beneficiary.

Volunteer Provider

A transportation provider who utilizes, without vested interest, their personal motor vehicle to provide transportation services to a Medicaid beneficiary.

Provider Enrollment

Beginning November 1, 2016, providers may begin enrolling into CHAMPS. Enrollment of providers may be initiated through the county MDHHS offices but must be completed online. Upon enrollment approval, providers will be issued a CHAMPS identification number.

All providers must revalidate their Medicaid enrollment information for the purposes of subsequent criminal history screenings a minimum of once every three years, or more often if requested by MDHHS. Providers will be notified by MDHHS at least 30 days prior to their revalidation deadline. **Providers must notify MDHHS within 10 business days of any change to their enrollment information. Failure to do so will result in termination of their enrollment.**

Provider Qualifications

Procedures must be in place to document and verify that vehicles used by providers meet the safety needs of the beneficiary including, but not limited to:

- Seatbelts and child safety seat requirements, if appropriate; and
- Functional heating and air conditioning.

The minimum volunteer provider requirements are:

- 18 years of age and older;
- Must be able to read and speak English;
- Valid driver's license appropriate to the class of vehicle being operated;
- Compliant with Sections 304 and 319 of the Michigan Vehicle Code related to restricted drivers licenses as issued by the Michigan Secretary of State (MDHHS reserves the right to deny or revoke enrollment of a provider due to a restricted or suspended license);
- Motor vehicle insurance;
- Adherence to all public laws, ordinances, and regulations applicable to drivers and the vehicles that are used;
- Compliant with all applicable confidentiality laws as required by the Medicaid program; and
- Compliant with all provider enrollment background and screening requirements as required by the Medicaid program.

The minimum requirements for an individual with a vested interest are:

- Valid driver's license appropriate to the class of vehicle being operated;
- Compliant with Sections 304 and 319 of the Michigan Vehicle Code related to restricted drivers licenses as issued by the Michigan secretary of state (MDHHS reserves the right to deny or revoke enrollment of a provider due to a restricted or suspended license);
- Motor vehicle insurance;
- Adherence to all public laws, ordinances, and regulations applicable to drivers and the vehicles that are used;
- Compliant with all applicable confidentiality laws as required by the Medicaid program; and
- Compliant with all provider enrollment background and screening requirements as required by the Medicaid program.

The minimum commercial and non-profit provider requirements are:

- 18 years of age and older;
- Must be able to read and speak English;
- Valid driver's license appropriate to the class of vehicle being operated;

- Compliant with Sections 304 and 319 of the Michigan Vehicle Code related to restricted drivers licenses as issued by the Michigan secretary of state (MDHHS reserves the right to deny or revoke enrollment of a provider due to a restricted or suspended license);
- Maintenance of all necessary licensure and certification required by all transportation public laws, ordinances, and regulations applicable to the transportation provider, including any that may require liability insurance;
- Compliant with the Americans with Disabilities Act (ADA);
- Operation of vehicles that meet the safety and medical needs of the beneficiary;
- Compliant with all applicable confidentiality laws as required by the Medicaid program; and
- Compliant with all provider enrollment background and screening requirements as required by the Medicaid program. (Refer to the General Information for Providers Chapter of the Medicaid Provider Manual for additional information.)

Criminal History Screening

In addition to the requirements described in MSA 12-55, all current and potential NEMT providers, unless otherwise specified, must agree to a criminal history screening.

Excludable Convictions

Excludable convictions fall into two general categories. Mandatory exclusions are those set forth in the Social Security Act (42 USC 1320a-7[a]) and shown in the first bullet below. Permissive exclusions within the context of this policy are reflected in the second bullet and sub-bullets below. The Act (42 USC 1396t[f][1][A]) states that "[n]othing in the Act shall be construed as preventing States from imposing requirements that are more stringent than the requirements published or developed by the Secretary." Finally, 42 CFR 441.570 requires the State to assure that "[n]ecessary safeguards have been taken to protect the health and welfare of enrollees." Based on these guidelines and subject to the Personal Choice and Acknowledgement of Provider provision, the Medicaid NEMT program shall not authorize services or reimbursement to any individual who has direct access to or provides direct services to Medicaid beneficiaries if the individual has received a criminal history screening from MDHHS that indicates one or more of the following:

Convictions associated with mandatory exclusions under 42 USC 1320a-7. The mandatory exclusion categories are:

1. Any criminal convictions related to the delivery of an item or service under Medicare (Title XVII), Medicaid (Title XIX), or other state health care programs (e.g., Children's Special Health Care Services, Healthy Kids) (Title V, Title XX, and Title XXI);
2. Any criminal convictions under federal or state law, relating to neglect or abuse of patients in connection with the delivery of a health care item or service;

3. Felony convictions occurring after August 21, 1996, relating to an offense, under federal or state law, in connection with the delivery of health care items or services or with respect to any act or omission in a health care program (other than those included in number 1 above) operated by or financed in whole or in part by any federal, state, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility or other financial misconduct; and
 4. Felony convictions occurring after August 21, 1996, under federal or state law, related to unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.
- Conviction of crimes directly relatable to neglect, physical and sexual abuse, financial exploitation, inappropriate involuntary restraint, providing unqualified health services and other crimes identified by MDHHS. The list of specific crimes are defined in Michigan Compiled Law 333.20173a(1) and includes, but is not limited to crimes that:
 1. Involve the intent to cause death or serious impairment of a body function;
 2. Result in death or serious impairment of a body function;
 3. Involve the use of force or violence;
 4. Involve the threat of force or violence;
 5. Involve cruelty or torture;
 6. Involve criminal sexual conduct;
 7. Involve abuse or neglect;
 8. Involve the use of a firearm or dangerous weapon;
 9. Involve larceny, theft, or embezzlement;
 10. Involve a felony Driving Under the Influence (DUI)
 11. Involve an assault, battery, or the threat thereof;
 12. Involve a crime against a "vulnerable adult;"
 13. Involve retail fraud; and
 14. State that the conviction is a felony reduced to a misdemeanor.

For the purposes of the mandatory exclusions mentioned above, an individual or entity is considered to have been convicted of a criminal offense when at least one of the following is true:

- A judgment of conviction has been entered against the individual or entity by a federal, state, or local court, regardless of whether an appeal is pending;
- A finding of guilt against the individual or entity by a federal, state, or local court;
- A plea of guilty or nolo contendere by the individual or entity has been accepted by a federal, state, or local court; or
- An individual or entity that has entered into participation in a first offender, deferred adjudication, or other arrangement or program where judgment of conviction has been withheld.

For the purposes of the permissive exclusions mentioned above, an individual or entity is considered to have been convicted of a criminal offense when at least one of the following is true:

- A judgment of conviction has been entered against the individual or entity by a federal, state, or local court, regardless of whether an appeal is pending;
- A finding of guilt against the individual or entity by a federal, state, or local court; or
- A plea of guilty or nolo contendere by the individual or entity has been accepted by a federal, state, or local court.

Provider Application or Agreement

Any individual, unless otherwise specified, wishing to provide transportation services through the NEMT program must submit a properly formatted and approved application or service agreement form to MDHHS that meets all of the following requirements:

- Provides notification that a criminal history screening will be performed on the applicant or provider;
- Identifies the general categories of convictions that will be screened;
- Provides adequate information as determined by MDHHS to conduct such a screening;
- Notifies the applicant or provider that the results of the screening will be shared with the applicant, pertinent program participants, and pertinent program staff; and
- Is signed by the applicant or provider.

Notifications

MDHHS will notify applicants or providers within 10 business days of an ineligible criminal history screening. The notice shall include a statement that the applicant or provider has a right to appeal the information relied upon to determine their eligibility to provide services based on the criminal history screening. The notice shall also include information describing the appellate procedures.

Personal Choice and Acknowledgement of Provider Selection

A Medicaid beneficiary who receives transportation services through the NEMT program may select any individual to provide such services subject to the following restrictions:

- The provider does not have a disqualifying conviction that is one of the four Mandatory Exclusions under 42 USC 1320a-7.
- The provider is capable of providing the required services and is otherwise qualified to do so.
- The provider has successfully undergone a criminal history screening conducted by MDHHS and has received notification of the determination.

A Medicaid beneficiary may request to select a provider who has been determined ineligible as a result of a Permissive Exclusion identified through the criminal history screening process. The request must be submitted on a form specified by MDHHS. The beneficiary must provide a signed acknowledgement that indicates receipt of notification of the criminal offense(s) which prompted the exclusion and must indicate their selection of that provider to deliver services. The selection shall not be considered effective until the signed acknowledgement has been received, processed, and recorded by MDHHS.

A personal choice selection may not be applied to the federally mandated exclusions that are described under 42 USC 1320a-7. A personal choice selection may be applied to permissive exclusions for the limited purpose of providing NEMT services to the specific individual identified in the request. A personal choice selection through this section shall not be construed as approval, authorization or permission to provide services to other Medicaid beneficiaries. Providers selected through the personal choice provisions of this section will be registered in CHAMPS, and other systems, for the purposes of monitoring.

Reviews and Appeals

Applicants may request an administrative redetermination of the criminal history screening, but such a review is limited solely to the accuracy of the information used for the screening. Negative actions based on accurate criminal history are not subject to appeal, except as provided below. A review will not be granted to contest the merits of the court findings.

Providers who are authorized to furnish services for a Medicaid beneficiary prior to the effective date of this policy may appeal a decision to terminate or deny their provider enrollment. After termination from the Medicaid program, the provider must contact MDHHS to request re-enrollment as a Medicaid provider and reinstatement of billing privileges. Providers whose enrollment has been denied are not prohibited from submitting a request for subsequent re-enrollment.

Business Transaction Disclosure

42 CFR 455.105 requires that a state Medicaid program must enter into an agreement with each provider that requires the provider to submit, within 35 days, information pertaining to:

- Ownership of any subcontractor with whom the provider has had any business transactions that total more than \$25,000 during the preceding 12-month period ending on the date of the request; and
- Any significant business transactions between the provider and any wholly owned supplier or between the provider and any subcontractor during five year period ending on the date of the request.

Before approving a prospective NEMT provider's application it must be confirmed that the applicant has submitted complete information as described above.

Federal Exclusion Disclosure

Before approving a prospective NEMT provider's application, it must be verified using the U.S. Department of Health and Human Services Office of Inspector General Exclusions Program website that the applicant's name is not included on any appropriate federal exclusion databases.

Adverse Action Reporting

42 CFR 1002.3 requires that a state Medicaid program report any adverse actions that are taken to limit the ability of a provider or entity to participate in the program, regardless of what action is taken. Adverse actions may include, but are not limited to, suspension, settlement agreements, enrollment denial, and circumstances in which the provider voluntarily withdraws from the program to avoid formal sanctions. Any adverse actions taken to limit the ability of a NEMT provider or entity to participate in the program, regardless of the action taken, must be reported to the MDHHS Office of Inspector General.

Manual Maintenance

Retain this bulletin until the information is incorporated into the Michigan Medicaid Provider Manual.

Questions

Any questions regarding this bulletin should be directed to Provider Inquiry, Department of Health and Human Services, P.O. Box 30731, Lansing, Michigan 48909-8231, or e-mail at ProviderSupport@michigan.gov. When you submit an e-mail be sure to include your name, affiliation, and phone number so you may be contacted if necessary. Providers may phone toll-free 1-800-979-4662.

Approved



Chris Priest, Director
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