

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**NEW JERSEY DID NOT ADEQUATELY
OVERSEE ITS MEDICAID
NONEMERGENCY MEDICAL
TRANSPORTATION BROKERAGE
PROGRAM**

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Office of Inspector General

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EXECUTIVE SUMMARY

New Jersey did not adequately oversee its Medicaid nonemergency medical transportation brokerage program to ensure that (1) vehicles used to transport beneficiaries met State standards, (2) drivers were licensed and qualified, (3) prior authorizations were obtained, (4) transportation providers maintained required insurance coverages, (5) beneficiaries received Medicaid-eligible medical services on the date of transportation, and (6) services were documented.

WHY WE DID THIS REVIEW

The Medicaid program pays for nonemergency medical transportation (NEMT) services that a State determines to be necessary for beneficiaries to obtain medical care. Because the Office of Inspector General (OIG) has consistently identified this area as vulnerable to fraud, waste, and abuse, OIG has conducted audits in multiple States since 2006. We selected New Jersey's NEMT services program for review because, in 2009, New Jersey transitioned from a fee-for-service program to one managed by a transportation broker.

The objective of this review was to determine whether the New Jersey Department of Human Services (State agency) adequately oversaw its Medicaid NEMT brokerage program.

BACKGROUND

States must ensure necessary transportation for Medicaid beneficiaries to and from medical providers. Transportation includes expenses for travel (e.g., NEMT) and other related expenses determined to be necessary by the State Medicaid agency to secure medical examinations and treatment for a beneficiary.

A State may elect to establish an NEMT brokerage program to provide transportation services for Medicaid beneficiaries who need access to medical care or services and have no other means of transportation. Under such a program, the State contracts with a transportation broker to provide NEMT services. The transportation broker develops and maintains a provider network, verifies beneficiary eligibility, determines and authorizes the appropriate mode of transport on the basis of medical necessity, and dispatches an appropriate vehicle to transport the beneficiary.

In July 2009, New Jersey transitioned from its Medicaid fee-for-service NEMT program to a Medicaid NEMT brokerage program. In its Centers for Medicare & Medicaid Services-approved State Plan Amendment that established the Medicaid NEMT brokerage program, the State agency assured CMS that transportation services would be provided under a contract with a transportation broker who (1) had oversight procedures to monitor beneficiary access and complaints and to ensure that transport personnel are licensed and qualified and (2) was subject to regular auditing and oversight by the State agency to ensure the quality of the transportation services provided and the adequacy of beneficiary access to medical care and services.

The State agency contracted with LogistiCare Solutions, LLC (LogistiCare), from April 1, 2009, through June 30, 2014, to provide Medicaid NEMT services in New Jersey and ensure that all

subcontracted transportation providers complied with State requirements related to personnel and vehicles. In April 2014, the State agency extended its contract with LogistiCare through June 30, 2015. The State agency subsequently extended the contract through June 30, 2016.

The State agency reimbursed LogistiCare on the basis of a monthly capitation rate multiplied by the number of eligible Medicaid beneficiaries. The State agency paid LogistiCare a total of \$113,259,311 (\$56,629,656 Federal share) for providing Medicaid NEMT services from July 1, 2011, through June 30, 2012 (State fiscal year (SFY) 2012).

HOW WE CONDUCTED THIS REVIEW

We reviewed the State agency's oversight of its Medicaid NEMT brokerage program, including its monitoring of LogistiCare's compliance with contract provisions and LogistiCare's procedures for (1) verifying beneficiary eligibility and transportation provider enrollment, (2) ensuring transportation provider personnel and vehicles complied with State requirements, and (3) managing Medicaid NEMT services. As part our review of the State agency's oversight of its Medicaid NEMT brokerage program, we reviewed monthly encounter claims reports, prior authorization requests, and monthly audit results for a 3-month period.

In addition, our review covered 3,430,640 claims for certain Medicaid NEMT services totaling \$98,302,605 for which LogistiCare reimbursed transportation providers under New Jersey's Medicaid NEMT brokerage program during SFY 2012. We reviewed a random sample of 100 of these claims. A claim is defined as one payment for one beneficiary for a single one-way trip.

WHAT WE FOUND

The State agency did not adequately oversee its Medicaid NEMT brokerage program to ensure that CMS-approved State Plan provisions were met. Specifically, the State agency's oversight and monitoring of its Medicaid NEMT brokerage program did not ensure that:

- vehicles used to transport Medicaid beneficiaries met State requirements,
- transport personnel were licensed and qualified,
- prior authorizations were obtained and medical necessity documentation was maintained for beneficiaries who required certain transportation services,
- transportation providers maintained required insurance coverages,
- beneficiaries received Medicaid-eligible medical services on the date of transportation, and
- NEMT services were adequately documented.

As a result, only 12 of the 100 claims in our random sample complied with contract provisions and State requirements. For 74 claims, LogistiCare did not comply with certain contract

provisions and State requirements, transportation providers did not comply with State requirements, or both. For the remaining 14 claims, we could not determine compliance with contract provisions and State requirements.

On the basis of our sample results, we estimated that 2,538,674 claims totaling \$64,758,476, for which LogistiCare reimbursed transportation providers, did not comply with certain contract provisions and State requirements. In addition, we estimated that 480,290 claims totaling \$11,317,681 for services during the same period may not have complied with contract provisions and State requirements.

In addition, providers' noncompliance with certain contract and State requirements for the licensing and qualifications of vehicle safety and transport personnel could have jeopardized the health and safety of Medicaid beneficiaries.

WHAT WE RECOMMEND

We recommend that the State agency:

- improve its oversight and monitoring of its Medicaid NEMT brokerage program by requiring LogistiCare to strengthen its procedures to ensure that (1) vehicles used to transport Medicaid beneficiaries meet State requirements, (2) transport personnel are licensed and qualified, (3) prior authorization is obtained and medical necessity documented for beneficiaries who require certain transportation services, (4) transportation providers maintain required insurance coverages, (5) beneficiaries received Medicaid-eligible medical services on the date of transportation, and (6) NEMT services are adequately documented and
- ensure that the State agency's contract with the transportation broker contains provisions that (1) consider improper claims submitted by transportation providers to the transportation broker when developing future capitated rates paid by the State agency and (2) provide a means for the State agency to recoup funds from the transportation broker when contract provisions and State requirements are not met—a measure that, if incorporated, could result in cost savings for the Medicaid program.

STATE AGENCY COMMENTS AND OUR RESPONSE

In written comments to our draft report, the State agency generally agreed with our first recommendation and did not directly agree or disagree with our second recommendation. The State agency also described steps that it has taken to address our findings and recommendations. Specifically, the State agency agreed that it needed to improve its monitoring of the NEMT brokerage program and has amended its contract with the broker so that the broker will provide payments to the State agency if it does not meet certain service levels agreements.

After reviewing the State agency's comments, we maintain that our findings are valid. We did, however, revise our second recommendation to clarify that our recommendation refers to the State agency's contract with the transportation broker and to capitation rates paid by the State agency to the transportation broker. We contacted the State agency to inquire if it would like to amend its comments to the draft report based on this revision. In an email, the State agency stated that its comments remained the same.

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INTRODUCTION

WHY WE DID THIS REVIEW

The Medicaid program pays for nonemergency medical transportation (NEMT) services that a State determines to be necessary for beneficiaries to obtain medical care. Because the Office of Inspector General (OIG) has consistently identified this area as vulnerable to fraud, waste, and abuse, OIG has conducted audits in multiple States since 2006. These audits related to Medicaid fee-for-service NEMT programs. We selected New Jersey's NEMT services program for review because, in 2009, New Jersey transitioned from a fee-for-service program to one managed by a transportation broker. Appendix A lists recent OIG reports related to NEMT.

OBJECTIVE

The objective of this review was to determine whether the New Jersey Department of Human Services (State agency) adequately oversaw its Medicaid NEMT brokerage program.

BACKGROUND

The Medicaid Program

The Medicaid program provides medical assistance to low-income individuals and individuals with disabilities (Title XIX of the Social Security Act (the Act)). The Federal and State Governments jointly fund and administer the Medicaid program. At the Federal level, the Centers for Medicare & Medicaid Services (CMS) administers the Medicaid program. Each State administers its Medicaid program in accordance with a CMS-approved State plan. Although the State has considerable flexibility in designing and operating its Medicaid program, it must comply with applicable Federal requirements. In New Jersey, the State agency administers the Medicaid program.

Medicaid Nonemergency Medical Transportation Services

States must ensure necessary transportation for Medicaid beneficiaries to and from medical providers (42 CFR § 431.53(a)). Transportation costs include expenses for transportation (e.g., NEMT) and other related travel expenses determined to be necessary by the State Medicaid agency to secure medical examinations and treatment for a beneficiary (42 CFR § 440.170(a)(1)).

A State may elect to establish an NEMT brokerage program to provide transportation services for Medicaid beneficiaries who need access to medical care or services and have no other means of transportation. These transportation services include wheelchair vans, taxis, and other forms of transportation covered under the Medicaid State plan (42 CFR § 440.170(a)(4)).

Under such a program, the State contracts with a third-party agent (transportation broker) to provide NEMT services. The transportation broker develops and maintains a provider network, verifies beneficiary eligibility, determines and authorizes the appropriate mode of transport on the basis of medical necessity, and dispatches an appropriate vehicle to transport the beneficiary.

The State agency pays the transportation broker a monthly capitation payment per beneficiary for its costs for administering the program and paying providers.

New Jersey's Medicaid Nonemergency Medical Transportation Brokerage Program

In July 2009, New Jersey transitioned from its Medicaid fee-for service NEMT program to a Medicaid NEMT brokerage program. In its CMS-approved State Plan Amendment¹ that established the Medicaid NEMT brokerage program, the State agency assured CMS that transportation services would be provided under a contract with a transportation broker that (1) had oversight procedures to monitor beneficiary access and complaints and to ensure that transport personnel are licensed and qualified and (2) was subject to regular auditing and oversight by the State agency to ensure the quality of the transportation services provided and the adequacy of beneficiary access to medical care and services.

The State agency contracted with LogistiCare Solutions, LLC (LogistiCare), from April 1, 2009, through June 30, 2014, to provide Medicaid NEMT services in New Jersey and ensure that all subcontracted transportation providers complied with State requirements related to personnel and vehicles.² The State agency's contract with LogistiCare also established LogistiCare's responsibility for maintaining a transportation provider network,³ determining the appropriate mode of transport, dispatching an appropriate vehicle to transport beneficiaries, and developing a quality assurance program to ensure access to the appropriate mode of transport on the basis of medical necessity.⁴ The contract also required LogistiCare to perform background checks for all transportation providers and subcontractor personnel (e.g., drivers). In April 2014, the State agency extended its contract with LogistiCare through June 30, 2015. The State agency subsequently extended the contract through June 30, 2016.

On a monthly basis, LogistiCare was paid a capitation payment based on the number of total eligible Medicaid beneficiaries.⁵ During State fiscal year (SFY) 2012,⁶ the State agency paid LogistiCare a total of \$113,259,311 (\$56,629,656 Federal share) for providing Medicaid NEMT services.

See Appendix B for details on the Federal and State requirements related to NEMT services.

¹ New Jersey State Medicaid Plan, Attachment 3.1-A § 24 and Attachment 3.1-B § 23.

² The total contract amount was approximately \$430 million.

³ LogistiCare maintained a transportation provider network through subcontracts with existing NEMT service providers.

⁴ The contract also specified that LogistiCare was responsible for developing an operations procedure manual and required LogistiCare to follow the requirements set by New Jersey's *Transportation Services Manual* (New Jersey Administrative Code (N.J.A.C.) § 10:50) for providing NEMT services.

⁵ The State agency reimbursed LogistiCare based on the monthly capitation rate multiplied by the number of eligible Medicaid beneficiaries, which the State agency determined using program status codes and eligibility groups within the Medicaid system.

⁶ New Jersey's SFY runs from July 1 through June 30.

HOW WE CONDUCTED THIS REVIEW

We reviewed the State agency's oversight of its Medicaid NEMT brokerage program, including its monitoring of LogistiCare's compliance with contract provisions and LogistiCare's procedures for (1) verifying beneficiary eligibility and transportation provider enrollment, (2) ensuring transportation provider personnel and vehicles complied with State requirements, and (3) managing Medicaid NEMT services. As part our review of the State agency's oversight of its Medicaid NEMT brokerage program, we reviewed monthly encounter claims reports, prior authorization requests, and monthly audit results for a 3-month period.

In addition, our review covered 3,430,640 claims for certain Medicaid NEMT services totaling \$98,302,605⁷ for which LogistiCare reimbursed transportation providers under New Jersey's Medicaid NEMT brokerage program during SFY 2012. We reviewed a random sample of 100 of these claims. A claim is defined as one payment for one beneficiary for a single one-way trip.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix C contains the details of our audit scope and methodology, and Appendix D contains our statistical sampling methodology.

FINDINGS

The State agency did not adequately oversee its Medicaid NEMT brokerage program to ensure that CMS-approved State Plan provisions were met. Specifically, the State agency's oversight and monitoring of its Medicaid NEMT brokerage program did not ensure that:

- vehicles used to transport Medicaid beneficiaries met State requirements,
- transport personnel were licensed and qualified,
- prior authorizations were obtained and medical necessity documentation was maintained for beneficiaries who required certain transportation services,
- transportation providers maintained required insurance coverages,
- beneficiaries received Medicaid-eligible medical services on the date of transportation, and
- NEMT services were adequately documented.

⁷ We removed 882,623 claims totaling \$1,883,709 related to personal vehicle use and public transportation costs.

As a result, only 12 of the 100 claims in our random sample complied with contract provisions and State requirements. For 74 claims, LogistiCare did not comply with certain contract provisions and State requirements, transportation providers did not comply with State requirements, or both.⁸ For the remaining 14 claims, we could not determine compliance with contract provisions and State requirements.

On the basis of our sample results, we estimated that 2,538,674 claims totaling \$64,758,476, for which LogistiCare reimbursed transportation providers, did not comply with certain contract provisions and State requirements. In addition, we estimated that 480,290 claims totaling \$11,317,681 for services during the same period may not have complied with contract provisions and State requirements.

In addition, providers' noncompliance with certain contract and State requirements for the licensing and qualifications of vehicle safety and transport personnel could have jeopardized the health and safety of Medicaid beneficiaries.

Appendix E contains our sample results and estimates. Appendix F contains the summary of deficiencies, if any, identified for each sampled claim.

THE STATE AGENCY DID NOT ADEQUATELY OVERSEE ITS MEDICAID NONEMERGENCY MEDICAL TRANSPORTATION BROKERAGE PROGRAM

The State agency provided assurances to CMS in its State Plan Amendment that the contracted transportation broker for its Medicaid NEMT brokerage program is subject to regular auditing and oversight by the State agency to ensure the quality of the transportation services provided and the adequacy of beneficiary access to medical care and services (New Jersey State Medicaid Plan, Attachment 3.1-A § 24 and Attachment 3.1-B § 24).

According to its contract with the State agency, LogistiCare is required to submit accurate and complete management reports to the State agency.⁹ LogistiCare must also audit at least 30 percent of daily logs maintained by network providers monthly and submit the results to the State agency (LogistiCare Contract § 3.13.10).¹⁰ State agency officials stated that they used these reports as part of their monitoring of the Medicaid NEMT brokerage program.

Contrary to what was detailed in its contract with the State agency, LogistiCare did not always submit required management reports to the State agency. Specifically, for the 3 months we selected for review (i.e., April 1 through June 30, 2012), LogistiCare did not submit all monthly

⁸ Of the 74 claims, 27 claims had more than 1 deficiency.

⁹ These reports include the monthly Transportation Summary Report, Call Center Report, Complaint Log, and Annual Transportation Report. In addition, the transportation broker must also submit the following monthly reports to the State agency: exception reports, staffing changes, no-show report, list of escorts to accompany beneficiaries under 21 years of age, audit results of network provider daily logs and maintenance and related vehicular records, denial report, encounter claims, and annual provider network inspections.

¹⁰ Failure to provide these reports may result in a delay or suspension of payment to LogistiCare (LogistiCare Contract § 3.13.11).

encounter claims reports, prior authorization requests, and monthly audit results of at least 30 percent of network provider daily logs. As a result, the State agency was unable to adequately ensure that LogistiCare complied with all contract provisions and, therefore, could not ensure that transportation providers met State requirements for vehicles, transport personnel, prior authorization, and documentation of services.

SERVICES DID NOT COMPLY WITH STATE REQUIREMENTS

Vehicle Standards and Requirements Not Met

Medicaid NEMT livery¹¹ service providers are required to meet State transportation regulations (N.J.A.C. § 10:50-1.12) on vehicle standards and requirements. Among other requirements, vehicles must (1) not be more than 9 model-years old; (2) successfully pass all inspections; (3) be registered as “commercial” or “livery” by the New Jersey Motor Vehicle Commission; and (4) have seating capacity of between 5 and 10 persons, including the driver.

For 42 of the 100 sampled claims, the vehicle used by the transportation provider to transport the Medicaid beneficiary did not meet vehicle standards and requirements. Specifically:

- For 29 claims, the vehicle was more than 9 model-years old.
- For eight claims, LogistiCare did not provide a vehicle inspection report.
- For three claims, the vehicle was not registered as “commercial” or “livery.”
- For one claim, the vehicle had a seating capacity of fewer than five persons.
- For one claim, the vehicle had failed its most recent inspection.

Driver Background Check and Training Requirements Not Met

NEMT transportation providers are required to complete a background check for any record of a criminal history (including a fingerprint record check) on an individual before hiring that person as a driver. Further, transportation providers may not hire individuals to be drivers if the individuals had previously been convicted of certain crimes (N.J.A.C. § 10:50-1.10(d)). In addition, before they can provide services to beneficiaries, drivers must complete State-agency-approved medical and safety training courses.¹²

For 26 of the 100 sampled claims, driver background check and training requirements were not met. For 16 claims, the driver had not completed the State-agency-approved training courses before the sampled service date. For eight claims, the driver’s background check for any criminal history indicated that the driver should have been disqualified from being hired because

¹¹ A livery vehicle refers to a vehicle for hire, such as a taxicab.

¹² The courses include passenger assistance techniques, cardiopulmonary resuscitation, child safety and car seat training, and sensitivity training for dealing with behaviorally challenged individuals.

of a prior criminal conviction.¹³ For two other claims, the transportation provider completed the required background check after the sampled service date.

Prior Authorization Requirement Not Met

Before authorizing services, LogistiCare must obtain a medical necessity form (MNF), which documents the beneficiary's current medical diagnosis, impairment, and functional limitations, for beneficiaries requiring mobility-assistance vehicles¹⁴ (N.J.A.C. § 10:50-1.5). LogistiCare is responsible for obtaining the MNF as part of its prior authorization process for transportation services covered (LogistiCare Contract § 3.6.2).

Thirty of the 100 sampled claims were associated with beneficiaries required to be transported in mobility-assistance vehicles. For 17 of the 30 claims, LogistiCare did not provide an MNF for the beneficiary who was transported in a mobility-assistance vehicle.

Insurance Requirements Not Met

To participate in New Jersey's Medicaid program, transportation providers must have the following types of insurance coverage: worker's compensation, general liability, and automobile liability (N.J.A.C. 10:50-1.9).¹⁵

For 8 of the 100 sampled claims, the transportation provider did not have workers' compensation, general liability, or automobile liability insurance coverage on the dates transportation services were provided to beneficiaries.

No Medicaid-Eligible Medical Service

For an NEMT service to qualify for Medicaid reimbursement, a Medicaid-eligible medical service must have been provided to the beneficiary who was being transported by the transportation provider (N.J.A.C. § 10:50-1.6(f)).

For 6 of the 100 sampled claims, the medical provider confirmed that the beneficiary did not receive a Medicaid-eligible medical service on the sampled service date.

Services Not Adequately Documented

Transportation providers must maintain a transportation certification form for each Medicaid NEMT service ((N.J.A.C. 10:50-1.7(b)). The form should indicate the beginning and ending vehicle mileage amounts for each trip, the name of the Medicaid beneficiary who was transported, and the billing number of the provider to whom the beneficiary was transported.

¹³ Seven of the eight individuals had been convicted of possessing drugs.

¹⁴ Mobility-assistance vehicles are specialized transport vehicles.

¹⁵ In addition, ambulance providers must have professional liability coverage.

For 2 of the 100 sampled claims, the transportation provider did not provide documentation (i.e., daily transportation certification) that an NEMT service was provided.

SERVICES POTENTIALLY NOT IN COMPLIANCE WITH STATE REQUIREMENTS

Driver's Completion of Medical or Safety Courses Could Not Be Verified

Before drivers provide services to Medicaid beneficiaries, the drivers must complete State-agency-approved medical and safety courses, including passenger assistance techniques, cardiopulmonary resuscitation, child safety and car seat training, and sensitivity training for dealing with behaviorally challenged individuals (N.J.A.C. § 10:50-1.10(d)(4)).

For 7 of the 100 sampled claims, we could not verify whether the driver completed the State-agency-approved medical and safety courses because the transportation provider did not provide documentation that the driver completed these courses.

Medical Service Could Not Be Verified

Transportation service providers must determine the destination of the trip and the type of medical service to be obtained to ensure that it is a Medicaid-eligible service (N.J.A.C. § 10:50-1.13(c)).

For 7 of the 100 sampled claims, we could not determine the medical provider to whom the beneficiary was transported; therefore, we could not verify whether a Medicaid-eligible medical service was provided.¹⁶

RECOMMENDATIONS

We recommend that the State agency:

- improve its oversight and monitoring of its Medicaid NEMT brokerage program by requiring that LogistiCare strengthen its procedures to ensure that (1) vehicles used to transport Medicaid beneficiaries meet State requirements, (2) transport personnel are licensed and qualified, (3) prior authorization is obtained and medical necessity documented for beneficiaries who require certain transportation services, (4) transportation providers maintain required insurance coverages, (5) beneficiaries received Medicaid-eligible medical services on the date of transportation, and (6) NEMT services are adequately documented and

¹⁶ For these claims, the names of medical providers were not included in the transportation providers' daily transportation certifications, and we could not locate the medical providers on the basis of the trip destination addresses because the addresses were for large medical offices. Further, most of the beneficiaries associated with these claims were enrolled in Medicaid managed care plans and, therefore, did not have fee-for-service claims for which we could query the State's Medicaid Management Information System.

- ensure that the State agency’s contract with the transportation broker contains provisions that (1) consider improper claims submitted by transportation providers to the transportation broker when developing future capitated rates paid by the State agency and (2) provide a means for the State agency to recoup funds from the transportation broker when contract provisions and State requirements are not met—a measure that, if incorporated, could result in cost savings for the Medicaid program.

STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments to our draft report, the State agency generally agreed with our first recommendation and did not directly agree or disagree with our second recommendation. The State agency also described steps that it has taken to address our findings and recommendations. Specifically, the State agency agreed that it needed to improve its monitoring of the NEMT brokerage program and has amended its contract with the broker so that the broker will provide payments to the State agency if it does not meet certain service levels agreements (SLAs).¹⁷

After reviewing the State agency’s comments, we maintain that our findings are valid. We did, however, revise our second recommendation to clarify that our recommendation refers to the State agency’s contract with the transportation broker and to capitation rates paid by the State agency to the transportation broker. The State agency’s comments are included in their entirety as Appendix G. We contacted the State agency to inquire if it would like to amend its comments to the draft report based on this revision. In an email, the State agency stated that its comments remained the same.¹⁸

VEHICLE STANDARDS AND REQUIREMENTS NOT MET

State Agency Comments

The State agency stated that enforcing the State regulation on vehicle age requirements (i.e., vehicles must not be more than 9 model-years old) would have created significant problems for the transportation provider network and the Medicaid NEMT brokerage program. According to the State agency, the NEMT broker’s annual vehicle inspection process was an effective means of ensuring vehicle safety. However, the State agency agreed that the NEMT broker was unable to locate annual inspection reports for eight vehicles. The State agency also stated that, for two of the three vehicles we identified as not registered as “commercial” or “livery,” the vehicles were associated with a boarding home that only provides transportation to its residents and no other Medicaid clients.

¹⁷ The SLAs relate to operation of the NEMT call center, member complaints, vehicle safety, provider reimbursements, and certain trips.

¹⁸ In its response to our inquiry, the State agency also stated that the NEMT contract was in the process of being rebid—because the present contract ends June 30, 2016—so the capitated rate will be the lowest bid from a qualified vendor. The next contract will provide that direct payments by the broker to its providers must be at least 80 percent of its revenue from the capitated payments. If direct costs are less than 80 percent, the capitated payments will be adjusted accordingly.

In addition, the State agency stated that the NEMT broker has made several changes to its vehicle and driver credentialing processes since 2012 and has improved its processing and tracking of documents.

Office of Inspector General Response

We maintain that our finding regarding vehicles used to transport Medicaid beneficiaries is valid. State regulations (N.J.A.C. § 10:50 1.12(a)) require livery service provider vehicles to be not more than 9 model-years old—a requirement that was in effect when the State executed its contract with LogistiCare.

In addition, we note that only one of the three vehicles identified in our draft report as not registered as “commercial” or “livery” was associated with the facility mentioned in the State agency’s comments.¹⁹ Nevertheless, we maintain that *all* vehicles used for Medicaid NEMT transportation services must be registered as “commercial” or “livery.”

DRIVER BACKGROUND CHECK AND TRAINING REQUIREMENTS NOT MET

State Agency Comments

The State agency agreed that, for each of 16 sampled claims, the NEMT broker was unable to locate the driver’s training certificate or prove that the driver completed training courses before the associated trip date. The State agency stated that the NEMT broker’s system indicated that eight of these drivers completed training courses and that, for the remaining eight drivers, the drivers had proof that they completed a training course but could not prove that the course was completed before the trip date of the sampled claim. The State agency also reiterated its statement that the NEMT broker has improved its processing and tracking of documents.

The State agency stated that the NEMT broker limited its criminal background checks for drivers to a 7-year look-back period and that, in 2009, the State agency agreed that a driver with a felony conviction in the last 7 years would be disqualified from driving for the NEMT program. The State agency stated that the eight drivers we identified in our draft report as having a prior criminal conviction did not have a felony conviction during a 7-year look-back period.

Office of Inspector General Response

We maintain that our finding regarding driver background checks and training is valid. Before they can provide services to beneficiaries, drivers must complete State-agency-approved medical and safety training courses. In addition, State regulations (N.J.A.C. § 10:50 1.10(d)) require providers to conduct criminal history background checks on drivers and attendants before employment and not hire individuals who have ever been convicted of certain crimes, including the manufacture, transportation, sale, possession, distribution, or habitual use of a controlled

¹⁹ The other two vehicles were associated with a transportation provider.

dangerous substance. These regulations do not limit the look-back period to 7 years. Seven of the eight drivers identified by the State agency in its response fell into this category.²⁰

PRIOR AUTHORIZATION REQUIREMENT NOT MET

State Agency Comments

The State agency stated that, for the 17 sampled claims for which the NEMT broker did not provide an MNF, there was sufficient evidence that a mobility-assistance vehicle was required to safely transport the Medicaid beneficiary (e.g., beneficiary was a dialysis patient or resided in a nursing home). It further stated that, for cases in which the broker can determine that an enhanced level of service is necessary, an MNF is not required (section 3.6.10 of the NEMT Request for Proposal²¹).

Office of Inspector General Response

We maintain that our finding regarding prior authorizations is valid. State regulations (N.J.A.C. § 10:50 1.5(d)) require documentation of prior authorization for mobility-assistance vehicles that includes a narrative description of the beneficiary's current medical condition, impairment, and functional limitations.²² LogistiCare is responsible for obtaining an MNF as part of its prior authorization process (LogistiCare Contract § 3.6.2). Further, prior authorization protocols developed by LogistiCare must incorporate current State agency's policies in N.J.A.C. 10:50-1.1 (LogistiCare Contract § 3.6.3). We maintain that an MNF or similar documentation is required when a mobility-assistance vehicle is used, regardless of the beneficiary's medical condition or place of residence.

INSURANCE REQUIREMENTS NOT MET

State Agency Comments

The State agency stated that, for the eight sampled claims for which we determined the transportation provider did not meet insurance requirements, the NEMT broker was able to provide proof of general liability and automobile liability insurance but unable to provide proof of workers' compensation insurance. According to the State agency, some transportation providers may not be required by law to maintain workers' compensation insurance. The State agency further stated that, subsequent to our audit, the NEMT broker created a compliance department to oversee the credentialing of NEMT providers.

²⁰ The driver for the remaining claim was convicted of a third-degree crime involving theft, another crime listed as being disqualifying in the State regulations.

²¹ The Request for Proposal was used as the basis of the State agency's contract with LogistiCare.

²² The MNF must include an explanation as to why the individual's current medical condition, impairment, and functional limitations are of sufficient severity to require the use of a mobility-assistance vehicle.

Office of Inspector General Response

We maintain that our finding regarding insurance requirements is valid. State regulations (N.J.A.C. 10:50-1.9) require transportation providers to have the following types of insurance coverage: workers' compensation, general liability, and automobile liability to participate in New Jersey's Medicaid program.

NO MEDICAID-ELIGIBLE MEDICAL SERVICE

State Agency Comments

The State agency stated that, for three of the six sampled claims for which we determined no Medicaid-eligible medical service was provided on the date of the transportation service, the Medicaid beneficiary was also eligible for Medicare. According to the State agency, the beneficiaries' medical services were likely billed to Medicare, which would be the primary payer for dually eligible individuals. NEMT services are not covered by Medicare, according to the State agency.

Office of Inspector General Response

We maintain that our finding regarding no Medicaid-eligible medical services is valid. For all six sampled claims, the medical provider listed in the associated NEMT provider's records as being where the beneficiary was dropped off or picked up stated that they did not have *any* record of the beneficiary visiting its office on the date of the trip.

SERVICES NOT ADEQUATELY DOCUMENTED

State Agency Comments

The State agency stated that it believed all NEMT services in our sample were properly documented. It also stated that it has established an onsite office staffed by State agency personnel at the NEMT broker to monitor the broker's operations.

Office of Inspector General Response

We maintain that our finding regarding services not adequately documented is valid. For 2 of the 100 sampled claims, the transportation provider was unable to provide a daily transportation certification to document that transportation services were provided. In addition, for one of these two claims, the medical provider did not have a record of the beneficiary's visit on the date of the trip. For the other claim, we were unable to locate the medical provider.

STATE AGENCY CONTRACT WITH TRANSPORTATION BROKER

State Agency Comments

The State agency stated that, effective July 1, 2011, all NEMT services were “carved out” of managed care contracts; therefore, payments to the NEMT broker do not have any impact on Medicaid capitation payment rates. The State agency also stated that it has amended its NEMT contract with the broker to provide payments to the State agency if the broker does not meet certain SLAs. In a subsequent email,²³ the State agency stated that the NEMT contract was in the process of being rebid—because the present contract ends June 30, 2016—so the capitated rate will be the lowest bid from a qualified vendor. The new contract will provide that direct payments by the broker to their providers must be at least 80 percent of their revenue from the capitated payments. If direct costs are less than 80 percent, the capitated payments will be adjusted accordingly.

Office of Inspector General Response

After reviewing the State agency’s comments, we revised our second recommendation to clarify that our recommendation refers to the State agency’s contract with the transportation broker and to capitation rates paid by the State agency to the transportation broker—not to managed care organizations. In addition, we clarified that improper claims are submitted by transportation providers to the transportation broker.

²³ We contacted the State agency after it sent its written comments to inquire if it would like to amend its comments to the draft report based on our revising our second recommendation. The State agency stated that its comments remained the same.

APPENDIX A: RELATED OFFICE OF INSPECTOR GENERAL REPORTS

Report Title	Report Number	Date Issued
<i>California Claimed Medicaid Reimbursement for Certain Nonemergency Medical Transportation Services in Los Angeles County Billed as Exempt From Prior Authorization That Did Not Comply With Federal and State Requirements</i>	<u>A-09-13-02054</u>	3/30/2015
<i>California Claimed Medicaid Reimbursement for Some Nonemergency Medical Transportation Services That Did Not Comply with Federal and State Requirements</i>	<u>A-09-13-02033</u>	1/23/2015
<i>Texas Did Not Always Comply With Federal and State Requirements for Claims Submitted for the Nonemergency Medical Transportation Program</i>	<u>A-06-12-00053</u>	10/20/2014
<i>California Claimed Medicaid Reimbursement for Some Nonemergency Medical Transportation Services in Los Angeles County That Did Not Comply With Federal and State Requirements</i>	<u>A-09-12-02083</u>	6/24/2014

APPENDIX B: FEDERAL AND STATE REQUIREMENTS FOR NEW JERSEY'S MEDICAID NONEMERGENCY MEDICAL TRANSPORTATION BROKERAGE PROGRAM

FEDERAL REQUIREMENTS

Section 1902(a)(70) of the Social Security Act, as amended by the Deficit Reduction Act of 2005, provides States the authority to establish, under the State plan, an NEMT brokerage program to provide transportation for Medicaid beneficiaries more cost effectively.

Federal regulations (42 CFR § 431.53) require States to ensure necessary transportation for Medicaid beneficiaries to and from medical providers. Pursuant to 42 CFR § 440.170, transportation includes expenses for transportation (e.g., NEMT) and other related travel expenses determined to be necessary by the State Medicaid agency to secure medical examinations and treatment for a beneficiary. Transportation services provided to Medicaid beneficiaries have been traditionally reimbursed under the fee-for-service arrangement.

Pursuant to 42 CFR § 440.170(a)(4), the State may elect to establish a Medicaid NEMT brokerage program to provide transportation services more cost effectively for individuals eligible for medical assistance under the State plan who need access to medical care or services and have no other means of transportation. These transportation services include wheelchair vans, taxis, stretcher cars, bus passes and tickets, transportation containing an occupant protection system that addresses safety needs of disabled or special needs individuals, and other forms of transportation covered under the State plan.

Pursuant to New Jersey's Medicaid State Plan Amendment, Attachments 3.1 A § 24 and 3.1-B § 24, and as required under 42 C.F.R. § 440.170, the State ensures that transportation services will be provided under a contract with a transportation broker who: (1) has oversight procedures to monitor beneficiary access and complaints and ensures that transport personnel are licensed, qualified, competent, and courteous and (2) is subject to regular auditing and oversight by the State agency to ensure the quality of the transportation services provided and the adequacy of beneficiary access to medical care and services.

STATE REQUIREMENTS

The State agency's contract with LogistiCare establishes LogistiCare's responsibility for maintaining a provider network, determining the appropriate mode of transport, dispatching an appropriate vehicle to transport beneficiaries, and developing a quality assurance program to ensure access to the appropriate mode of transport based on medical necessity.

Section 3.13.10 of the State's contract requires LogistiCare to submit accurate and complete management reports to the State agency. LogistiCare is also required to audit at least 30 percent of daily logs maintained by network providers monthly to determine compliance. Pursuant to section 3.13.11, failure to provide accurate and complete management reports by reporting deadlines may result in a delay or suspension of payment to LogistiCare until the reports are received and approved by the State agency.

In addition, the contract specifies LogistiCare's responsibility for developing an operations procedure manual to be submitted to the State agency for approval and requires LogistiCare to follow the requirements set by the State agency in New Jersey's *Transportation Services Manual* (N.J.A.C. § 10:50). In addition, the contract requires LogistiCare to perform background checks for all network providers and subcontractors (i.e., drivers) (N.J.A.C. § 13:59).

State regulations (N.J.A.C. § 10:50 1.3(a)(1)) require each transportation provider to be approved for each type of service. The State agency, in conjunction with the fiscal agent for New Jersey Medicaid, must approve each provider before reimbursement can be made to that provider for a transportation service.

State regulations (N.J.A.C. § 10:50 1.9(a)) require a transportation provider to have and maintain insurance for workers' compensation, general liability coverage, automobile liability coverage, and professional liability for ambulance providers.

State regulations (N.J.A.C. § 10:50 1.10(d)) require providers to conduct criminal history background checks and drug testing on drivers and attendants before employment and not hire individuals convicted of certain crimes.

State regulations (N.J.A.C. § 10:50 1.8(f)) require livery service providers to have a current valid operator's license for each driver.

State regulations (N.J.A.C. § 10:50 1.12(a)) require livery service provider vehicles to be not more than 9 model-years old, be registered as "commercial" or "livery," have seating capacity of not fewer than five persons (including the driver), and pass all New Jersey motor vehicle inspection tests.

State regulations (N.J.A.C. § 10:50 1.14(a)) require NEMT transportation providers to maintain records of services provided.

For a Medicaid NEMT service claim to be eligible for Medicaid reimbursement, State regulations (N.J.A.C. § 10:50 1.6(f)) require the beneficiary being transported to have received a covered Medicaid service.

State regulations (N.J.A.C. § 10:50 1.5(a)) require the transportation broker to obtain prior authorization for beneficiaries who required mobility-assisted vehicles.

APPENDIX C: AUDIT SCOPE AND METHODOLOGY

SCOPE

We reviewed the State agency's oversight of its Medicaid NEMT brokerage program, including the State's monitoring of LogistiCare's compliance with contract provisions and LogistiCare's procedures for verifying beneficiary eligibility, provider enrollment, and provision of services for SFY 2012. For this period, LogistiCare reimbursed transportation providers a total of \$98,302,605 for 3,430,640 claims for certain Medicaid NEMT services. Of these claims, we reviewed a random sample of 100 claims, totaling \$2,598. A claim is defined as one payment for one beneficiary for one trip. A trip is a one-way transport.

We also reviewed monthly encounter claims reports, prior authorization requests, and monthly audit results for a 3-month period.

We did not review the overall internal control structure of the State agency, LogistiCare, or the New Jersey Medicaid program. Rather, we reviewed only those controls related to our objective. We did not assess the appropriateness of the State agency capitation payment rates.

We performed fieldwork at the State agency's offices in Trenton, New Jersey; at LogistiCare's offices in Edison, New Jersey; and at 59 transportation providers' and 64 medical providers' offices throughout New Jersey from April 2013 through May 2014.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal and State laws, regulations, and guidance;
- held discussions with CMS and State agency officials to gain an understanding of New Jersey's Medicaid NEMT brokerage program;
- reviewed the State agency's policies and procedures for overseeing the Medicaid NEMT brokerage program;
- held discussions with LogistiCare officials to gain an understanding of their procedures for overseeing, monitoring, and operating the Medicaid NEMT brokerage program, including procedures for verifying beneficiary eligibility, enrolling transportation providers, and providing services;
- verified the eligibility and enrollment data for beneficiaries in the State's calculation of monthly capitation payments made to LogistiCare;²⁴

²⁴ The State made 22,063 capitation payments totaling \$195,478 (\$97,739 Federal share) to LogistiCare for NEMT services provided to beneficiaries who were not eligible for Medicaid NEMT services during SFY 2012. The State agency stated that the payments were due to a clerical error.

- reviewed monthly transportation summary reports, call center reports, exception reports, staffing changes, no-show reports, list of escorts, maintenance and related vehicle records, customer surveys, trip cancellations, and customer complaints reports, from April 1 through June 30, 2012, that LogistiCare provided to the State agency and which the State agency used to monitor the Medicaid NEMT brokerage program;
- obtained from LogistiCare a sampling frame of 4,313,263 NEMT claims totaling \$100,186,314, for which the transportation broker reimbursed service providers;
- removed from the sampling frame 882,623 claims totaling \$1,883,709 related to personal vehicle use and public transportation costs, which resulted in a revised sampling frame of 3,430,640 NEMT claims totaling \$98,302,605 for which the transportation broker reimbursed service providers;
- selected from the revised sampling frame a simple random sample of 100 claims and for each sampled claim:
 - determined whether the provider was licensed²⁵ and approved for the type of service provided and whether the transportation certification was properly completed, signed, and dated;
 - determined whether the transportation provider met insurance requirements and that requirements for vehicle inspections, registrations, and age were met;
 - determined whether driver background checks had been conducted;
 - determined whether LogistiCare obtained MNFs for beneficiaries who were provided ground ambulance and mobility-assisted levels of service;
 - determined whether the least expensive mode of transportation suitable for the beneficiary's needs was used;
 - interviewed the transportation provider, if available, and reviewed the transportation provider's documentation (including daily log sheets) supporting the claim for NEMT services; and
 - determined whether the beneficiary received Medicaid-eligible medical services on the date of transport;
- estimated the total number of claims that were not in compliance or for which we could not determine compliance with contract and State regulations and the dollar amount of reimbursements associated with these claims; and

²⁵ For NEMT services provided by mobility-assistance vehicles, we determined whether the transportation provider was licensed by the New Jersey Department of Health's Office of Emergency Medical Services.

- discussed the results of the review with State agency officials.

See Appendix D for the details of our statistical sampling methodology and Appendix E for our sample results and estimates.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

APPENDIX D: STATISTICAL SAMPLING METHODOLOGY

POPULATION

The population consisted of all claims that LogistiCare paid to transportation providers for NEMT services provided during SFY 2012. A claim is defined as one payment for one beneficiary for a single one-way trip.

SAMPLING FRAME

The sampling frame was an Excel file containing 3,430,640 NEMT claims totaling \$98,302,605 for which the transportation broker reimbursed service providers. The file was provided by LogistiCare.

SAMPLE UNIT

The sample unit was a claim for NEMT service.

SAMPLE DESIGN

We used a simple random sample.

SAMPLE SIZE

We selected a sample of 100 claims.

SOURCE OF THE RANDOM NUMBERS

We generated the random numbers with the Office of Inspector General, Office of Audit Services (OAS), statistical software.

METHOD FOR SELECTING SAMPLE ITEMS

We consecutively numbered the sample units in the sampling frame. After generating 100 random numbers, we selected the corresponding frame items.

ESTIMATION METHODOLOGY

We used the OAS statistical software to calculate our estimates. We estimated the total number of claims that were not in compliance and that could potentially not be in compliance and total dollars associated with these claims at the point estimate.

APPENDIX E: SAMPLE RESULTS AND ESTIMATES

Table 1: Sample Details and Results for Unallowable Services

Claims in Frame	Value of Frame	Sample Size	Value of Sample	Number of Claims Not in Compliance	Value of Claims Not in Compliance
3,430,640	\$98,302,605	100	\$2,598	74	\$1,888

**Table 2: Estimates of Unallowable Services
(Limits Calculated for a 90-Percent Confidence Interval)**

	<u>Total Value</u>	<u>Total Claims</u>
Point estimate	\$ 64,758,476	2,538,674
Lower limit	\$ 55,517,135	2,257,394
Upper limit	\$ 73,999,817	2,782,188

Table 3: Sample Details and Results for Potentially Unallowable Services

Claims in Frame	Value of Frame	Sample Size	Value of Sample	Number of Claims Potentially Not in Compliance	Value of Claims Potentially Not in Compliance
3,430,640	\$98,302,605	100	\$2,598	14 ²⁶	\$330

**Table 4: Estimates of Potentially Unallowable Services
(Limits Calculated for a 90-Percent Confidence Interval)**

	<u>Total Value</u>	<u>Total Claims</u>
Point estimate	\$11,317,681	480,290
Lower limit	\$ 6,083,373	297,328
Upper limit	\$16,551,990	721,027

²⁶ These 14 potentially unallowable claims were not included in the 74 unallowable claims in Table 1.

APPENDIX F: SUMMARY OF DEFICIENCIES FOR EACH SAMPLED CLAIM

Legend

Deficiency	Description
1	Vehicles Standards and Requirements Not Met
2	Driver Background Check and Training Requirements Not Met
3	Prior Authorization Requirement Not Met
4	Insurance Requirements Not Met
5	No Medicaid-Eligible Medical Service
6	Services Not Adequately Documented

Office of Inspector General Review Determinations for the 100 Sampled Claims

Sample Claim	Deficiency 1	Deficiency 2	Deficiency 3	Deficiency 4	Deficiency 5	Deficiency 6	No. of Deficiencies
1	X	X					2
2	X						1
3				X			1
4	X		X				2
5		X		X			2
6							0
7							0
8				X			1
9	X	X					2
10		X					1
11			X				1
12							0
13	X						1
14	X						1
15							0
16	X	X					2
17							0
18	X	X					2
19							0
20							0
21	X						1
22	X	X					2

Sample Claim	Deficiency 1	Deficiency 2	Deficiency 3	Deficiency 4	Deficiency 5	Deficiency 6	No. of Deficiencies
23	X	X					2
24			X				1
25					X	X	2
26	X						1
27		X					1
28	X						1
29		X					1
30			X				1
31							0
32					X		1
33							0
34							0
35	X						1
36				X			1
37				X			1
38		X					1
39			X				1
40	X						1
41							0
42		X					1
43				X			1
44	X						1
45							0
46			X		X		2
47		X					1
48							0
49			X				1
50	X						1
51	X						1
52	X						1
53							0
54			X				1
55	X						1
56	X		X				2
57	X		X				2

Sample Claim	Deficiency 1	Deficiency 2	Deficiency 3	Deficiency 4	Deficiency 5	Deficiency 6	No. of Deficiencies
58							0
59							0
60	X						1
61	X	X					2
62							0
63	X						1
64		X					1
65	X						1
66					X		1
67	X	X					2
68	X						1
69		X	X				2
70	X						1
71							0
72	X	X					2
73			X	X			2
74			X				1
75	X	X					2
76			X				1
77	X	X					2
78							0
79	X		X				2
80	X						1
81		X					1
82		X					1
83	X	X					2
84							0
85							0
86			X				1
87	X	X					2
88							0
89	X					X	2
90							0
91							0
92	X				X		2
93							0

Sample Claim	Deficiency 1	Deficiency 2	Deficiency 3	Deficiency 4	Deficiency 5	Deficiency 6	No. of Deficiencies
94	X						1
95	X						1
96	X	X					2
97							0
98		X					1
99	X			X			2
100			X		X		2
Category Totals	42	26	17	8	6	2	101*
74 Claims with Deficiencies							

*27 claims contained more than one deficiency.

APPENDIX G: STATE AGENCY COMMENTS



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES
P. O. Box 712
Trenton, NJ 08625-0712

CHRIS CHRISTIE
Governor

ELIZABETH CONNOLLY
Acting Commissioner

KIM GUADAGNO
Lt. Governor

VALERIE HARR
Director

January 25, 2016

James P. Edert
Regional Inspector General for Audit Services
Department of Health and Human Services
Office of Inspector General
Office of Audit Services Region II
Jacob K. Javits Federal Building
26 Federal Plaza – Room 3900
New York, NY 10278

Audit Report Number: A-02-14-01001

Dear Mr. Edert:

This is in response to your letter dated November 30, 2015, concerning the Department of Health and Human Services, Office of the Inspector General's (OIG) draft report entitled "*New Jersey Did Not Adequately Oversee Its Medicaid Nonemergency Medical Transportation Brokerage Program*". Your letter provides the opportunity to comment on this draft report.

The draft audit report concluded that the New Division of Medical Assistance & Health Services (DMAHS) did not adequately oversee its Medicaid Nonemergency Medical Transportation (NEMT) brokerage program to ensure that CMS-approved State Plan provisions were met. Specifically, DMAHS's oversight and monitoring of its Medicaid NEMT brokerage program did not ensure that:

- vehicles used to transport Medicaid beneficiaries met State requirements,
- transport personnel were licensed and qualified,
- prior authorizations were obtained and medical necessity documentation was maintained for beneficiaries who required certain transportation services,
- transportation providers maintained required insurance coverages,
- beneficiaries received Medicaid-eligible medical services on the date of transportation, and
- NEMT services were adequately documented.

As a result, only 12 of the 100 claims in the random sample complied with contract provisions and State requirements. For 74 claims, the NEMT broker did not comply with certain contract provisions and State requirements, transportation providers did not comply with State requirements, or both. For the remaining 14 claims, the OIG could not determine compliance with contract provisions and State requirements.

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We appreciate the opportunity to provide this response to the draft OIG audit report. Following are the auditors' recommendations and DMAHS's responses:

Recommendation 1:

DMAHS should improve its oversight and monitoring of its Medicaid NEMT brokerage program by requiring its NEMT broker to strengthen its procedures to ensure that (1) vehicles used to transport Medicaid beneficiaries meet State requirements, (2) transport personnel are licensed and qualified, (3) prior authorization is obtained and medical necessity documented for beneficiaries who require certain transportation services, (4) transportation providers maintained required insurance coverages, (5) beneficiaries received Medicaid eligible medical services on the date of transportation, and (6) NEMT services were adequately documented.

The State generally concurs with the findings and will address each item listed above with the steps DMAHS has taken to improve its monitoring of the NEMT Brokerage Program.

(1) Vehicles used to transport Medicaid beneficiaries did not meet State requirements:

The draft audit report states that in 42 of the 100 sampled claims, the vehicle used by the transportation provider did not meet the standards and requirements of the state. The violations included vehicles that were more than 9 years old, missing vehicle inspection reports, vehicles not properly registered, and a vehicle with insufficient seating capacity.

In 29 of the claims, transportation providers were found to have used vehicles that were more than 9 years old. The enforcement of this state regulation would have created significant problems for the transportation provider network and the program. Among the 39 states where the NEMT broker manages NEMT contracts, only New Jersey and New York have a vehicle age requirement. This requirement forces the transportation providers in New York to purchase new vehicles more frequently, which increases the cost of the program. New York's NEMT contracts incur a cost per mile that is far above the national average, and the vehicle age requirement is a major factor.

DMAHS believes the vehicle inspection process is a much more effective means of ensuring the safety of the vehicles. The NEMT broker performs an annual inspection on every vehicle in the network, and a follow-up inspection whenever a complaint is received regarding vehicle safety. Vehicles that do not meet the safety standards are restricted from being used to transport Medicaid members until the safety issues are resolved and the vehicle has been re-inspected. This inspection process was a safety improvement that the NEMT broker brought to the program, and DMAHS believes that it is highly effective. In order to ensure that the NEMT brokerage program is cost effective, the State is pursuing options to waive the 9 year old vehicle requirement.

A smaller number of claims were found to have other violations: no vehicle inspection report (8), vehicle not registered as "commercial" or "livery" (3), seating capacity less than five (1), and vehicle failed its most recent inspection (1). The NEMT broker was not able to locate the eight missing vehicle inspection reports. Since 2012, the last year of the audit period, the NEMT

broker has made several changes to the vehicle and driver credentialing processes that have resulted in significant improvements in the processing and tracking of documents. Of the three vehicles that were not registered as commercial or livery, two of the vehicles belong to Cover Tree Point, a boarding home for adults suffering from mental illnesses. This facility only provides transportation for the residents of the home and no other Medicaid clients.

(2) Transport personnel were not licensed and qualified:

The report states that in 26 of the 100 sampled claims, driver background check and training requirements were not met. In 16 claims, the NEMT broker was unable to provide a hard-copy of the driver's training certificate. The NEMT broker's system indicates that eight of those drivers completed the required training courses, but the NEMT broker was not able to locate the certificates. The remaining eight drivers had proof of a completed training course, but not proof that it was completed prior to the trip date of the sampled claim. As mentioned previously, changes have been made to the credentialing process subsequent to the audit that have improved the processing and tracking of documents.

In eight claims, the auditor's believe the drivers' criminal history should have disqualified the driver. The NEMT broker reviews the criminal backgrounds of all drivers during the credentialing process. This is completed before the driver is given approval to drive trips assigned by the broker. Nationwide, most criminal background check protocols are limited to a seven year look back and DMAHS agreed in 2009 that a driver with a felony conviction in the last seven years would be disqualified. None of the drivers in the sampled claims had a felony criminal conviction in the last seven years.

(3) Prior authorization should be obtained and medical necessity document for beneficiaries who required certain transportation services:

The report states that in 17 of the 100 sampled claims, the NEMT broker did not provide a medical necessity form (MNF) for the beneficiary who was transported in a mobility-assistance vehicle. In six of the claims, the broker's system did indicate that an MNF was received, but the broker was unable to locate a hard-copy of the document. In five of the claims, the member was a dialysis patient and the dialysis clinic indicated that assistance would be needed, as is often the case for dialysis patients. Three of the claims involved a request from a nursing home. Nursing home patients almost always require assistance. One of the claims was for a 79 year old physical therapy patient. In all cases, there is sufficient evidence that a mobility-assistance vehicle was required to transport the member safely. Where the broker can determine from our interaction with the member or the medical facility that an enhanced level of service is necessary, a Medical Necessity Form is not required. See Section 3.6.10 of the NEMT RFP.

(4) Transportation providers should have required insurance coverages:

The report states that in eight of the 100 sampled claims, the transportation provider did not have worker's compensation, general liability, or automobile liability insurance coverage. The NEMT broker was able to provide proof of general liability and automobile liability insurance for all claims. However, they were not able to provide proof of worker's compensation for the eight claims. It should be noted that some transportation providers may not be required by law to maintain workers' compensation insurance.

One of the changes made to the credentialing process subsequent to the audit involved the creation of a compliance department within the local NEMT broker's office. Prior to the creation of the local compliance department, the credentialing process was managed by a centralized corporate department. The local team added new processes specific to the NJ market. These new processes include requiring all transportation providers to submit proof of worker's compensation insurance and keeping the documentation on file. In addition, the department performs quarterly audits of all transportation provider insurance policies to ensure continued coverage throughout the year.

(5) Beneficiaries should receive Medicaid eligible medical services on the date of transportation:

The report states that in six of the 100 sampled claims, the medical provider confirmed that the member did not receive a Medicaid-eligible medical service on the sampled service date. In three of the six claims, the member was dually eligible for Medicare and Medicaid. Since Medicare is the primary payer, it is very likely that the members' medical services were billed to Medicare instead of Medicaid. Medicare does not cover NEMT services so the transportation is provided by DMAHS.

(6) NEMT services should be adequately documented:

DMAHS believes that all NEMT services are properly documented. The NEMT broker regularly provides DMAHS with electronic "Encounter Data" files that documents every trip the broker provides for Medicaid clients. The NEMT broker also provides DMAHS with monthly reports that documents all aspects of their operations such as compliance with phone service levels, complaints received, vehicles inspected etc.

In addition to the steps taken by the NEMT broker's compliance department to ensure compliance with State rules and regulations, DMAHS has established an on-site office staffed by Division personnel to monitor the broker's operations.

Recommendation 2:

DMAHS should ensure that managed care contracts with the transportation broker contain provisions that (1) consider improper claims to the transportation broker when developing future capitated rates paid by the State agency and (2) provide a means for the State agency to recoup funds from the transportation broker when contract provisions and State requirements are not met—a measure that, if incorporated, could result in cost savings for New Jersey.

(1) DMAHS should consider improper claims to the transportation broker when developing future capitated rates paid by DMAHS to managed care organizations:

Effective July 1, 2011, all NEMT services were "carved out" of the managed care contracts so payments to the NEMT broker do not have any impact on capitation rates.


James P. Edert
January 25, 2016
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(2) DMAHS should provide a means to recoup funds from the transportation broker when contract provisions and State requirements are not met:

The NEMT contract with the broker was amended to provide for payments to DMAHS if the NEMT broker did not meet certain service levels agreements (SLA). These SLAs relate to operations of the NEMT Call Center, Member Complaints, Vehicle Safety, Provider Reimbursements, and Bariatric Trips. These SLAs are reported monthly and the NEMT broker makes payment to DMAHS if they are out of compliance with any of the SLAs.

Thank you for providing DMAHS the opportunity to provide written comments to the recommendations included in the draft audit report. If you have any questions, please do not hesitate to contact me or Richard H. Hurd at (609) 588-2550.

Sincerely,



Valerie Harr
Director

VH/RH/b
c: Beth Connolly, Acting Commissioner
Richard Hurd, Chief of Staff