

Department of Health and Human Services

**OFFICE OF  
INSPECTOR GENERAL**

**NORTH CAROLINA IMPROPERLY  
CLAIMED FEDERAL  
REIMBURSEMENT FOR SOME  
MEDICAID NONEMERGENCY  
TRANSPORTATION SERVICES**

*Inquiries about this report may be addressed to the Office of Public Affairs at  
[Public.Affairs@oig.hhs.gov](mailto:Public.Affairs@oig.hhs.gov).*



Gloria L. Jarmon  
Deputy Inspector General  
for Audit Services

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# *Office of Inspector General*

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## EXECUTIVE SUMMARY

*North Carolina claimed at least \$15.1 million in Federal reimbursement for Medicaid nonemergency medical transportation services that did not comply with Federal or State requirements.*

### WHY WE DID THIS REVIEW

Federal law authorizes Medicaid to cover nonemergency medical transportation (NEMT) services that a State determines to be necessary for beneficiaries to obtain medical care. Prior Office of Inspector General audit reports have consistently identified NEMT services as vulnerable to fraud, waste, and abuse.

Our objective was to determine whether the North Carolina Department of Health and Human Services (State agency) claimed Federal reimbursement for NEMT services in accordance with Federal and State requirements.

### BACKGROUND

Medicaid requires States to ensure necessary transportation for Medicaid beneficiaries to and from medical care providers. Transportation is defined as expenses for transportation and other related travel expenses determined to be necessary by the State agency to secure medical examinations and treatment for a beneficiary. States may claim expenditures for NEMT as administrative costs under their Medicaid State plans, or a State may elect to use a direct vendor payment system and include transportation as medical assistance under its Medicaid State plan.

In North Carolina, the State agency supervises the administration of the Medicaid program. Within the State agency, the Division of Medical Assistance administers the Medicaid program and established NEMT policies and procedures. The State agency designated each of the State's 100 county departments of social services (counties) as its agents for assuring that necessary NEMT services were provided to Medicaid beneficiaries who need assistance with transportation. In North Carolina, NEMT is defined as transportation to and from medical services on a nonemergent basis and can include mileage reimbursement or conveyance arranged by counties.

For State fiscal years 2013 and 2014 (audit period), the State agency claimed NEMT expenditures totaling approximately \$176 million (\$110.8 million Federal share), which consisted of \$146.5 million (\$96.1 million Federal share) for NEMT services and \$29.5 million (\$14.7 million Federal share) for NEMT administrative costs.

### WHAT WE FOUND

The State agency claimed Federal Medicaid reimbursement for some NEMT services that did not comply with Federal or State requirements. Of the 200 sample items, 82 complied with Federal and State requirements, but 118 did not. Of the 118 items, 48 contained more than 1 deficiency. On the basis of our sample results, we estimated that the State agency improperly claimed at

least \$18,703,434 (\$12,011,228 Federal share) for unallowable NEMT services for the audit period.

The State agency also improperly claimed \$20,022,648 in NEMT administrative expenditures at North Carolina's Federal medical assistance percentage (FMAP) rate, instead of the 50-percent administrative rate, which resulted in excess Federal reimbursement of \$3,121,544.

Additionally, none of the 16 counties represented by the 200 items in our sample fully complied with the State agency's NEMT policy. The counties could not provide evidence that certain NEMT services met all policy requirements for safety and risk management, which potentially compromised the safety of Medicaid beneficiaries.

These deficiencies occurred because (1) the State agency's design of the NEMT program did not promote effective oversight of transportation services for compliance with certain Federal and State requirements and (2) the State agency's reimbursement process was to incorrectly claim certain NEMT administrative costs at the FMAP rate.

## **WHAT WE RECOMMEND**

We recommend that the State agency:

- refund \$12,011,228 to the Federal Government for unallowable NEMT services identified in our sample;
- refund \$3,121,544 to the Federal Government for the additional Federal reimbursement received for NEMT expenditures improperly claimed at the FMAP rate;
- improve the design of the NEMT program to enhance oversight of transportation services for compliance with Federal and State laws, regulations, and program guidance;
- monitor the results of the counties' reviews of transportation services and vendors to identify and correct deficiencies;
- update its procedures for claiming Federal reimbursement for NEMT administrative costs to ensure that it claims expenditures at the proper reimbursement rate; and
- implement regulations requiring safety and risk management measures as conditions of payment.

## **STATE AGENCY COMMENTS AND OUR RESPONSE**

In comments on our draft report, the State agency generally disagreed with our findings and recommendations but agreed that our report identified some areas for improvement.

The State agency said that it gathered additional documentation that verified that some of the trips we identified as deficient were in full compliance with its NEMT policies and that it would

continue to gather additional documentation for CMS’s consideration during the audit resolution process.

The State agency also said that its reimbursement to counties using intergovernmental transfers constituted “in essence a direct vendor payment” and that it had revised its Medicaid State plan to remove language that designated certain mileage reimbursement as administrative costs. As such, it contended that these costs qualified for Federal reimbursement at the FMAP rate rather than at the 50-percent reimbursement rate available for administrative expenditures.

Although the State agency generally disagreed with our findings, it described actions it has taken or plans to take to improve program design and enhance program oversight.

After our review and consideration of the State agency’s comments, we maintain that our findings and recommendations are valid. The State agency did not provide to us any additional documentation to support its contention that some of the trips we identified as deficient actually complied with requirements.

We disagree that the State agency’s revision of its Medicaid State plan and its county reimbursement process made certain costs eligible for Federal reimbursement at the FMAP rate. The effective date of the revised Medicaid State Plan was after our audit period and is, therefore, not relevant to our finding. Additionally, the State plan designates counties as the State agency’s agents for the NEMT program. As such, the counties are acting as the State agency itself, and transportation provided by the State is an administrative expense. The method by which the State agency reimburses the counties is not relevant to our finding.

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## INTRODUCTION

### WHY WE DID THIS REVIEW

Federal law authorizes Medicaid to cover nonemergency medical transportation (NEMT) services that a State determines to be necessary for beneficiaries to obtain medical care. Prior Office of Inspector General (OIG) audit reports have consistently identified NEMT services as vulnerable to fraud, waste, and abuse. (Appendix A lists related OIG reports on NEMT services.)

### OBJECTIVE

Our objective was to determine whether the North Carolina Department of Health and Human Services (State agency) claimed Federal reimbursement for NEMT services in accordance with Federal and State requirements.

### BACKGROUND

#### Medicaid Program

The Medicaid program provides medical assistance to low-income individuals and individuals with disabilities. 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 program. Each State administers its program in accordance with a CMS-approved State plan. The State plan establishes which services the Medicaid program will cover. Although the State has considerable flexibility in designing and operating its program, it must comply with applicable Federal requirements.

The Federal Government pays its share of the State's Medicaid expenditures based on the Federal medical assistance percentage (FMAP), which varies depending on the State's relative per capita income. The amount of Federal reimbursement is known as the Federal share. During State fiscal years (SFYs) 2013 and 2014<sup>1</sup> (audit period), the FMAP in North Carolina ranged from 65.28 percent to 65.78 percent. Federal reimbursement is also available at a rate of 50 percent for amounts that a State expends for the proper and efficient administration of the Medicaid program (administrative costs).<sup>2</sup>

In North Carolina, the State agency supervises the administration of the Medicaid program. Within the State agency, the Division of Medical Assistance (DMA) administers the Medicaid program.

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<sup>1</sup> North Carolina's fiscal year is from July 1 through June 30.

<sup>2</sup> The Secretary of the Department of Health and Human Services is the final arbiter of which administrative activities are eligible for funding. Certain administrative costs may be claimed at higher Federal financial participation rates.

## **Federal Regulations**

Federal regulations require each State to describe in its State plan the methods that the State will use to meet the requirement to ensure necessary transportation for Medicaid beneficiaries (42 CFR § 431.53). Transportation is defined as expenses for transportation and other related travel expenses determined to be necessary by the State agency to secure medical examinations and treatment for a beneficiary (42 CFR § 440.170(a)(1)). States may claim expenditures for NEMT as administrative costs under their Medicaid State plans, or a State may elect to use a direct vendor-payment system and include transportation as medical assistance under its Medicaid State plan.<sup>3</sup>

## **North Carolina Nonemergency Medical Transportation**

In North Carolina, NEMT is defined as transportation to and from medical services on a nonemergent basis. The DMA Medicaid Eligibility Unit manages the NEMT program and establishes NEMT policies and procedures. The State agency designates each of the State's 100 county departments of social services (counties) as its agents for assuring that necessary NEMT services are provided to Medicaid beneficiaries who have a need for assistance with transportation.<sup>4</sup> Under State law, counties can provide NEMT services themselves, or they can contract out all or part of their NEMT services.<sup>5</sup>

When a beneficiary has access to a suitable mode of transportation but lacks the means to use it, the counties assist by providing gas vouchers or mileage reimbursement. When the beneficiary lacks both means and mode, the counties provide transportation directly or arrange for transportation through transportation vendors. The counties submit monthly invoices to the State agency to receive reimbursement for NEMT services and NEMT administrative costs.

Ambulance providers and Adult Care Homes (ACHs) also provide NEMT services.<sup>6</sup> Ambulances provide NEMT services when the beneficiary's condition requires ambulance transportation and any other means of transportation would endanger the beneficiary's health or life. This typically involves a beneficiary who is either confined to bed and has to be transported on a stretcher or requires medical monitoring during the trip. ACHs coordinate and provide NEMT services to their Medicaid residents. The ambulance providers and ACHs submit claims for reimbursement through the State agency's Medicaid Management Information System (MMIS) and are not subject to the NEMT policies and procedures established by the DMA Medicaid Eligibility Unit.

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<sup>3</sup> 42 CFR § 440.170(a)(2); CMS State Medicaid Director Letter (SMDL #06-009), March 31, 2006.

<sup>4</sup> North Carolina Medicaid State Plan, Attachment 3.1-D, page 1.

<sup>5</sup> 10A North Carolina Administrative Code 711.0102.

<sup>6</sup> From July 1, 2012, to December 31, 2012, of our audit period, ACHs that provided personal care services to their Medicaid residents were also reimbursed for NEMT services provided to their Medicaid residents. As of January 1, 2013, ACH residents' transportation needs are coordinated and provided by the respective county.

For our audit period, the State agency claimed NEMT expenditures totaling approximately \$176 million (\$110.8 million Federal share). Of this amount, the State agency claimed Federal reimbursement of approximately \$105.3 million (\$69.1 million Federal share) and approximately \$29.5 million (\$14.7 million Federal share) for payments to the counties for NEMT services and NEMT administrative costs, respectively. Also, the State agency claimed approximately \$38.8 million (\$25.4 million Federal share) and approximately \$2.4 million (\$1.6 million Federal share) for NEMT services provided by ambulance providers and ACHs, respectively. (See Table 1.)

**Table 1: Summary of Expenditures Claimed for Nonemergency Medical Transportation**

<b>Service Provider</b>	<b>Expenditures (millions)</b>	<b>Federal Share (millions)</b>
<b>Counties</b>		
<i>Services</i>	\$105.3	\$69.1
<i>Administrative Costs</i>	29.5	14.7
<b>Ambulance</b>		
<i>Services</i>	38.8	25.4
<b>Adult Care Homes</b>		
<i>Services</i>	2.4	1.6
<b>Total Expenditures</b>	<b>\$176.0</b>	<b>\$110.8</b>

## HOW WE CONDUCTED THIS REVIEW

We identified approximately \$96.2 million (\$63.1 million Federal share) in NEMT services provided by the State’s 100 counties that the State agency claimed as NEMT on Form CMS-64.9, “Medical Assistance Expenditures by Type of Service,” during our audit period.<sup>7</sup> Of this amount we focused our review on \$96 million (\$63 million Federal share) and selected a random sample of 20 months<sup>8</sup> in which the State agency paid a single county for transportation services (county-months). For each county-month, we selected a random sample of 10 NEMT services, for a total of 200 sample items.

The 20 county-months that we selected for review contained 18,153 NEMT services totaling \$583,074 (\$382,603 Federal share). Of the 18,153 transportation services, our sample of 200 NEMT services totaled \$6,830 (\$4,483 Federal share).

<sup>7</sup> We removed from the \$105.3 million shown in Table 1 \$9.1 million (\$6 million Federal share) in expenditures that the counties reported as NEMT administrative costs but the State agency claimed as NEMT services.

<sup>8</sup> This sample was drawn from the 1,895 county-months in SFYs 2013 and 2014 for which the State agency paid a county at least \$3,000.

We also reviewed the State agency’s process of claiming Federal reimbursement of approximately \$79.8 million (\$47.7 Federal share) in expenditures for services provided by ambulances and ACHs and expenditures that the counties reported as administrative costs.<sup>9</sup>

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 B contains Federal and State requirements, Appendix C contains the details of our scope and methodology, Appendix D contains our statistical sampling methodology, and Appendix E contains a summary of our sample results and statistical estimates.

## FINDINGS

The State agency claimed Federal Medicaid reimbursement for some NEMT services that did not comply with Federal or State requirements. Of the 200 sample items, 82 complied with Federal and State requirements, but 118 did not. Of the 118 items, 48 contained more than 1 deficiency (Table 2). On the basis of our sample results, we estimated that the State agency improperly claimed at least \$18,703,434 (\$12,011,228 Federal share) for unallowable NEMT services for the audit period.<sup>10</sup>

**Table 2: Deficiencies in Sampled Items**

Deficiencies	Number of Unallowable Items <sup>11</sup>
Transportation Services Were Not Necessary, Reasonable, or Cost Effective	
<i>Services Were Not Necessary or Reasonable</i>	67
<i>Services Were Not Cost Effective</i>	13
Some Counties Did Not Ensure Transportation Providers Met All Requirements	
<i>Driver and Vehicle Requirements Were Not Met</i>	60
<i>No Vendor Contract</i>	1
Some Counties Lacked Required Supporting Documentation	19

<sup>9</sup> The \$79.8 million included the \$9.1 million (\$6 million Federal share) in expenditures that the counties reported as NEMT administrative costs but the State agency claimed as NEMT services. We did not review the validity of these expenditures under this audit because these expenditures were subject to different criteria than the expenditures in our sample. We may review the validity of some or all of these expenditures in future audits.

<sup>10</sup> To be conservative, we recommend recovery of overpayments at the lower limit of a two-sided 90-percent confidence interval. Lower limits calculated in this manner will be less than the actual overpayment total 95 percent of the time.

<sup>11</sup> The total exceeds 118 because 48 items contained more than 1 deficiency.

The State agency also improperly claimed \$20,022,648 in NEMT administrative expenditures at North Carolina's FMAP rate,<sup>12</sup> instead of the 50-percent administrative rate, which resulted in excess Federal reimbursement of \$3,121,544.

Additionally, none of the 16 counties represented by the 200 items in our sample fully complied with the State agency's NEMT policy. The counties could not provide evidence that certain NEMT services met all policy requirements for safety and risk management, which potentially compromised the safety of Medicaid beneficiaries.

These deficiencies occurred because (1) the State agency's design of the NEMT program did not promote effective oversight of transportation services for compliance with certain Federal and State requirements and (2) the State agency's reimbursement process was to incorrectly claim certain NEMT administrative costs at the FMAP rate.

### **SOME SERVICES WERE NOT ELIGIBLE FOR FEDERAL REIMBURSEMENT**

For 118 of the 200 sample items, the State agency did not comply with Federal or State requirements. Of the 118 items, 48 contained more than 1 deficiency.

#### **Some Counties Provided Transportation Services That Were Not Necessary, Reasonable, or Cost Effective**

Expenditures are unallowable for Federal reimbursement if the expenditures are not made on behalf of an eligible beneficiary (CMS, *State Medicaid Manual* § 2497.1) or are unnecessary and unreasonable for proper and efficient performance and administration of the Medicaid program (2 CFR part 225, Appendix A, § C.1.a). The transportation resources chosen shall appropriately meet the beneficiaries' individual needs in the most cost-effective manner possible (10A North Carolina Administrative Code (NCAC) 71I.0102).

Payment will be made for the least expensive appropriate means of transportation available. Mileage reimbursement cannot exceed half of the current Internal Revenue Service (IRS) business rate for reimbursements made to beneficiaries and persons financially responsible for the beneficiaries. For other family members and volunteers, mileage reimbursement cannot exceed the current IRS business rate (North Carolina Medicaid State Plan, Attachment 3.1-D, page 2).

Medicaid only pays for necessary and reasonable items or services that are cost-effective. The State agency interprets NEMT expenditures for empty mileage<sup>13</sup> and transportation to medical services locations beyond those that are closest to the beneficiary's place of residence as unnecessary and unreasonable or not cost effective. Consequently, the State agency directs the

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<sup>12</sup> During the audit period, the FMAP rate in North Carolina ranged from 65.28 percent to 65.78 percent.

<sup>13</sup> "Empty mileage" means vehicle miles for which transportation vendors received payments but for which the Medicaid beneficiary was not a passenger in the vehicle (*Medicaid Transportation Policies*, MA-2910/MA-3550, § X.F.8).

counties to arrange transportation to a medical service location closest to the beneficiary's place of residence, which could include a bordering county. Transportation to a location other than the closest to the beneficiary's residence requires justification in the form of a written statement from the physician (*Medicaid Transportation Policies*, MA-2910/MA-3550, §§ X.F.8 and VIII.B).

Medicaid only pays for necessary and reasonable transportation. The State agency interprets the definition of necessary and reasonable transportation as allowing reimbursement for direct costs of trips only from the point of beneficiary pickup to the point of drop off. On the basis of this interpretation, the State agency directs the counties to instead factor the cost of empty mileage into its vendor mileage reimbursement rates (*Medicaid Transportation Policies*, MA-2910/MA-3550, § X.F.8).

#### *Services Were Not Necessary or Reasonable*

For 67 sample items, the transportation services were not necessary or reasonable because the counties (1) did not provide the service claimed, (2) provided the service to an ineligible beneficiary, (3) reimbursed beneficiaries for gas in excess of the maximum allowable mileage reimbursement rate, or (4) paid for excess or empty mileage.

Some counties reimbursed beneficiaries a flat rate on the basis of their destination or a minimum amount regardless of the distance the beneficiary traveled. In some cases, these reimbursements exceeded the allowable IRS business rate. Counties also often reimbursed transportation vendors for mileage incurred before pick-up, after drop-off, or between stops when there was no Medicaid beneficiary in the vehicle.

#### *Services Were Not Cost Effective*

For 13 sample items, the transportation services were not cost effective because the counties did not (1) assess the beneficiaries' current needs to determine the least expensive suitable means of transportation, (2) transport the beneficiary to the nearest medical provider appropriate for the services required, or (3) obtain the physician's written statement that transportation beyond bordering counties was necessary.

Generally, counties used the State agency's *Medicaid Transportation Assessment* form to assess beneficiaries' transportation needs. In 1 of the 13 sample items, the county had the assessment form on file, but the form did not contain the information, such as the availability of or access to a car, necessary to determine the beneficiary's current need for transportation assistance. In other sample items, the counties had no evidence that an assessment had been performed. Also, a county transported a beneficiary 40 miles (roundtrip) to a primary care provider when four primary care providers were located within 7 miles of the beneficiary's home. Another county transported a beneficiary to a provider across multiple counties without obtaining a physician's explanation for why the transportation was necessary.

## **Some Counties Did Not Ensure Transportation Providers Met All Requirements**

Federal law and regulations and State law require that Medicaid providers keep all records necessary to fully disclose the nature and extent of services furnished to Medicaid beneficiaries and claimed for reimbursement.<sup>14</sup> Adequate records must be in readily reviewable form when the State agency files the claim (CMS, *State Medicaid Manual* §§ 2497.1 and 2500.2.A).

Counties can provide transportation services to beneficiaries directly, through the purchase of service contracts or vendor agreements, or through volunteers. Under all arrangements, the driver must be 18 years of age and hold an appropriate operator's license. Also, vendors must maintain a minimum of \$1.5 million in liability insurance on vehicles transporting beneficiaries (10A NCAC 71I.0102).

To ensure compliance with these requirements, the State agency directs counties to review the driving histories of transportation drivers annually and to ensure that vendors maintain the minimum vehicle liability insurance. The State agency also details the minimum requirements that must be included in vendor contracts and directs the counties to perform annual reviews to ensure compliance with these requirements (*Medicaid Transportation Policies*, MA-2910/MA-3550, § IX.A.1, A.3, B, G, and I).

### *Driver and Vehicle Requirements Were Not Met*

For 60 sample items, the counties did not maintain driver records, conduct annual reviews of driving histories, or ensure their vendors maintained the minimum vehicle liability insurance. In one case, a driver's license was not valid on the date the transportation was provided. In other cases, the counties reviewed driving histories only at the time of hire, or their vendors maintained only \$1 million in vehicle liability insurance.

### *No Vendor Contract*

One county provided transportation services through a vendor with which it had no valid contract. The county reimbursed a mental health service facility for transportation that the facility provided to its Medicaid beneficiaries. However, the county had not contracted with the facility for these services.

## **Some Counties Lacked Required Supporting Documentation**

Federal law and regulations and State law require that Medicaid providers keep all records necessary to fully disclose the nature and extent of services furnished to Medicaid beneficiaries and claimed for reimbursement.<sup>14</sup> Adequate records must be in readily reviewable form when the State agency files the claim (CMS, *State Medicaid Manual* §§ 2497.1 and 2500.2.A).

The State agency directs the counties to maintain a file that contains adequate documentation to support the services provided for each beneficiary transported. The State agency also directs the

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<sup>14</sup> Social Security Act § 1902(a)(27)(A); 42 CFR § 431.107(b)(1); and 10A NCAC 22F.0107.

counties to verify that the beneficiary received a Medicaid-covered service (*Medicaid Transportation Policies*, MA-2910/ MA-3550, §§ VI.C.1 and VIII.A.3.b) to ensure that transportation is not provided for reasons other than to receive medical care (42 CFR §§ 431.53 and 440.170(a)(1), (2), and (3)). The counties can use any method sufficient to verify that the beneficiary has received a service, including calling the provider or obtaining the provider's signature on a verification form.

For 19 sample items, the counties did not have any documentation to support the services claimed or to verify that the NEMT service provider transported the beneficiary to a location where they received a Medicaid-covered service.

### **Estimate of the Unallowable Amounts for Sample Items**

Of our 200 sample items, 118 were not in compliance with Federal or State requirements. On the basis of our sample results, we estimated that the State agency improperly claimed at least \$18,703,434 (\$12,011,228 Federal share) for unallowable NEMT services during the audit period. The details of our sample results and estimates are shown in Appendix E.

### **THE STATE AGENCY CLAIMED ADMINISTRATIVE EXPENDITURES FOR REIMBURSEMENT AT THE FEDERAL MEDICAID ASSISTANCE PERCENTAGE RATE**

State agency expenditures for NEMT are only reimbursed by the Federal Government at the FMAP rate when services are furnished by a provider to whom a direct vendor payment is made.<sup>15</sup> When NEMT is provided in any other way, including for example, reimbursing beneficiaries for their travel costs or a State employee driving the beneficiary to a doctor, then those costs should be claimed as administrative expenditures at the 50-percent administrative rate.<sup>16</sup>

CMS claiming instructions direct States to report expenditures for NEMT services on Form CMS 64.9, Medical Assistance Expenditures by Type of Service, for Federal reimbursement at the FMAP rate.<sup>17</sup> The instructions further state that transportation provided via the State is considered an administrative cost and should be reported on Form CMS-64.10, Expenditures for State and Local Administration, for Federal reimbursement at the 50-percent rate.

For the audit period, the State agency improperly claimed \$20,022,647 (\$13,132,868 Federal share) in NEMT expenditures at the FMAP rate, instead of the 50-percent administrative rate, for services that were not furnished by a provider to whom a direct vendor payment was made:

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<sup>15</sup> 42 CFR 440.2(b); 42 CFR 440.170(a)(2); CMS State Medicaid Director Letter (SMDL #06-009), March 31, 2006; New Jersey Department of Human Services, DAB No. 1090 (1989) at 3.

<sup>16</sup> New Jersey Department of Human Services, DAB No. 1090 (1989) at 3; Texas Health & Human Services Commission, DAB No. 2114 (2007) at 17; North Carolina Medicaid State Plan, Attachment 3.1-D, Page 2.

<sup>17</sup> MBES CBES [Medicaid Budget Expenditure System and Children's Health Insurance Program Budget Expenditure System] Category of Service Line Definitions for the 64.9 Base form.

- At the State agency’s direction, counties reported \$10,927,169 (\$7,170,213 Federal share) in expenditures for mileage reimbursement to beneficiaries, beneficiaries’ relatives and friends, agency staff, and volunteers on their monthly reimbursement invoices. The State agency’s DMA aggregated all the expenditures reported on the invoices and claimed Federal reimbursement at the FMAP rate on Form CMS-64.9’s line 29, Non-Emergency Medical Transportation.
- Additionally, counties reported to the State agency NEMT administrative costs of \$9,095,478 (\$5,962,655 Federal share) in vehicle expenses and salary and fringe benefit costs for employees who transported beneficiaries to medical services. The State agency separated these expenditures from other administrative costs and claimed Federal reimbursement at the FMAP rate on Form CMS-64.9’s line 49, Other Care Services, instead of at the 50-percent administrative rate on Form CMS-64.10.

Of the \$13,132,868 in Federal reimbursement that the State agency received for the \$20,022,648 in NEMT expenditures, \$3,121,544 was unallowable because the State agency improperly claimed the expenditures at the FMAP rate (Table 3).

**Table 3: Unallowable Federal Reimbursement for Improperly Claimed Expenditures**

<b>Type of Expenditure</b>	<b>Expenditures</b>	<b>Federal Reimbursement at FMAP Rate<sup>18</sup> (A)</b>	<b>Federal Reimbursement at Administrative Cost Rate<sup>19</sup> (B)</b>	<b>Unallowable Federal Reimbursement (A - B)</b>
Mileage Reimbursement	\$10,927,169	\$7,170,213	\$5,463,585	\$1,706,628
County Administrative Costs	9,095,478	5,962,655	4,547,739	1,414,916
<b>Total</b>	<b>\$20,022,647</b>	<b>\$13,132,868</b>	<b>\$10,011,324</b>	<b>\$3,121,544</b>

<sup>18</sup> During the audit period, the FMAP rate in North Carolina ranged from 65.28 percent to 65.78 percent.

<sup>19</sup> The Federal reimbursement rate for NEMT administrative costs was 50 percent.

## **COUNTIES DID NOT MEET SAFETY AND RISK MANAGEMENT POLICY REQUIREMENTS**

Of the 16 counties represented by our 200 sample items, none could provide evidence that all sampled NEMT services met policy requirements for safety and risk management, which potentially compromised the safety of Medicaid beneficiaries.

The State agency directed counties to conduct a criminal background check on their drivers at least every 3 years; require drivers to participate in a drug and alcohol program that included random screening of its drivers; maintain current registration and inspection of vehicles used to transport beneficiaries; verify beneficiaries' Medicaid eligibility each month that a county provided services; and ensure that transportation contracts contained guarantees that contractors would meet all safety, liability, and other program requirements. None of the counties in our sample complied with all of these policy requirements.

The State agency also directed that minors be accompanied by an adult when transported. However, one county transported a 13-year-old beneficiary to and from school unaccompanied by an adult. According to county officials, the county provided transportation to the school because the beneficiary had an appointment after school with a behavioral health provider located on school premises.

Additionally, the State agency directed counties to conduct an annual review of their vendor operations to ensure compliance with the contract and to review 2 percent of their monthly NEMT services to ensure compliance with applicable laws, regulations, and policies. Of the 16 counties, 10 did not conduct annual reviews of their vendor operations and 4 did not regularly perform 2-percent reviews of their monthly NEMT services.

Policy requirements are generally not as strong as requirements in State regulations. If the State agency were to implement regulations requiring these safety and risk management measures as a condition of payment, then the counties would be required to comply with these measures to be reimbursed for transportation services.

## **PROGRAM DESIGN AND OVERSIGHT WERE INADEQUATE**

These deficiencies occurred because the State agency's design of the NEMT program did not promote effective oversight of NEMT services to ensure compliance with certain Federal and State requirements. Because county transportation services were not processed through the State Agency's MMIS as other Medicaid claims were, the State agency did not have access to electronic claims data that it could have used to identify trends and outliers or perform comparative and other analyses to evaluate the program. The State agency also did not require that the counties submit the results of their reviews of transportation services and vendors. As such, the State agency could neither ensure that the counties performed the reviews nor identify and correct deficiencies.

Additionally, because of the State agency's reimbursement process, the State agency incorrectly claimed certain NEMT administrative costs at the FMAP rate. State agency officials could not determine why this process was established.

## **RECOMMENDATIONS**

We recommend that the State agency:

- refund \$12,011,228 to the Federal Government for unallowable NEMT services identified in our sample;
- refund \$3,121,544 to the Federal Government for the additional Federal reimbursement received for NEMT expenditures improperly claimed at the FMAP rate;
- improve the design of the NEMT program to enhance oversight of transportation services for compliance with Federal and State laws, regulations, and program guidance;
- monitor the results of the counties' reviews of transportation services and vendors to identify and correct deficiencies;
- update its procedures for claiming Federal reimbursement for NEMT administrative costs to ensure that it claims expenditures at the proper reimbursement rate; and
- implement regulations requiring safety and risk management measures as conditions of payment.

## **STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE**

### **STATE AGENCY COMMENTS**

In comments on our draft report, the State agency generally disagreed with our findings and recommendations but agreed that our report identified some areas for improvement.

Regarding our recommendation to refund \$12,011,228 (our first recommendation), the State agency said that it gathered additional documentation that verified that some of the trips we identified as deficient were in full compliance with its NEMT policies and that it would continue to gather additional documentation for CMS's consideration during the audit resolution process.

Regarding our recommendations to refund \$3,121,544 and to update its procedures for claiming Federal reimbursement of NEMT administrative costs (our second and fifth recommendations), the State agency said that its reimbursement to counties using intergovernmental transfers constituted "in essence a direct vendor payment." The State agency also said that it had revised its Medicaid State plan to remove language that designated certain mileage reimbursement as administrative costs. As such, it contended that the \$3,121,544 in costs that we questioned

qualified for Federal reimbursement at the FMAP rate rather than at the 50-percent reimbursement rate available for administrative expenditures.

Although the State agency generally disagreed with our findings, it described actions it has taken or plans to take to improve program design and enhance program oversight (our third and fourth recommendations).

Regarding our sixth recommendation, the State agency did not specifically address whether it intended to implement regulations that would make safety and risk management measures conditions of payment. Instead, it described the results of its monitoring of contractors' onsite audits and followup reviews. The State agency also described steps it was taking to improve its NEMT provider credentialing procedures.

The State agency's comments are included in their entirety as Appendix F.

## **OFFICE OF INSPECTOR GENERAL RESPONSE**

After our review and consideration of the State agency's comments, we maintain that our findings and recommendations are valid.

The State agency did not provide to us any of the additional documentation to support its contention that some of the trips we identified as deficient actually complied with requirements.

We disagree that the State agency's revision of its Medicaid State plan and its county reimbursement process made certain costs eligible for Federal reimbursement at the FMAP rate. The effective date of the revised Medicaid State plan was after our audit period and is, therefore, not relevant to our finding. Additionally, the State plan designates counties as the State agency's agents for the NEMT program. As such, the counties are acting as the State agency itself, and transportation provided by the State is an administrative expense. The method by which the State agency reimburses the counties is not relevant to our finding.

**APPENDIX A: RELATED OFFICE OF INSPECTOR GENERAL REPORTS**

<b>Report Title</b>	<b>Report Number</b>	<b>Date Issued</b>
<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 Requirement</i>	<a href="#"><u>A-09-13-02054</u></a>	3/2015
<i>California Claimed Medicaid Reimbursement for Some Nonemergency Medical Transportation Services That Did Not Comply With Federal and State Requirements</i>	<a href="#"><u>A-09-13-02033</u></a>	1/2015
<i>Texas Did Not Always Comply With Federal and State Requirements for Claims Submitted for The Nonemergency Medical Transportation Program</i>	<a href="#"><u>A-06-12-00053</u></a>	10/2014
<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>	<a href="#"><u>A-09-12-02083</u></a>	6/2014

## **APPENDIX B: FEDERAL AND STATE REQUIREMENTS FOR NONEMERGENCY MEDICAL TRANSPORTATION SERVICES**

### **FEDERAL REQUIREMENTS**

#### **Social Security Act § 1902(a)**

A State plan for medical assistance must ... (27) provide for agreements with every person or institution providing services under the State plan under which such person or institution agrees (A) to keep such records as are necessary fully to disclose the extent of the services provided to individuals receiving assistance under the State plan....

#### **2 CFR Part 225, Appendix A, Section C**

To be allowable under Federal awards, costs must meet the following general criteria: a. Be necessary and reasonable for proper and efficient performance and administration of Federal awards....

#### **42 CFR § 431.107**

(b) *Agreements.* A State plan must provide for an agreement between the Medicaid agency and each provider or organization furnishing services under the plan in which the provider or organization agrees to: (1) Keep any records necessary to disclose the extent of services the provider furnishes to recipients....

#### **42 CFR § 431.53**

A State plan must- (a) Specify that the Medicaid agency will ensure necessary transportation for recipients to and from providers; and (b) Describe the methods that the agency will use to meet this requirement.

#### **42 CFR § 440.2(b)**

*Definitions of services for FFP [Federal Financial Participation] purposes.* Except as limited in part 441, FFP is available in expenditures under the State plan for medical or remedial care and services as defined in this subpart.

#### **42 CFR § 440.170(a)**

(1) "Transportation" includes expenses for transportation and other related travel expenses determined to be necessary by the agency to secure medical examinations and treatment for a recipient.

(2) Except as provided in paragraph (a)(4), transportation, as defined in this section, is furnished only by a provider to whom a direct vendor payment can appropriately be made by the agency.

(3) “Travel expenses” include—(i) The cost of transportation for the recipient by ambulance, taxicab, common carrier, or other appropriate means; (ii) The cost of meals and lodging en route to and from medical care, and while receiving medical care; and (iii) The cost of an attendant to accompany the recipient, if necessary, and the cost of the attendant’s transportation, meals, lodging, and, if the attendant is not a member of the recipient’s family, salary.

### ***CMS State Medicaid Manual § 2497.1***

Statement of Policy.-Federal financial participation (FFP) is available only for allowable actual expenditures made on behalf of eligible recipients for covered services rendered by certified providers. Expenditures are allowable only to the extent that, when a claim is filed, you have adequate supporting documentation in readily reviewable form to assure that all applicable Federal requirements have been met.

### ***CMS State Medicaid Manual § 2500.2(A)***

Report only expenditures for which all supporting documentation, in readily reviewable form, has been compiled and which is immediately available when the claim is filed. Your supporting documentation includes as a minimum the following: date of service, name of recipient, Medicaid identification number, name of provider agency and person providing the service, nature, extent, or units of service, and the place of service.

### ***CMS State Medicaid Director Letter (SMDL #06-009), March 31, 2006***

Expenditures for transportation may be claimed as administrative costs of the State plan. Or the State may elect to include transportation as medical assistance under its State Medicaid plan, but use a direct vendor payment system consistent with applicable regulations.

### ***New Jersey Department of Human Services, DAB No. 1090 (1989) at 3***

[W]hen the method of transportation is by a separate provider who is paid directly as a vendor, such as an ambulance service, for instance, then this is called medical transportation. This is claimed as a medical service and reimbursement is at the State’s federal medical assistance percentage rate. If the transportation is provided in any other way, such as by a State employee driving the patient to a doctor, or paying for the patient to go by taxi or on a bus, then that is “non-medical” transportation. These costs are claimed as administrative expenditures, and are reimbursed at the normal 50% rate.

**Texas Health & Human Services Commission, DAB No. 2114 (2007) at 17**

[T]he regulation on transportation for which the FMAP rate is available refers to transportation “furnished only by a provider to whom a direct vendor payment can appropriately be made by the agency.”

**STATE REQUIRMENTS**

**10A NCAC 22F.0107**

All Title XIX [Medicaid] providers<sup>20</sup> shall keep and maintain all Medicaid financial, medical, or other records necessary to fully disclose the nature and extent of services furnished to Medicaid recipients and claimed for reimbursement. These records shall be retained for a period of not less than five years from the date of service, unless a longer retention period is required by applicable federal or state law, regulations or agreements.

**10A NCAC 71I.0102**

Transportation services may be provided directly by the county department of social services, or through purchase of service contracts, or by vendor payment, or by cash payment to the client, or through volunteers. The department of social services may choose to use one or more of these methods concurrently. The transportation resources chosen shall appropriately meet the clients’ individual needs in the most cost effective manner possible.

(1) Direct Provision. (a) Driver Qualifications. All county departments of social services staff, including full-time drivers, volunteers, and other staff whose regular primary responsibilities include transporting clients to and from service resources must be at least 18 years of age and hold an appropriate operator’s license .... (b) Insurance Requirements. County departments of social services providing direct transportation services shall have sufficient liability and comprehensive insurance coverage to adequately protect the agency and the individuals transported. A guide for minimum coverage shall be the amount required for common carrier-passenger vehicles by the North Carolina Utilities Commission, Department of Commerce, 430 N. Salisbury Street, 4325 Mail Service Center, Raleigh, NC 27699-4325.

(2) Purchase Contracts and Vendor Agreements. (a) Driver Qualifications. Drivers operating under a transportation services contract must be at least 18 years of age and must hold an appropriate operator's license as required by G.S. 20-7. (b) Minimum insurance requirements for contracted services transportation services contractors must have liability and comprehensive insurance coverage no

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<sup>20</sup> Title XIX of the Social Security Act established the Medicaid program. Entities that render services under the program are Medicaid providers.

less than the minimum required for common carrier-passenger vehicles by the North Carolina Utilities Commission ....

(3) Public Conveyance. (a) Maximum Rates. Maximum rates and reimbursement for direct purchase of services by public conveyance is the established standard charge for taxi service, city bus fare, intercity bus tickets, railway passenger rates, tourist class air fare, etc. established by the controller. (b) Driver Qualifications. Public conveyance operators must meet the statutory requirements for their classification and operator responsibilities. (c) Minimum Insurance Requirements. Each public conveyance agency must have liability and comprehensive insurance coverage for its particular classification no less than the minimum required by the laws of North Carolina and where applicable by federal regulations.

(4) Payment to Friends, Relatives and Others. (a) Maximum Rates and Reimbursement. A relative, friend or other nonrelated individual who provide transportation for a client may be paid up to the state's maximum travel allowance per vehicle mile for automobile expenses ..., and up to the federal minimum hourly wage for time spent providing the service. (b) Driver Qualifications. An individual providing transportation under a vendor payment agreement as a relative, friend or other non-related individual must hold a valid operator's license, as required by law. (c) Minimum Insurance Requirements. An individual providing transportation under a vendor payment agreement as a relative, friend or other nonrelated individual and using his own vehicle must have at least the minimum liability insurance coverage required by law on the vehicle used to transport the client.

(5) Cash Payments. County departments of social services may provide transportation through cash payments in accordance with policies relating to cash payments issued by the Director of the Division of Health Service Regulation to eligible individuals who are capable of arranging and purchasing transportation for themselves.

(6) Volunteers. Volunteers attached to county department of social services, as members of volunteer service agencies or groups or as independent individuals may be used in various ways to support the transportation program. Volunteers whose regular responsibilities include driving clients to resources shall be at least 18 years of age, hold an appropriate operator's license ... and carry at least the minimum insurance coverage on the vehicle used to transport clients as is required by the North Carolina Utilities Commission for common carrier-passenger vehicles.

### **North Carolina Medicaid State Plan, Attachment 3.1-D, Page 1**

The North Carolina Division of Medial Assistance, or its designated agent, shall assure that necessary NEMT services are provided for beneficiaries who have a

need for assistance with transportation. The designated agent is the county departments of social services.

**North Carolina Medicaid State Plan, Attachment 3.1-D, Page 2**

If transportation is not available without charge, payment will be made for the least expensive appropriate means of transportation available, including personal vehicle, multi-passenger van, wheelchair van, bus, taxi, train, ambulance, and other forms of public and private conveyance.

Mileage costs incurred shall not exceed the current IRS business rate. Mileage costs incurred by recipients and financially responsible persons shall not exceed half the current IRS business rate. Payments to beneficiaries, financially responsible individuals and volunteers are provided as an administrative service and reimbursement for these services is claimed at the administrative rate.

## APPENDIX C: AUDIT SCOPE AND METHODOLOGY

### SCOPE

We identified approximately \$96.2 million (\$63.1 million Federal share) in NEMT services provided by the State's 100 counties that the State agency claimed as NEMT on Form CMS-64.9 during our audit period. Of this amount we focused our review on \$96 million (\$63 million Federal share) and selected a random sample of 20 county-months. This sample was drawn from the 1,895 county-months in SFYs 2013 and 2014 for which the State agency paid a county at least \$3,000. For each sampled county-month, we selected a random sample of 10 transportation services for a total of 200 sample items.

The 20 county-months that we selected for review contained 18,153 NEMT services totaling \$583,074 (\$382,603 Federal share). Of the 18,153 transportation services, our sample of 200 NEMT services totaled \$6,830 (\$4,483 Federal share).

We also reviewed the State agency's process of claiming Federal reimbursement of approximately \$79.8 million (\$47.7 Federal share) in expenditures for services provided by ambulances and ACHs and expenditures that the counties reported as administrative costs.<sup>21</sup>

We limited our review of internal controls to those related to our objective. We conducted fieldwork at the State agency's offices in Raleigh, North Carolina; county departments of social services offices; and transportation vendors located throughout North Carolina from March 2015 through September 2015.

### METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal and State laws, regulations, and policies;
- held discussions with State agency officials to gain an understanding of the NEMT program;
- reconciled expenditures for NEMT services provided by the State's 100 counties, ambulance providers, and ACHs reported on Form CMS-64.9 to the State agency's accounting records;
- reconciled NEMT administrative expenditures reported on Form CMS-64.10 to the State agency's accounting records;
- created a sampling frame for the first stage of our sample design consisting of 1,895 county-months from which we selected 20 (Appendix D);

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<sup>21</sup> We did not review the validity of these expenditures under this audit because these expenditures were subject to different criteria than the expenditures in our sample. We may review the validity of some or all of these expenditures in future audits.

- held discussions with the selected county officials and reviewed the county policies and procedures to gain an understanding of how the officials provided and documented services rendered;
- reconciled, for each selected county-month, the counties' reimbursement invoices to their logs of individual NEMT services provided;
- selected a random sample of 10 NEMT services for each county-month (Appendix D);
- reviewed and verified for each sample item:
  - beneficiary files; gas vouchers; trip logs and manifests; vendor invoices and contracts; driving and criminal histories; vehicle insurance, registration, and inspection records; and additional documentation to determine compliance with Federal and State requirements; and
  - the accuracy of the costs claimed for reimbursement by the counties;
- discussed the results of our sample with the respective county officials;
- estimated the Medicaid reimbursement paid to the State agency for unallowable NEMT services identified in our sample (Appendix E);
- reviewed the State agency's process of claiming Federal Medicaid reimbursement of expenditures for NEMT services provided by ambulances and ACHs and expenditures that the counties reported as NEMT administrative costs;
- discussed the results of our review with State agency officials.

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 expenditures for Medicaid NEMT services provided by counties that the State agency claimed on line 29 of Form CMS-64.9 for SFYs 2013 and 2014.

### **SAMPLING FRAME**

The State agency provided Excel spreadsheets from the North Carolina Accounting System containing monthly NEMT expenditures that were paid to each of the 100 counties in SFYs 2013 and 2014. The State agency subsequently claimed these expenditures for Federal reimbursement. We combined the spreadsheets into a single list of 2,400 county-months with expenditures totaling \$96,204,554 (\$63,124,415 Federal share). We removed:

- 370 county-months for which the State agency made no payment to the county and
- 135 county-months for which the State agency paid the county less than \$3,000.

The resulting Excel spreadsheet contained 1,895 county-months with Medicaid expenditures totaling \$96,035,990 (\$63,013,855 Federal share), which was our sampling frame.

### **SAMPLING UNIT**

The primary sample unit was a single county-month. The secondary sample unit was a single NEMT service from the county's transportation log.

### **SAMPLE DESIGN**

We used a multistage sample design. The first stage consisted of a random selection of county-months from the sampling frame. The second stage consisted of a random selection of NEMT services that were reimbursed by the State agency.

### **SAMPLE SIZE**

We randomly selected 20 county-months as the primary sample units. For the secondary units, we randomly selected 10 NEMT services for each county-month, for a total of 200 items.

### **SOURCE OF RANDOM NUMBERS**

We generated the random numbers using OIG, Office of Audit Services (OAS), statistical software.

## **METHOD FOR SELECTING SAMPLE ITEMS**

For the first stage, we consecutively numbered the county-months in the sampling frame. After generating 20 random numbers, we selected the corresponding county-months.

For the second stage, we consecutively numbered the NEMT services within each of the sampled county-months. After generating 10 random numbers for each of the sampled county-months, we selected the corresponding frame items.

## **ESTIMATION METHODOLOGY**

We used OIG/OAS statistical software to estimate the Federal reimbursement paid to the State agency for unallowable NEMT services at the lower limit of the two-sided 90-percent confidence interval. Our estimation method accounted for the multistage nature of our sampling design.

**APPENDIX E: SAMPLE RESULTS AND ESTIMATES**

**Table 4: Sample Results**

<b>Frame Size for the Selected Months</b>	<b>Value of Frame for the Selected Months</b>	<b>Sample Size</b>	<b>Value of Sample</b>	<b>Value of Sample (Federal Share)</b>	<b>Number of Unallowable Items</b>	<b>Value of Unallowable Items</b>	<b>Value of Unallowable Items (Federal Share)</b>
18,153	\$583,074	200	\$6,830	\$4,483	118	\$3,942	\$2,546

**Table 5: Unallowable Sample Items and Expenditures**

<b>County-Month</b>	<b>Number of Unallowable Items</b>	<b>Value of Unallowable Items</b>	<b>Value of Unallowable Items (Federal Share)</b>
County-Month 1	1	\$21	\$11
County-Month 2	10	424	277
County-Month 3	8	168	110
County-Month 4	5	80	52
County-Month 5	2	267	176
County-Month 6	1	7	3
County-Month 7	10	130	85
County-Month 8	8	217	123
County-Month 9	8	593	390
County-Month 10	9	258	169
County-Month 11	5	139	91
County-Month 12	5	309	199
County-Month 13	7	40	20
County-Month 14	7	34	22
County-Month 15	4	161	106
County-Month 16	8	511	336
County-Month 17	0	0	0
County-Month 18	10	134	88
County-Month 19	3	43	21
County-Month 20	7	406	267
<b>Total</b>	<b>118</b>	<b>\$3,942</b>	<b>\$2,546</b>

## ESTIMATES

**Table 6: Estimated Value of Unallowable Items**  
*(Limits Calculated for a 90-Percent Confidence Interval)*

Point Estimate	\$30,141,518
Lower Limit	18,703,434
Upper Limit	\$41,579,602

**Table 7: Estimated Value of Unallowable Items (Federal Share)**  
*(Limits Calculated for a 90-Percent Confidence Interval)*

Point Estimate	\$19,558,341
Lower Limit	12,011,228
Upper Limit	\$27,105,454

# APPENDIX F: STATE AGENCY COMMENTS



## North Carolina Department of Health and Human Services

Pat McCrory  
Governor

August 29, 2016

Richard O. Brajer  
Secretary

Lori S. Pilcher, Regional Inspector  
General for Audit Services  
Office of Audit Services, Region IV  
61 Forsyth Street, SW, Suite 3141  
Atlanta, GA 30303

Re: Report Number: A-04-15-04037

Dear Ms. Pilcher:

We have reviewed your draft report entitled *North Carolina Improperly Claimed Federal Reimbursement for Some Medicaid Nonemergency Transportation Services* covering the audit period for State fiscal years 2013 and 2014. North Carolina's NEMT program provides medical transportation through a county-administered model. The program design allows citizens to obtain the needed transportation services in a cost effective and timely manner. While your report identified some areas for improvement, the Department disagrees with the conclusions as presented in this audit. The following represents our response to the findings and recommendations.

### Service Eligibility for Federal Reimbursement

The State Agency (Department) conducted a preliminary review of the errors relevant to the findings identified by the Office of Inspector General (OIG) as detailed in the draft report. As a result of this initial review and working directly with the relevant local Departments of Social Services, the Department obtained additional supporting documentation that verified that a number of the trips identified as deficient in the OIG draft report were in full compliance with NEMT policies.

Consistent with other states and as referenced in this audit, in order to fully and adequately address the OIG recommendation, the Department will continue to fully examine, review and validate all sample items noted as deficient. Additional supporting documentation will be requested from local Departments of Social Services and other appropriate sources as deemed necessary to remediate as appropriate any outstanding exceptions through the audit resolution process. Upon resolution, DHHS will also coordinate with CMS to re-examine all remaining exceptions for validity and modify the statistical extrapolation based upon the confirmed errors.

In order to assure that counties exercise a higher level of accountability while administering NEMT services, NEMT providers will be required to directly enroll in the State's MMIS system and adhere to the payment authorization requirements of this system. Implementation of direct enrollment will begin September 1, 2016 with six pilot counties to test the new model. The remaining ninety-four counties will implement the direct enrollment process in the first quarter of calendar year 2017. The Department will conduct baseline billing and create algorithms to identify potential aberrant billing practices and patterns

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with NEMT providers. Any anomalous claiming will be analyzed to determine appropriate courses of action including provision of technical assistance and making recoveries as deemed appropriate.

**Administrative Expenditures for Reimbursement at the Federal Medicaid Assistance Percentage Rate**

The Department disagrees with OIG's audit finding related to the classification of certain NEMT services as only eligible for reimbursement as administrative expenditures (Federal Financial Participation at 50%) versus the enhanced (Federal Medical Assistance Percentage) rate for the following reasons:

First, the county Division of Social Services (DSS) offices serve as the Department's agents for the NEMT program. The DSS teams assure that necessary NEMT services are provided for beneficiaries who have a need for assistance with transportation. The expenses are captured in the counties' accounting systems, and NEMT services are separated from other unrelated activities. Certain NEMT services (i.e., vehicle expenses, salaries of transport staff, and reimbursements of family member transports) are then charged to the NEMT medical service categories, and submitted either to DMA or to DSS for reimbursement. The NEMT service costs incurred by DSS (via the counties) are then reimbursed by DMA via intergovernmental transfers – in essence, a direct vendor payment.

Second, the OIG indicated mileage reimbursement to “beneficiaries, beneficiaries' relatives and friends, agency staff, and volunteers”, billed by the counties to DMA, was ineligible for FMAP. The audit report referenced the NC State Plan version of 12-011, which listed certain services (payments to beneficiaries, financially responsible individuals and volunteers) as designated administrative costs. However, CMS approved a revision to the NC State Plan (16-004) that removed the administrative classification of these costs (payments to beneficiaries, financially responsible individuals and volunteers). In effect, this change allows DHHS to use the higher federal match for the expenditures highlighted in OIG's report.

**Safety and Risk Management Policy Requirements**

Between November 2013 and June 2014 the monitoring contractor performed on-site audits in all 100 counties to review adherence to state NEMT policies including Safety and Risk Management requirements. The reviews concluded that fifty-seven counties were in full compliance with NEMT transportation Safety and Risk Management policies.

Between November 2015 and May 2016 the monitoring contractor completed follow-up reviews for the forty-three counties cited with compliance issues. As a result, each cited county was required to submit a corrective action plan within thirty days of their review to be completed no later than July 21, 2016. Additionally, the monitoring contractor provided a final report dated July 31, 2016 to the Division detailing all findings. The Department is currently reviewing these findings and will follow-up with county Departments of Social Services as appropriate on corrective action plans. Any necessary policy revisions will also be communicated to the counties through Administrative Letters.

As previously indicated, DMA will also require enrollment of all NEMT providers through the Medicaid Management Information System (NC Tracks). As a result of this requirement, NEMT providers will be subject to extensive credentialing including reviews of background checks, histories of State penalties and for presence on federal exclusion databases. This will provide a greater oversight of safety and risk management for NEMT vendors. After all counties are enrolled in the MMIS system, the Department will determine each county's risk based on its performance. At risk counties may warrant additional audits

and/or technical assistance to improve safety and risk management performance. This information will be utilized to target training and technical assistance as appropriate to local Departments for Social Services.

### **Program Design and Oversight**

Since policy changes reflecting the enrollment requirements of the Affordable Care Act were implemented in February 2012, the Department has worked continuously to increase the oversight and monitoring of the NEMT program by initiating a progressively focused audit strategy. With the goal of providing education and performance feedback to local Departments of Social Services, statewide on-site audits were performed between June 2012 and February 2013 to support enhanced compliance with transportation policies.

The county on-site audits performed by the monitoring contractor between November 2013 and June 2014 included examinations of a minimum of 30 trips for all 100 counties. Enhanced reviews of 60 trips were performed on heavily populated counties such as Wake and Mecklenburg. In total, 3,150 individual NEMT trips were reviewed in detail utilizing criteria derived from federal and state regulations and policy. Fifty-seven counties were found to be in full compliance with NEMT transportation policies.

For the remaining forty-three counties cited with compliance issues, additional audit efforts were conducted from November 2015 to May 2016. Specifically, one-hundred trips were reviewed for each of these counties during on-site reviews. Audit results are currently under review and targeted strategies to increase compliance in these counties will be developed based upon the results of the audits. This will include enhancing the scope of work within the NEMT monitoring contractor to ensure adequate oversight of the program.

Statewide efforts to ensure compliance with NEMT policies will include: training for counties on revised NEMT policies or procedures, engagement of the county directors on identified issues and new policies during monthly meetings, and utilization of statewide or regional meetings and conferences for presentations, problem-solving and training. Targeted follow-up with specific counties or training on subsequent identified issues will also be conducted as necessary.

Specific statewide efforts to enhance compliance with NEMT policies currently include:

- Enhancing the scope of work within the NEMT monitoring contractor to ensure adequate oversight of the program.
- Providing statewide training to all 100 County DSSs on all revised NEMT policies by the DHHS Operational Support Team (OST).
- NEMT policy training will be added to the agenda of the Annual County DSS Director's Association Meeting to present information on NEMT, including revised policies.
- A session on NEMT will also be included in the Social Services Institute conference held October 2016.
- The Department will follow up with relevant county DSS on corrective action plans developed as a result of the NEMT monitoring completed by the vendor on July 31, 2016 to ensure counties' adhere to NEMT policy.

We greatly appreciate the professionalism of your review staff.

Ms. Lori Pilcher  
August 29, 2016  
Page 4 of 4

If you need any additional information, please contact Mary R. Johnson at (919) 855-3738.

Sincerely,

/Richard O. Brajer/

Richard O. Brajer

ROB:mrj

cc: Dave Richard, Deputy Secretary of Medical Assistance  
Trey Suttan, Chief Financial Officer, Division of Medical Assistance  
Rob Kindsvatter, Director of Compliance and Program Integrity  
Sandy Terrell, Director of Clinical Policy  
Lisa Corbett, Acting General Counsel  
Rod Davis, Chief Financial Officer  
Laketha M. Miller, Controller  
Chet Spruill, Director, Office of Internal Audit  
John E. Thompson, Manager, Risk Mitigation & Audit Monitoring