

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**MASSACHUSETTS MADE AT LEAST
\$14 MILLION IN IMPROPER MEDICAID
PAYMENTS FOR THE NONEMERGENCY
MEDICAL TRANSPORTATION PROGRAM**

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January 2021
A-01-19-00004

Office of Inspector General

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Report in Brief

Date: January 2021

Report No. A-01-19-00004

U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF INSPECTOR GENERAL



Why OIG Did This Audit

The Medicaid program pays for nonemergency medical transportation (NEMT) services that a State determines to be necessary for beneficiaries to obtain care. Prior OIG audit reports have consistently identified NEMT services as vulnerable to fraud, waste, and abuse.

Our objectives were to determine whether Massachusetts: (1) claimed Federal Medicaid reimbursement for NEMT service claims in accordance with Federal and State requirements and (2) ensured that NEMT providers adequately documented driver qualifications and maintained vehicle records.

How OIG Did This Audit

We reviewed Massachusetts's monitoring and oversight of its NEMT brokerage program, including compliance with certain Federal and State requirements to determine whether: (1) the beneficiary received a qualifying medical service on the date of transportation, (2) there was adequate documentation supporting the NEMT service, (3) the NEMT service was provided, and (4) driver and vehicle qualifications complied with State regulations. We reviewed 100 randomly sampled claim lines of service from the 896,792 lines of service between January 1, 2016, to December 31, 2017, for which Massachusetts paid \$17.3 million.

Massachusetts Made at Least \$14 Million in Improper Medicaid Payments for the Nonemergency Medical Transportation Program

What OIG Found

Massachusetts claimed Federal Medicaid reimbursement for 86 of 100 sampled lines of service submitted by transportation providers that did not comply with certain Federal and State requirements. The improper claims for unallowable services were made because the State's monitoring and oversight of the NEMT program did not ensure that NEMT services were for qualifying medical services and were adequately documented. In addition, for all 100 sample items, driver qualifications and vehicle inspection, registration, and maintenance policies or schedules were not adequately documented.

On the basis of our sample results, we estimated that at least 758,847 Medicaid claims totaling \$14,142,730 (\$7,071,365 Federal share) did not comply with certain Federal and State regulations. In addition, because there was insufficient information and documentation to assess compliance with driver qualifications and vehicle requirements, we cannot be assured that the beneficiaries were transported by qualified drivers and in safely maintained vehicles. These deficiencies occurred because Massachusetts did not provide adequate oversight of the NEMT program.

What OIG Recommends and Massachusetts Comments

We made several recommendations to the Massachusetts Executive Office of Health and Human Services, including that it: (1) refund \$7,071,365 million to the Federal Government, (2) perform data matches to all claims billed on the day of an NEMT service to ensure only NEMT claims are paid when there is a corresponding qualifying medical service, (3) work with its brokers to ensure that documentation contains all necessary elements to support the NEMT service, (4) evaluate opportunities to better monitor transportation services, and (5) work with its brokers to implement controls that ensure drivers and vehicles used to provide NEMT services can be directly and clearly traced to the correct driver qualifications and vehicle records.

In written comments on our draft report, Massachusetts concurred with three of our recommendations, generally or partially concurred with two of our recommendations, and did not concur with one recommendation. The State said that our findings identify opportunities for it to improve the integrity of its nonemergency transportation program, and we believe the State's actions address the recommendation with which it did not concur.

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INTRODUCTION

WHY WE DID THIS AUDIT

The Medicaid program pays for nonemergency medical transportation (NEMT) services that a State determines to be necessary for beneficiaries to obtain care. Prior Office of Inspector General (OIG) audit reports have consistently identified NEMT services as vulnerable to fraud, waste, and abuse.¹ During the period January 1, 2016, through December 31, 2017, the Massachusetts Executive Office of Health and Human Services (State agency) claimed approximately \$17.3 million (\$8.6 million Federal) for NEMT payments.

OBJECTIVES

Our objectives were to determine whether the State agency: (1) claimed Federal Medicaid reimbursement for NEMT service claims in accordance with Federal and State requirements and (2) ensured that NEMT providers adequately documented driver qualifications and maintained vehicle records.

BACKGROUND

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.

Federal regulations require each State to ensure that Medicaid beneficiaries have transportation to and from medical providers and to describe in its State plan the methods the State will use to meet this requirement (42 CFR § 431.53). Federal regulations define transportation expenses as costs for transportation and other related travel expenses that the State deems necessary to secure medical examinations and treatment (Medicaid-covered services) for beneficiaries (42 CFR § 440.170(a)(1)).

¹ See Appendix B for related OIG audits.

Massachusetts's Nonemergency Medical Transportation Program

In Massachusetts, Medicaid and the Children's Health Insurance Program (CHIP)² are combined into one program called MassHealth. MassHealth covers nonemergency transportation services, doctor's visits, prescription drugs, hospital stays, and many other important services for eligible beneficiaries. (See Appendix C for a description of eligibility requirements.) The State agency has established a Human Service Transportation (HST) Office, which uses a broker system of managing transportation services for eligible Medicaid beneficiaries. In Massachusetts, the term "broker" is used to describe the regional transit authorities (RTAs) responsible for administering the NEMT in defined geographic areas.³ The brokers provide NEMT services through the Demand-Response Transportation Model and Program-Based Transportation Model.⁴ The State agency contracts with the brokers to schedule, arrange, and authorize NEMT services under the Demand-Response Transportation Model. The State agency defines the Demand-Response Transportation Model as a response to an approved request for transportation to a covered medical service excluding day habilitation (Massachusetts Executive Office of Health and Human Services Contract § 2). The brokers are under contractual agreement with the State agency to arrange the transportation for eligible Medicaid beneficiaries in a designated HST service area.⁵ The brokers are also contractually responsible for recruiting, hiring, and screening transportation providers.

Demand-Response Transportation Model

In the Demand-Response Transportation Model, medical providers submit a "prescription for transportation" (PT-1)⁶ to MassHealth on behalf of beneficiaries to request Medicaid reimbursable transportation services. MassHealth reviews the PT-1 forms, authorizes them,

² CHIP provides health coverage to eligible children, through both Medicaid and separate CHIP programs. CHIP is administered by States, according to Federal requirements. The program is funded jointly by States and the Federal Government.

³ The 15 RTAs in the Commonwealth of Massachusetts were created in 1974 with the enactment of chapter 161B of the Massachusetts General Laws. These RTAs manage bus and van services in cities and rural areas with the help of private operating companies and other contractors and provide public transportation to more than 31 million passengers each year, primarily outside of the Greater Boston area which is served by the Massachusetts Bay Transit Authority.

⁴ The State agency defines the Program-Based Transportation model as transportation that occurs on a regular schedule (e.g., daily) to a common program or destination facility, typically provided on a scheduled route, grouped trip basis.

⁵ An HST service area is a designated geographical area where NEMT services are provided by assigned RTAs.

⁶ A PT-1 is a form used to document the necessity of nonemergency medical transportation for eligible MassHealth participants (130 CMR 407.402).

and sends the authorized forms to the brokers. After the brokers receive the authorized PT-1 forms, the beneficiaries request trips over the phone or online from the brokers by giving the date and time of their appointments. The brokers then check and compare the beneficiaries' requests to the authorized PT-1 forms for NEMT services and arrange trips in the appropriate vehicles (e.g., chair van, taxi, etc.) from a pool of available transportation providers under contract with the brokers.

For NEMT service reimbursement, transportation providers are required to submit invoices and supporting documentation, such as driver factsheets,⁷ to the broker within 30 days of the beneficiary's transportation to or from a qualifying medical service. Brokers must pay the transportation providers within 45 days of receipt of complete and accurate invoices. The State agency reimburses the brokers at the contracted rate for each trip.

HOW WE CONDUCTED THIS AUDIT

Our audit covered \$17.3 million in Medicaid payments to two high-volume brokers for Medicaid beneficiaries eligible for NEMT services for which a qualifying medical service was not billed for the same date the paid NEMT service was provided.⁸ Our sample unit was one NEMT line of service. The NEMT lines of service were paid by Medicaid and had dates of service from January 1, 2016, to December 31, 2017. We reviewed a stratified random sample of 100 lines of service from the 896,792 lines of service in our sampling frame. We obtained and reviewed documentation from each broker to determine whether the lines of service complied with applicable Federal and State requirements. We also sent a letter and questionnaire to the medical providers listed on the PT-1s associated with our sampled lines of service to verify that no qualifying medical service was provided on the same date as the NEMT service.

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 A contains details of our audit scope and methodology, Appendix C contains the Federal and State regulations for the NEMT program, Appendix D contains our statistical

⁷ The Massachusetts Executive Office of Health and Human Services Contract requires brokers to maintain driver factsheets or similar documentation (Massachusetts Executive Office of Health and Human Services Contract Appendix 1, § V, 9). In discussions with State agency officials, they stated that a factsheet should include information from the PT-1, such as consumer name, pickup and drop off addresses, date of ride, and appointment time.

⁸ The MassHealth agency pays for transportation services only when such services are covered under the beneficiary's MassHealth coverage type and only when members have traveled to obtain medical services covered under the beneficiary's coverage type (130 CMR 407.411).

sampling methodology, Appendix E contains our sample results and estimates, and Appendix F shows the errors and deficiencies for each sampled claim.

FINDINGS

The State agency did not: (1) always claim Federal Medicaid reimbursement for NEMT services in accordance with Federal and State requirements and (2) ensure that NEMT providers adequately documented all driver qualifications and maintained all vehicle records. Of the 100 sampled lines of service in our stratified random sample, 14 complied with Federal and State requirements, but 86 did not. Specifically, these lines of service had at least 1 of the following errors (some sample items contained more than 1 error):

- the beneficiary did not receive a qualifying medical service on the date of the NEMT service (48 sample items),
- the NEMT broker could not provide sufficient documentation to support that the NEMT service was provided to the beneficiary (62 sample items), and
- NEMT services were not provided to beneficiaries but were submitted for Federal Medicaid reimbursement (2 sample items).

In addition, for all 100 sample items, the State agency did not ensure that NEMT providers adequately documented driver qualifications and maintained vehicle records.⁹

The State agency did not provide adequate oversight of the NEMT program. Specifically, the State agency's monitoring of the NEMT program was inadequate because it did not perform oversight activities, such as:

- payment data matches that would identify NEMT lines of service for which there was no qualifying medical service on the date of the NEMT service and
- controls that ensure brokers had sufficient documentation to support NEMT services, driver qualifications, and vehicle maintenance safety records.

⁹ Driver qualifications include the following: valid driver's license, Criminal Offender Record Information check, Registry of Motor Vehicles history, a drug screen, a physical examination, and mandatory training (Massachusetts Executive Office of Health and Human Services Contract Appendix 1, § IV, A). These requirements must be certified with the HST Annual Driver Inspection Report (Massachusetts Executive Office of Health and Human Services Contract § 5.2). Vehicle records include valid registration with the State Registry of Motor Vehicles and an HST Annual Vehicle Safety Report (Massachusetts Executive Office of Health and Human Services Contract §§ 5.2, 5.3).

In addition, the State agency did not include in the broker contract the necessary authority needed by the brokers to deny transportation requests for unverified medical services.

Because the State agency did not ensure that brokers and transportation providers complied with Federal and State requirements, Massachusetts received Federal Medicaid reimbursement for which it was not entitled. On the basis of our sample results, we estimated that at least 758,847 NEMT lines of service with payments totaling \$14,142,730 (\$7,071,365 Federal share) did not comply with certain Federal and State requirements. Without information and documentation to assess compliance with driver qualifications and vehicle requirements, we cannot be assured that the beneficiaries were transported by qualified drivers and in safely maintained vehicles.

THE STATE AGENCY DID NOT COMPLY WITH FEDERAL AND STATE REQUIREMENTS FOR MOST NEMT SERVICES CLAIMED FOR MEDICAID REIMBURSEMENT

For the period of our audit, the State agency did not always claim Federal Medicaid reimbursement for NEMT services in accordance with Federal and State requirements. Of the 100 sample items reviewed, 86 were unallowable for Medicaid reimbursement (some sample items had more than one error).

Federal and State Requirements

A State Medicaid plan must require that providers of services maintain records as are necessary to fully disclose the extent of services provided to Medicaid beneficiaries (the Act § 1902(a)(27)).

Federal regulations require each State to ensure necessary transportation for Medicaid beneficiaries to and from providers and to describe in its State plan the methods that the State will use to meet this requirement (42 CFR § 431.53).

Transportation includes expenses for transportation and 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 plan may provide for the establishment of a NEMT brokerage program in order to more cost-effectively provide nonemergency medical transportation services 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, secured transportation containing an occupant protection system that addresses safety needs of disabled or special needs individuals, and other forms of transportation otherwise covered under the State plan (42 CFR § 440.170(a)(4)). The State agency provides nonemergency transportation through broker contracts when no

public transportation is available that is suitable to a beneficiary's condition within a specified distance from an authorized point of origin and destination (Massachusetts State Plan attachment 3.1-D).

The broker must ensure, either directly or through its transportation providers, that it performs 100 percent of trips with a completed and signed transportation request (Massachusetts Executive Office of Health and Human Services Contract § 5.1).

Medicaid Beneficiaries Did Not Receive a Qualifying Medical Service on the Date of Nonemergency Transportation

The State pays for transportation services only when such services are covered under the beneficiary's MassHealth coverage type and only when beneficiaries are traveling to obtain medical services covered under the beneficiary's coverage type (130 CMR 407.411).

The State agency claimed unallowable Federal Medicaid reimbursement for 48 sample items for which beneficiaries did not receive a qualifying medical service on the date of the NEMT service. Through our review of the data contained in the State's Transformed Medicaid Statistical Information System (T-MSIS)¹⁰ and an inquiry to the medical service providers listed on the PT-1, we determined that no medical services were provided on the date the beneficiary received NEMT services.

For example, a beneficiary had a prescription for transportation to receive methadone treatment; however, the T-MSIS data and the methadone provider confirmed that methadone treatment was not provided to the beneficiary on that date. In another example, the group therapy, for which transportation was needed, was canceled by the medical service provider.

The Brokers Could Not Provide Adequate Documentation Supporting Claimed NEMT Services

Brokers must maintain all records and other data to substantiate broker services and the direct transportation service delivery to beneficiaries (Massachusetts Executive Office of Health and Human Services Contract, § 6.5). Transportation providers must ensure that drivers carry and maintain "factsheets" (e.g., trip logs) for all beneficiaries on their route. Drivers must maintain legible and complete factsheets (Massachusetts Executive Office of Health and Human Services Contract Appendix 1 § V. 9).

¹⁰ T-MSIS is a critical Medicaid and CHIP data system designed to provide CMS with the information it needs to fulfill its duties in conducting program oversight and to provide other stakeholders with information they need to evaluate Medicaid and CHIP performance. T-MSIS data include information about beneficiary eligibility, beneficiary and provider enrollment, service utilization, claims and managed care data, and expenditure data for Medicaid and CHIP (Georgetown University Health Policy Institute, "More News on T-MSIS – Medicaid's Transformed Statistical Information System").

The State agency will not reimburse the transportation brokers' claims if the provider does not have adequate documentation to substantiate the provision of services payable under Medicaid (130 CMR 450.205).

For 62 of the 100 sample items, brokers did not provide sufficient documentation, such as driver factsheets, to support the NEMT services that transportation providers claimed. Specifically, brokers could not provide us with driver factsheets for 38 sample items. For the remaining 24 sample items, the driver factsheets provided did not include information such as the pickup and dropoff address, date of ride, and appointment time to support that a trip was provided.

Nonemergency Transportation Services Were Not Provided to Beneficiaries but Claimed for Federal Medicaid Reimbursement

The State agency will not reimburse the transportation brokers' claims if the provider does not have adequate documentation to substantiate the provision of services payable under Medicaid (130 CMR 450.205).

The State agency will only reimburse for NEMT services when Medicaid beneficiaries are traveling to obtain qualifying medical services (130 CMR 450.411).

For 2 of the 100 sample items, the transportation provider did not provide services to the beneficiary on the date that was billed. The broker provided correspondence with the transportation companies explaining why the two sample items were billed in error. For one of these sample items, documentation from the broker showed that the beneficiary cancelled the transportation service and the claim for that trip was submitted in error. For the second sample item the transportation provider erroneously billed for the NEMT service because its dispatcher was not notified that the beneficiary was not transported to the medical service.

Estimate of Improper Payments for Nonemergency Medical Transportation Services

The State agency made improper payments for NEMT services that contained the errors described above. On the basis of our sample results, we estimated that at least 758,847 Medicaid NEMT lines of service with payments totaling \$14,142,730 (\$7,071,365 Federal share) did not comply with certain Federal and State requirements.

THE STATE AGENCY DID NOT ENSURE THAT PROVIDERS ADEQUATELY DOCUMENTED DRIVER QUALIFICATIONS AND MAINTAINED VEHICLE RECORDS

Federal and State Requirements

The State agency's broker contracts must require brokers to have oversight procedures to monitor beneficiary access and complaints and ensure that transportation is timely and that transport personnel are licensed, qualified, competent, and courteous (42 CFR 440.170(a)(4)(i)(b)).

According to the *Transportation Manual for MassHealth Providers* (Transportation Manual), the provider must ensure that drivers and attendants, prior to any contact with a beneficiary, provide written references and undergo a Criminal Offender Record Information (CORI) check. The CORI check must be in compliance with guidelines that the State agency may issue. The CORI check results must remain on file at the transportation provider's place of business and the CORI check must be conducted annually thereafter (130 CMR 407.405).

Transportation providers must ensure that all personnel meet applicable qualification requirements (valid driver's license, pass the CORI check, drug screening, and driving history). The transportation companies must maintain a personnel file on each driver (including owners when they have driving responsibilities). The transportation providers must also ensure that vehicles conform to all applicable Federal and State statutes, regulations, and standards including, but not limited to, the rules and regulations of the State agencies, the brokers, and the Registry of Motor Vehicles (RMV). Vehicles must be registered in Massachusetts, have passed inspection by RMV with written verification kept on file at the transportation provider, and be maintained in good working order. In addition, the contract requires annual desk inspections to review performance requirements that include vehicle maintenance policies and preventive maintenance schedule (Massachusetts Executive Office of Health and Human Services Contract § 5.2(D), Appendix 1, §§ II, A.4, III, A.2, and IV, D.1 and Appendix 4, Exhibit 1).

Adequate Documentation Was Not Maintained To Support Required Driver Qualifications and Vehicle Records

For all 100 sample items, the brokers did not ensure transportation providers complied with the requirements in the Transportation Manual and in the contractual agreement between the brokers and the State agency. The NEMT providers did not have documentation to support that required driver qualification checks and vehicle inspections, registration, and maintenance policies or schedules had been completed or were valid at the time of service. For 89 sample items (58 individual transportation providers), the State agency provided some

documentation¹¹ for the driver qualifications and vehicle inspection reports, registration, and maintenance checks; however, the State agency could not produce needed identifying information, such as driver names and vehicle descriptions, for all sample items. As a result, we could not determine whether driver qualifications and vehicle inspections, registration, and maintenance policies or schedule requirements were met. The State provided no documentation for the remaining 11 sample items.

Impact of Insufficient Information and Documentation Regarding Driver Qualifications and Vehicle Records

Because there was insufficient information and documentation to assess the compliance of the driver qualifications and vehicle check requirements, the safety of the beneficiaries who used the services of the State's NEMT program may have been put at risk. Without information and documentation to assess compliance with driver qualifications and vehicle requirements, we cannot be assured that the beneficiaries were transported by qualified drivers and in safely maintained vehicles.

THE STATE AGENCY'S MONITORING WAS INADEQUATE

The State agency did not provide adequate oversight of the NEMT program. Specifically, the State agency's monitoring of the NEMT program was inadequate because it did not perform oversight activities, such as:

- payment data matches that would identify NEMT lines of service for which there was no qualifying medical service on the date of the NEMT service; and
- controls that ensure sufficient documentation was maintained to support NEMT services, driver qualifications, and vehicle inspection, registration and maintenance policies or schedules.

In addition, the State agency did not ensure that contracts with brokers contained the necessary authority needed by the brokers to deny transportation requests for unverified medical services.

Limited Payment Data Matches to Medical Services Did Not Identify All Inappropriate NEMT Payments

The State agency performed only limited data matches to medical services, which did not identify all incorrect NEMT payments. Specifically, the State agency only performed data

¹¹ The State agency obtained the driver and vehicle documentation from the two brokers covered by this audit.

matches to identify patients who were inpatients at a hospital at the time of the NEMT service. If the NEMT service matched to an inpatient hospital stay (other than the first or last day of hospitalization), the claim for NEMT services was denied. However, this limited data match by the State agency did not consider whether any other types of noncovered medical services were provided on the day of the claimed NEMT service.¹² As a result, the State agency's data matches did not detect many incorrectly paid NEMT services when there was no qualifying medical service on the date of transportation.

Sufficient Documentation Was Not Maintained To Support NEMT Services or Connect Drivers and Vehicles to the Associated Records

Factsheets maintained by the broker were often missing elements required to support that NEMT services were provided and to link drivers and vehicles to the associated records. Missing elements included the pickup and dropoff addresses of a trip, date of transportation, beneficiary name, driver name, and vehicle description. As a result of the missing elements, we could not verify that NEMT services were provided or link drivers and vehicles to the associated records.

The State agency did not ensure brokers had adequate controls to support NEMT services. When factsheets were incomplete or missing, brokers had no other controls to verify the NEMT service was provided. Examples of such controls could include:

- Global positioning systems (GPS) or other electronic monitoring could be used to monitor transportation company drivers and confirm that beneficiaries were transported to the required destination.¹³
- Beneficiaries could verify they were in the vehicle on the day of the billed NEMT service. An improvement in controls, such as signing a transportation log or requiring drivers to take a date stamped photograph of beneficiary identification would help to verify that a beneficiary was in the vehicle on the day of the billed NEMT service.

The State agency did not include in the broker contract requirements to link NEMT services received by the beneficiaries to the drivers and vehicles that provided the services. For

¹² To qualify for NEMT, certain services are covered, and others are not. Covered services are those that require transportation to obtain medical services such as a physician's office visit. Examples of noncovered services include home health aide visits; personal care services; transportation to child day-care centers and nurseries; transportation to schools, summer camps, and recreational programs; and transportation to pharmacies to obtain medications (130 CMR 407.411(A) and (B)).

¹³ One of the brokers has begun to implement GPS monitoring of transportation company drivers. The broker has tested GPS monitoring with a small number of transportation companies and will make it mandatory in its upcoming contracts with the transportation companies.

example, the State agency did not require driver factsheets to include the NEMT driver's identity or the vehicle used to provide the NEMT services.¹⁴ Without this information we were unable to verify or connect the driver personnel qualifications and vehicle records provided by the State agency to the driver who provided the service and the vehicle used for the service.

The lack of oversight by the State agency to ensure brokers had adequate controls in place to maintain sufficient documentation for NEMT services and driver and vehicle record checks resulted in: (1) incomplete documentation from transportation companies and (2) illegible factsheets. For example, reviewing documentation would identify illegible factsheets and provide the transportation companies with the opportunity to create new documents and take steps to ensure future documents are legible. Without complete and legible documentation, we were unable to trace the required driver personnel qualifications and vehicle records to the NEMT service provided.

Brokers Lacked Authority To Deny Transportation Requests for Unverified Medical Services

Brokers must ensure that they provide transportation in response to all transportation requests. Brokers lacked the contractual authority to deny transportation requests when the medical appointments could not be verified. Specifically, the brokers' contracts with the State agency do not permit a broker to deny the transportation request if it cannot verify the medical appointment or if the destination is unclear (e.g., a physical therapy office may be listed as being at "the mall" without a specific address).

One of the brokers told us that the State agency should provide it with standard language informing the medical providers of the broker's authority to confirm medical appointments. However, the brokers are contractually required to schedule the NEMT service and submit the NEMT claim to the State for reimbursement even if they cannot confirm the medical appointments.

RECOMMENDATIONS

We recommend that the Massachusetts Executive Office of Health and Human Services:

- refund to the Federal Government \$7,071,365 in estimated overpayments for NEMT claim lines associated with NEMT services that did not comply with Federal and State requirements;

¹⁴ Identifying information includes the driver's first name, last name, or a unique identifier specific to the transportation company. The vehicle identification number, license plate number, and vehicle make/model can be used to identify the vehicle used for the NEMT service.

- perform data matches to all medical claims billed on the day of the NEMT service to ensure NEMT lines of service are paid only when there is a corresponding qualifying medical service;
- work with its brokers to implement controls that ensure NEMT services are sufficiently supported by:
 - requiring brokers to verify that documentation contains all the necessary elements (in a legible manner) to support the NEMT service,
 - evaluating whether GPS or other monitoring of drivers would be an effective control to verify whether transportation had occurred or was to the destination listed on the PT-1, and
 - implementing controls that verify that the beneficiary was in the vehicle on the day of the billed NEMT service;
- work with its brokers to implement controls that ensure drivers and vehicles used to provide NEMT services can be directly and clearly traced to the associated driver qualifications and vehicle records;
- give brokers the authority to deny unusual transportation requests when medical services cannot be verified (e.g., medical appointment after business hours); and
- provide the brokers with standard language they can send to confirm medical appointments.

STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, the State agency concurred with three of our recommendations, generally or partially concurred with two of our recommendations, and did not concur with one recommendation. The State agency said that our findings identify opportunities for it to improve the integrity of its nonemergency transportation program, “the vast majority of which have already been addressed through major new initiatives implemented since December 31, 2017.”

The State agency said that these initiatives involve front-end claims edits to ensure that it only pays for transportation claims when a qualifying medical service has occurred on the date of the transportation service. In addition, the State agency said that it is implementing stronger postpayment reviews this fiscal year “using reports that would identify transportation services suspected of not having corresponding medical services.” Lastly, the State agency said our recommendations would put MassHealth beneficiaries’ access to medical care and

transportation at risk. Specifically, the State agency said our recommendations would cause delay, put sensitive information at risk, and cause beneficiaries unnecessary concern and anxiety.

We disagree that our recommendations would put beneficiaries' access to medical care and transportation at risk; instead we believe our recommendations would improve the NEMT program by ensuring transportation is only provided for qualifying medical services. We also do not believe our recommendations would put sensitive information at risk because the drivers already have the beneficiary information needed to provide the NEMT service.

Below, we summarize the State agency's comments regarding our first and third recommendations, with which the State agency partially concurred, and our fifth recommendation, with which the State agency did not concur, and provide our responses.

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

REFUND TO THE FEDERAL GOVERNMENT FOR SERVICES THAT DID NOT COMPLY WITH REQUIREMENTS

State Agency Comments

The State agency said it partially concurred with our first recommendation. Specifically, the State agency said that "for the 48 claims where there was no corresponding medical service and for the 2 claims with no transportation provided," a refund of Federal financial participation is appropriate and that it will work with CMS to determine an appropriate amount that should be refunded. However, the State agency said that it did not agree that the driver factsheets maintained by transportation providers are necessary to substantiate transportation services. The State agency also said the factsheets are required to ensure passenger safety and not to substantiate the broker's billing. Factsheets are a contractual requirement on the transportation provider, not the broker, and there is no requirement in the contracts between the State agency and the broker that the broker maintain these factsheets. Nevertheless, the State agency said that it would implement or has implemented program integrity changes to ensure improved documentation of transportation services. In particular, the State agency said that it has expanded the requirements for driver factsheets and would initiate contract changes to ensure that the brokers maintain copies of the driver factsheets to further substantiate claims for NEMT.

OIG Response

We maintain that driver factsheets are important source documentation that may be used to substantiate that NEMT services were provided. In this regard, the factsheets may be used as supporting documentation for the billing records and invoices. We disagree with the State that

there was adequate documentation to substantiate that a transportation service occurred. The billing records and invoices individually may incorrectly show that an NEMT transportation service was provided. For instance, for the two NEMT services not provided, invoices and billing records matched the PT-1s. Although the brokers were unable to provide the requested driver factsheets they sent email correspondence that showed the NEMT services were not provided and, therefore, were billed for incorrectly. In addition, a medical service was provided for one of these two sample items where a NEMT service was not provided, which further shows that the combination of billing and medical record documentation was not enough to substantiate that the NEMT service was provided.

WORK WITH BROKERS TO IMPLEMENT CONTROLS

State Agency Comments

The State agency said that for the third subpart of our third recommendation that it has to balance program integrity needs with beneficiary access and privacy. The State agency said it believes that certain beneficiaries with privacy concerns might be unwilling to show their beneficiary cards or sign driver logs. The State said that it does not think it would be appropriate to allow transportation providers to deny transportation to beneficiaries in such instances.

OIG Response

Our recommendation was for the State agency to implement controls that verify that the beneficiary was in the vehicle on the day of the billed NEMT service. We understand the State agency's need to balance program integrity needs with beneficiary access and privacy. Our recommendation does not suggest that the State agency should allow transportation providers to deny NEMT services when beneficiaries cannot or will not confirm their identities and MassHealth eligibility.

GIVE BROKERS THE AUTHORITY TO DENY TRANSPORTATION REQUESTS WHEN MEDICAL SERVICES CANNOT BE VERIFIED

State Agency Comments

The State agency said it does not concur with our fifth recommendation. The State agency said that it believes that giving brokers the authority to deny transportation requests when medical services cannot be verified would have significant adverse impacts on beneficiaries' access to care. However, the State agency said that it agreed that appropriate verification is an important component of enhancing program integrity. To that end, it said that it would work to expand provider education and outreach concerning obligations to provide the brokers with the information necessary to confirm appointments. The State agency also said it would consider

whether it should expand the circumstances in which brokers can verify medical appointments and reschedule transportation if they verify that medical services cannot be provided. Lastly, the State agency said that it believes there may be additional circumstances when verification is appropriate, balanced with the member access and privacy concerns.

OIG Response

Although the State agency did not concur with the fifth recommendation, we believe the actions the State agency took address our recommendation. We maintain that brokers should be given the authority to deny unusual transportation requests when medical services cannot be confirmed (e.g., trips scheduled for a time a clinic is closed) to improve program integrity as described and clarified in the recommendation.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

Our audit covered 896,792 lines of service totaling \$17,319,753 (\$8,659,877 Federal share) in Medicaid payments for NEMT services provided by two high-volume transportation brokers and claimed by the State agency during the period January 1, 2016, through December 31, 2017. The two brokers we reviewed serviced five of the nine transportation areas in the State of Massachusetts.

From the 896,792 lines of service, we reviewed a stratified random sample of 100 sample items. We obtained and reviewed documentation from each NEMT provider to determine whether the NEMT associated with the line of service complied with certain Federal and State requirements. We also obtained the other Medicaid lines of service paid for the same dates of service as the transportation dates to determine whether the beneficiary received any other Medicaid-covered service(s) on the date of the transportation.

We did not assess the overall internal control structure of the State agency or the Medicaid program. Rather, we limited our review of internal controls to those applicable to our audit objective. We did not review the medical necessity of the NEMT services.

We conducted audit work at the State agency's office in Quincy, Massachusetts and in our Boston Regional Office from April 2019 through September 2020.

METHODOLOGY

To accomplish our objective, we:

- reviewed Federal and State laws and regulations related to Medicaid NEMT services;
- reviewed contracts between the State agency and NEMT brokers;
- reviewed contracts between the NEMT brokers and individual transportation providers;
- interviewed State agency officials regarding Medicaid beneficiaries' eligibility for NEMT services, prior authorization and scheduling of services, and the claims verification and monitoring process;
- interviewed the brokers regarding how they record, modify, cancel, audit, and claim NEMT services;

- reconciled the State agency's claim for transportation services on the Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program (CMS-64 report) with supporting documentation for all eight quarters in calendar years 2016 and 2017;
- selected a stratified random sample of 100 claim lines (Appendix D) for NEMT services submitted by two transportation brokers and, for each sampled claim line:
 - analyzed T-MSIS claim line data to determine whether each beneficiary had obtained a Medicaid-covered service on the date of the NEMT service,
 - reviewed the brokers' and NEMT providers' transportation documentation regarding the beneficiary, origination and destination addresses, and PT-1s,
 - reviewed NEMT providers' documentation to determine whether the beneficiary was actually transported in the vehicle on the date of the claimed NEMT service,
 - requested documentation from the medical service providers for each sampled claim to determine if the beneficiary received a qualifying medical service on the date of transportation,
 - reviewed the NEMT providers' documentation to determine whether the annual personnel qualifications, such as CORI checks, drug screens, physical exams, and mandatory training had been completed for the driver(s) associated with each sample item,
 - reviewed the vehicle records to determine whether the vehicle used for each sample item had been properly inspected, registered, and maintained in accordance with the *Provider Manual*, and
 - reviewed NEMT providers' documentation of driver qualifications to determine whether the driver associated with each sampled item had a current and valid driver's license at the time of service;
- used the results of the sample to estimate (Appendix E) the unallowable Federal Medicaid reimbursement associated with the errors we identified

(for which we are recommending refund to the Federal Government) and to estimate the number of unallowable lines of service lines; and

- provided and discussed the results of our audit of the sample items to the State agency on May 21, 2020.

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: RELATED OFFICE OF INSPECTOR GENERAL REPORTS

Report Title	Report Number	Date Issued
<i>Indiana Paid \$3.5 Million for Medicaid Nonemergency Medical Transport Claims That Did Not Comply With Federal and State Requirements</i>	<u>A-05-18-00043</u>	8/25/2020
<i>Michigan Did Not Always Comply With Federal and State Requirements for Claims Submitted for the Nonemergency Medical Transportation Brokerage Program</i>	<u>A-05-16-00021</u>	6/14/2018
<i>Minnesota Did Not Always Comply With Federal and State Requirements for Claims Submitted for the Nonemergency Medical Transportation Brokerage Program</i>	<u>A-05-15-00026</u>	9/15/2017
<i>Oklahoma Did Not Adequately Oversee Its Medicaid Nonemergency Medical Transportation Program</i>	<u>A-06-16-00007</u>	8/4/2017
<i>Nebraska Did Not Always Comply With Federal and State Requirements for Claims Submitted for the Nonemergency Transportation Program</i>	<u>A-07-16-03209</u>	3/1/2017
<i>Louisiana Did Not Always Comply With Federal and State Requirements for Claims Submitted for the Nonemergency Medical Transportation Program</i>	<u>A-06-15-00019</u>	1/4/2017
<i>North Carolina Improperly Claimed Federal Reimbursement for Some Medicaid Nonemergency Transportation Services</i>	<u>A-04-15-04037</u>	11/18/2016
<i>New Jersey Did Not Adequately Oversee Its Medicaid Nonemergency Medical Transportation Brokerage Program</i>	<u>A-02-14-01001</u>	7/5/2016
<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

California Claimed Medicaid Reimbursement for Some Nonemergency Medical Transportation Services That Did Not Comply With Federal and State Requirements	A-09-13-02033	1/23/2015
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APPENDIX C: FEDERAL AND STATE REGULATIONS FOR THE NONEMERGENCY MEDICAL TRANSPORTATION PROGRAM

MassHealth covers NEMT services, doctor's visits, prescription drugs, hospital stays, and many other important services for eligible beneficiaries. The State agency provides NEMT services through contracts when:

- no public transportation is available that is suitable to an eligible Medicaid beneficiary's condition within a specified distance from an authorized point of origin and destination,
- a medical necessity exists,¹⁵ and
- a beneficiary receives a Medicaid covered service.

The Code of Massachusetts Regulations (CMR) state that the State agency will not pay a provider for services if the provider does not have adequate documentation to substantiate the provision of services payable under Medicaid. In addition, all providers must also disclose such records and information to any Federal and State agency when the disclosure is required by law (130 CMR 450.205).

The Massachusetts NEMT program does not cover transportation of individuals to services which are not covered by the applicable State medical assistance programs (130 CMR 407.411). The State plan requires prior authorization to determine the medical necessity of nonemergency transportation provided through the brokerage system (Massachusetts State Plan, attachment 3.1-D).

The contractual agreement between brokers and the State agency requires transportation providers to meet the following service requirements (Massachusetts Executive Office of Health and Human Services Contract, Appendix 1 §§ III and IV):¹⁶

- prior to any contact with beneficiaries, drivers must undergo a verified background check and have successfully completed the applicable training requirements (Massachusetts Executive Office of Health and Human Services Contract, Appendix 1 § IV);

¹⁵ A service is a "medical necessity" if: (1) it is reasonably calculated to prevent, diagnose, prevent the worsening of, alleviate, correct, or cure conditions in the beneficiary that endanger life, cause suffering or pain, cause physical deformity or malfunction threaten to cause or to aggravate a handicap, or result in an illness or infirmity; and (2) there is no other medical service or site of service, comparable in effect, available and suitable for the beneficiary requesting the service, that is more conservative or less costly to the MassHealth agency (130 CMR 407.402).

¹⁶ The State agency uses a standard broker contract with the same provisions for each broker.

- drivers must have a valid Massachusetts driver's license (or valid license from a contiguous State) appropriate to the type of vehicle operated (Massachusetts Executive Office of Health and Human Services Contract, Appendix 1 § IV);
- vehicles must conform to all applicable State and Federal statutes, regulations, or standards, including, but not limited to the rules and regulations of the State agencies, the broker and the Massachusetts RMV (Massachusetts Executive Office of Health and Human Services Contract, Appendix 1 § III);
- all vehicles used under the contractual agreement must be registered in the Commonwealth of Massachusetts and have passed inspection by the Massachusetts Registry of Motor Vehicles (Massachusetts Executive Office of Health and Human Services Contract, Appendix 1 § III); and
- the provider must furnish to the broker a list of all vehicles that will be used under the provisions of the Transportation Provider Subcontract and update that list whenever any changes are made (this list must include the make, model year, vehicle identification number, license number, and vehicle type for each vehicle to be used to transport HST Consumers) (Massachusetts Executive Office of Health and Human Services Contract, Appendix 1 § II.A.2).

The Transportation Manual requires that all NEMT applicants and employees with potential of unsupervised contact with MassHealth beneficiaries must undergo a CORI check prior to employment and annually if employed (130 CMR 407.405(B)).

APPENDIX D: STATISTICAL SAMPLING METHODOLOGY

POPULATION

The target population consisted of final action paid Medicaid lines of service for NEMT services billed with Healthcare Common Procedure Coding System code T2003 by two of the six transportation brokers in Massachusetts for beneficiaries who did not receive a qualifying medical service on the date of NEMT services. These two brokers were selected because they made up a significant portion of the total NEMT Medicaid payments in Massachusetts for the period January 1, 2016, to December 31, 2017.

SAMPLING FRAME

The sampling frame consisted of 896,792 NEMT service claim lines with a total Medicaid paid amount of \$17,319,753 (\$8,659,877 Federal share) for the two selected brokers for calendar years 2016 and 2017.

SAMPLE UNIT

The sample unit was a paid NEMT Medicaid claim line of service.

SAMPLE DESIGN AND SAMPLE SIZE

We used a stratified random sample. We divided the sampling frame into two strata for the transportation brokers selected. We selected 100 NEMT claim lines divided to 70 sample items for stratum one and 30 sample items for stratum two (Table 1).

Table 1: Sample Design Summary

Stratum	Stratum Description	Number of Claims	Total Medicaid Amount	Sample Size
1	Broker A	731,943	\$13,899,412	70
2	Broker B	164,849	\$3,420,341	30
Total:		896,792	\$17,319,753	100

SOURCE OF RANDOM NUMBERS

We used the Office of Inspector General, Office of Audit Services (OIG/OAS),

statistical software to generate the random numbers.

METHOD OF SELECTING SAMPLE UNITS

We consecutively numbered the sample units in each stratum of the sampling frame. After generating numbers for each stratum, we selected the corresponding frame items to review.

ESTIMATION METHODOLOGY

We used the OIG/OAS statistical software to calculate the estimates reported in Appendix E. To be conservative, we recommend recovery of unallowable payments at the lower limit of a two-sided 90-percent confidence interval. Lower limits calculated in this manner are designed to be less than the actual total of unallowable payments in the sampling frame 95 percent of the time.

APPENDIX E: SAMPLE RESULTS AND ESTIMATES

Table 2: Unallowable Claim Lines Sample Results

	Frame Size	Value of Frame	Sample Size	Value of Sample	Number of Unallowable Sampled Claim Lines	Value of Unallowable Claim Lines (Federal Share)
Stratum 1	731,943	\$13,899,412	70	\$1,311	66	\$618
Stratum 2	164,849	3,420,341	30	623	20	208
Total:	896,792	\$17,319,753	100	\$1,934	86	\$826

**Table 3: Estimated Value of Unallowable Claim Lines in the Sampling Frame
(Limits Calculated at the 90-Percent Confidence Level)**

Overall	Total Unallowable	Total Unallowable (Federal Share)	Total Number of Unallowable Lines of Service
Point estimate	\$15,213,841	\$7,606,921	800,017
Lower limit	14,142,730	7,071,365	758,847
Upper limit	\$16,284,951	\$8,142,476	841,187

APPENDIX F: SUMMARY OF ERRORS AND DEFICIENCIES FOR EACH SAMPLE ITEM

1	Insufficient Documentation of NEMT Services
2	No NEMT Service Provided
3	No Medical Service Provided
4	No Documentation of Personnel Qualifications and Vehicle Requirements
5	Inadequate Documentation of Personnel Qualification Requirements
6	Inadequate Documentation of Vehicle Requirements

Broker	Sample Number	1	2	3	4	5	6	Total Errors and Deficiencies
A	1	X				X	X	3
	2			X		X	X	3
	3	X				X	X	3
	4	X				X	X	3
	5	X				X	X	3
	6	X				X	X	3
	7	X				X	X	3
	8	X				X	X	3
	9	X				X	X	3
	10	X			X			2
	11	X				X	X	3
	12			X		X	X	3
	13	X		X		X	X	4
	14			X		X	X	3
	15	X		X		X	X	4
	16	X				X	X	3
	17	X		X		X	X	4
	18	X		X		X	X	4
	19	X		X		X	X	4
	20	X				X	X	3
	21	X		X		X	X	4
	22	X				X	X	3
	23	X				X	X	3
	24	X				X	X	3
	25	X				X	X	3
	26	X		X		X	X	4

Broker	Sample Number	1	2	3	4	5	6	Total Errors and Deficiencies
A	27	X				X	X	3
	28	X				X	X	3
	29			X		X	X	3
	30	X		X		X	X	4
	31	X			X			2
	32	X				X	X	3
	33			X		X	X	3
	34	X		X		X	X	4
	35	X				X	X	3
	36	X				X	X	3
	37					X	X	2
	38	X			X			2
	39	X		X		X	X	4
	40			X		X	X	3
	41			X		X	X	3
	42	X				X	X	3
	43	X				X	X	3
	44	X				X	X	3
	45	X		X		X	X	4
	46	X		X		X	X	4
	47	X		X		X	X	4
	48	X		X	X			3
	49	X		X		X	X	4
	50			X		X	X	3
	51	X		X		X	X	4
	52	X		X		X	X	4
	53	X		X		X	X	4
	54	X				X	X	3
	55	X		X	X			3
	56	X				X	X	3
	57					X	X	2
	58					X	X	2
	59					X	X	2
	60	X				X	X	3
	61	X		X	X			3
	62	X				X	X	3
	63			X		X	X	3

Broker	Sample Number	1	2	3	4	5	6	Total Errors and Deficiencies
A	64			X		X	X	3
	65	X				X	X	3
	66	X				X	X	3
	67	X			X			2
	68	X		X		X	X	4
	69	X		X	X			3
	70	X		X		X	X	4
B	1	X				X	X	3
	2					X	X	2
	3			X		X	X	3
	4		X			X	X	3
	5					X	X	2
	6					X	X	2
	7	X				X	X	3
	8	X		X		X	X	4
	9			X		X	X	3
	10	X			X			2
	11					X	X	2
	12			X		X	X	3
	13					X	X	2
	14			X		X	X	3
	15					X	X	2
	16		X	X	X			3
	17	X				X	X	3
	18			X		X	X	3
	19			X		X	X	3
	20			X		X	X	3
	21	X		X		X	X	4
	22					X	X	2
	23			X		X	X	3
	24					X	X	2
	25				X			1
	26			X		X	X	3
	27					X	X	2
	28			X		X	X	3
	29			X		X	X	3
	30			X		X	X	3
Total:		62	2	48	11	89	89	

APPENDIX G: STATE AGENCY COMMENTS



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November 20, 2020

David Lamir
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RE: Massachusetts Executive Office of Health and Human Services Response to U.S.
Department of Health and Human Services, Office of the Inspector General Draft Report No:
A-01-19-00004

Dear Mr. Lamir:

The Massachusetts Executive Office of Health and Human Services (“EOHHS”) is writing to respond to the U.S. Department of Health and Human Services, Office of the Inspector General’s (“OIG”) draft report titled *Massachusetts Made at Least \$14 Million in Improper Medicaid Payments for the Nonemergency Medical Transportation Program* (No. A-01-19-00004; dated October 7, 2020) (“the Report”). The OIG audit covered Medicaid payments to two high-volume brokers for Medicaid beneficiaries eligible for non-emergency medical transportation (“NEMT”) services for which a qualifying medical service was not billed for the same date the paid NEMT service was provided (i.e. claims where there was evidence to suggest that there was not a corresponding medical visit). The audit covered the period January 1, 2016 through December 31, 2017.

1. EOHHS has taken significant steps to ensure its only pays for transportation to valid medical appointments

The OIG’s findings identify a number of opportunities for EOHHS to improve program integrity in the transportation program, the vast majority of which have already been addressed through major new initiatives implemented since December 31, 2017. These initiatives involve front end claims edits aimed at preventing MassHealth payments from being made where corresponding medical visits are not billed and ensure EOHHS only pays for claims where there is a qualifying medical service on that date. This avoids the scenarios of “pay and chase” and is the most effective way of implementing front-end payment controls.

Specifically, since December 31, 2017, EOHHS has implemented or strengthened program integrity reviews such as:

- Pre-payment checks to identify potential fraud and ensure providers are billing appropriately; these algorithms identify and stop payments in advance whenever the following is identified:
 - Transportation where EOHHS can confirm no corresponding medical visit;
 - Transportation during periods when the member was an inpatient; and
 - Transportation claims billed after the member's death.
- Annual random audits of 50 claims for each broker.

In addition, to these pre-pay checks, EOHHS is implementing stronger post-pay reviews this fiscal year using reports that would identify transportation services suspected of not having corresponding medical services.¹ EOHHS takes action when these program integrity reviews show credible evidence of fraud, and has already referred multiple transportation providers to the Massachusetts Attorney General's Office Medicaid Fraud Division for further action.

EOHHS is confident that these steps will prevent this issue from reoccurring in the future. For those historic claims where there was not a qualifying medical service on that date or where NEMT services were not provided, EOHHS will work with CMS to determine the proper amount of Federal financial participation (FFP) that should be returned to the Federal government.

2. EOHHS disagrees with the OIG's finding relating to allegedly inadequate documentation

EOHHS respectfully disagrees with the OIG's conclusion that FFP should be returned because the brokers did not provide sufficient documentation to support that the NEMT occurred in 62 sample items. EOHHS asserts that its brokers do have adequate documentation to support that transportation in fact occurred on these dates. In particular, billing records and invoices show that transportation was provided consistent with the member's PT-1 authorization form, including invoices showing transportation provider, member name, date of transportation, and pickup and drop off locations.

The OIG's focus on driver factsheets as key substantiating documents is not justified. As described in more depth in response to OIG Recommendation 1, the purpose of the driver factsheets is not documentation of the transportation for billing purposes, but instead to ensure a member was timely and safely transported to his or her medical appointment. That is why these records are maintained by the transportation provider, not the broker. The driver factsheets should be viewed as supporting documentation. EOHHS believes billing records and records showing qualifying medical services were provided, together with the factsheets when available, are sufficient to adequately document that NEMT services were in fact provided. Accordingly,

¹ Because of the timing of provider billing (providers can bill up to 90 days after the date of service), EOHHS is generally unable to determine at the time it pays for transportation claims whether there was a corresponding medical service on the date of transportation. Moreover, certain claims for medical service may not show up in the MassHealth records system as having occurred on that day. Therefore, careful review is necessary to determine whether there was a corresponding medical appointment associated with the transportation claim.

EOHHS requests that the OIG amend its findings to reflect that to reflect that the transportation was sufficiently documented.

3. EOHHS believes that some of the OIG's recommended changes are overly burdensome to MassHealth Members

As described above, EOHHS has addressed the vast majority of this audit's findings through major and ongoing program integrity initiatives. EOHHS believes its approach is the most effective way to ensure access to transportation to necessary medical appointments for MassHealth members and protecting member privacy while ensuring it only pays for transportation rendered on the same date as a qualified medical visit.

In light of these initiatives, EOHHS believes that some of the OIG's recommendations would be overly burdensome on member access to care, would not have commensurate benefit to program integrity, and are not as effective as methods EOHHS has already identified for payment and program controls.

For example, we agree that verification of a medical appointment is critical. However, requiring brokers to be responsible for pre-visit verification (with brokers having the ability to deny transportation if not verified), including requiring them to place their own calls to medical providers just before a trip to verify appointments, is not appropriate and not accurate. There are multiple reasons why brokers might not be able to confirm an appointment immediately before providing a trip (for example, they may not be able to reach the medical office or the medical provider may not be willing to share information based on patient privacy rights), or the medical appointment may be to an urgent care or walk-in clinic. Instead, EOHHS believes the most effective way to ensure trips are to medical appointments is using the pre-payment protections that have been implemented as well as other audits and aspects of the prior authorization process. The OIG's recommendations would have the effect of putting member access to medical necessary care and transportation at risk.

Similarly, EOHHS believes that the OIG's recommended controls to verify that the beneficiary was in the vehicle on the day of the billed NEMT service are overly burdensome or could invade member's privacy. For instance, requiring drivers to take a photograph of beneficiary identification would 1) take time and cause delay; 2) require substantial safeguards to ensure that this sensitive information is properly stored and maintained; and 3) cause members unnecessary concern and anxiety. EOHHS also believes that certain members with these concerns might be unwilling to show their beneficiary cards and does not believe that denying transportation in such instances would be appropriate.

Beyond these overall comments, EOHHS has the following responses to the specific OIG recommendations.

EOHHS Responses to OIG Recommendations

OIG Recommendation 1: The OIG recommends that EOHHS refund to the Federal Government \$7,071,365 in estimated overpayments for NEMT claim lines associated with NEMT services that did not comply with Federal and State requirements;

EOHHS Response to OIG Recommendation 1: EOHHS partially concurs with this recommendation. EOHHS agrees that for the 48 claims where there was no corresponding medical service and for the 2 claims with no transportation provided, a refund of FFP is appropriate. EOHHS will work with CMS to determine an appropriate amount of FFP that should be refunded.

EOHHS does not concur with the recommendation so far as it extends to allegedly inadequate documentation. EOHHS does not believe that the driver factsheets maintained by transportation providers are necessary to substantiate the transportation. Billing records and invoices show the date of transportation, the name of the member, and the pickup and drop off locations.

The OIG focused heavily on the driver factsheets, but these are required to ensure passenger safety, not substantiate the broker's billing. Indeed, the driver factsheets are a contractual requirement on the transportation provider, not the broker, and there is no requirement in the contracts between EOHHS and the broker that the broker maintain these driver factsheets.² See Massachusetts EOHHS Contract Appendix 1, V.9, which applies to the transportation provider. Moreover, the driver factsheet requirement is in Appendix section titled "DRIVER AND MONITOR PERFORMANCE STANDARDS", a section that is entirely focused on performance standards to ensure consumer safety and experience.

Nevertheless, the brokers were able to obtain driver factsheets in most cases. These factsheets further substantiated that the billed transportation was provided. Even where the OIG found that these factsheets were deficient, they generally included all information needed to show that the trip had occurred. Together with evidence that the member received medical services that day, this documentation is adequate to demonstrate that transportation was provided as claimed and therefore no refund of FFP should be required.³ In many cases, driver factsheets further substantiated these billing records, but they were not necessary.

EOHHS is nevertheless implementing or has implemented a number of program integrity changes to ensure improved documentation of transportation. In particular, EOHHS has expanded requirements around driver factsheets and will initiate contract changes to ensure that the broker maintain copies of the driver factsheets to further substantiate support claims billed to EOHHS. While EOHHS does not believe that these factsheets were necessary to demonstrate that transportation occurred, EOHHS does agree that such records provide additional support. The OIG's audit has revealed the brokers' difficulty in obtaining these records from transportation providers who are no longer contracted with the brokers or who have gone out of business.

² Accordingly, when the OIG requested that the brokers supply these records to the OIG, the brokers needed to reach out to the transportation providers. Because these records are for 2016 and 2017, not all of the transportation providers under contract then with the brokers are still under contract, or necessarily even in business. That appears to be why many of the factsheets were missing.

³ EOHHS understands that the brokers submitted such billing and invoice records; to the extent any are missing, EOHHS can coordinate the provision of additional documentation to OIG.

OIG Recommendation 2: The OIG recommends that EOHHS perform data matches to all medical claims billed on the day of the NEMT service to ensure NEMT lines of service are paid only when there is a corresponding qualifying medical service.

EOHHS Response to OIG Recommendation 2: EOHHS concurs with this recommendation. Since December 31, 2017, EOHHS has already implemented or enhanced a number of program integrity reviews, including a number of prepay algorithms and random audits to ensure services are only paid when there is a corresponding qualifying medical service (as described in the introductory comments above). EOHHS is also instituting an annual audit to ensure that NEMT lines of service are paid only when there is a corresponding qualifying medical service. This will be done as a post-pay audit because medical providers have up to 90 days to bill for services. In addition, in certain instances medical services may have been provided on that date of transportation service even if there was not a clear record in the claims system. EOHHS therefore intends to build additional reviews into its process to verify the lack of medical visit.

OIG Recommendation 3: The OIG recommends that EOHHS work with its brokers to implement controls that ensure NEMT services are sufficiently supported by:

- requiring brokers to verify that documentation contains all the necessary elements (in a legible manner) to support the NEMT service,
- evaluating whether GPS or other monitoring of drivers would be an effective control to verify whether transportation had occurred or was to the destination listed on the PT-1, and
- implementing controls that verify that the beneficiary was in the vehicle on the day of the billed NEMT service;

EOHHS Response to OIG Recommendation 3: EOHHS generally concurs with the recommendation to work with its brokers to implement further controls to ensure that NEMT services are sufficiently supported and had initiated this work independent of this audit.

EOHHS concurs with the first subpart of OIG's recommendation requiring brokers to verify that documentation contains all the necessary elements to support the NEMT service. As described in its response to OIG Recommendation 2, EOHHS has already clarified via contractual amendment the information that must be contained in the driver factsheets and reiterated that the driver factsheets must be maintained in a legible manner.

EOHHS also concurs that GPS monitoring would be an effective control to verify whether transportation had occurred or was to the destination listed on the PT-1, for instance in connection with post-pay audits. EOHHS intends to implement a GPS requirement for all brokered transportation by July 1, 2021; this was previously included as a requirement in a procurement issued by EOHHS in November 2019. EOHHS notes that this will only allow it to verify whether transportation had occurred; it will not ensure that there was a valid medical appointment on that date (for instance, the member could be transported to the site of service but learn upon arrival that the medical visit was cancelled or that the member arrived at the wrong date or time).

As to the third subpart, EOHHS concurs that it will work with its brokers to further implement controls to verify that the beneficiary was in the vehicle on the day of the billed NEMT service. In implementing such controls, EOHHS must balance program integrity needs and member access and privacy. EOHHS also believes that certain members with privacy concerns might be unwilling to show their beneficiary cards or sign the driver logs. EOHHS does not think it would be appropriate to allow transportation providers to deny transportation to members in such instances.

OIG Recommendation 4: The OIG recommends that EOHHS work with its brokers to implement controls that ensure drivers and vehicles used to provide NEMT services can be directly and clearly traced to the associated driver qualifications and vehicle records;

EOHHS Response to OIG Recommendation 4: EOHHS concurs with this recommendation. EOHHS has already implemented contractual changes that require that the driver factsheet for a particular date include the drivers name and identify the vehicle. This will ensure that drivers and vehicles used to provide NEMT services can be directly and clearly traced to the associated driver qualifications and vehicle records. Even before this change, EOHHS required that only drivers and vehicles who met the contractual requirements could provide NEMT services and required the brokers to maintain records demonstrating this. The recommended change will make it easier to verify compliance with this policy for particular trips, however, so EOHHS has implemented this change.

OIG Recommendation 5: The OIG recommends that EOHHS give brokers the authority to deny transportation requests when medical services cannot be verified (e.g., medical appointment after business hours);

EOHHS Response to OIG Recommendation 5: EOHHS does not concur with this recommendation. EOHHS believes that giving brokers the authority to deny transportation requests when medical services cannot be verified would have significant adverse impacts on member access to care; a member whose medical provider was unable to verify the appointment or who had no appointment (such as for urgent care or walk-in clinics) could be denied transportation to a needed appointment. EOHHS does not believe the mere absence of verification is a sufficient reason for a broker to deny transportation. EOHHS believes that making this change would be especially harmful for members seeking treatment for substance use disorder or behavioral health issues because their providers may be reluctant to verify appointments because of concerns about privacy obligations.


EOHHS does agree, however, that appropriate verification is an important component of enhancing program integrity. To that end, it is working on expanding provider education and outreach concerning obligations to provide the brokers with the information necessary confirm appointments. EOHHS is considering whether it should expand the circumstances in which brokers can verify medical appointments and reschedule if they verify that medical services cannot be provided. EOHHS believes there may be additional circumstances where verification is appropriate, balanced with the member access and privacy concerns previously described.

OIG Recommendation 6: The OIG recommends that EOHHS provide the brokers with standard language they can send to confirm medical appointments.

EOHHS Response to OIG Recommendation 6: EOHHS concurs with this recommendation. Brokers will be provided with standard language that they can send to confirm medical appointments, in such situations where verification is allowed under the existing contract. EOHHS agrees that providing standardized language may increase the likelihood that medical providers will confirm medical appointments. Because of the timing of verifications, most occur by phone, but this language could be useful if the medical provider requests faxed or emailed documentation.

Thank you for your consideration of EOHHS' comments. EOHHS reiterates that it has implemented, or is in the process of implementing, many of the OIG recommendations. It is also engaging in significant discussion around expanding verification and audit procedures to ensure that NEMT is only paid in connection with transportation to a qualifying medical visit, always seeking to ensure both program integrity and member access.

Sincerely,


Marylou Sudders

cc: Daniel Tsai, Assistant Secretary for MassHealth and Medicaid Director