

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**NEW YORK CLAIMED \$196 MILLION,
OVER 72 PERCENT OF THE AUDITED
AMOUNT, IN FEDERAL
REIMBURSEMENT FOR NEMT
PAYMENTS TO NEW YORK CITY
TRANSPORTATION PROVIDERS THAT
DID NOT MEET OR MAY NOT HAVE
MET MEDICAID REQUIREMENTS**

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Office of Inspector General

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Report in Brief

Date: September 2022
Report No. A-02-21-01001

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



Why OIG Did This Audit

An OIG audit issued in 2011 identified major deficiencies with New York's oversight of its nonemergency medical transportation (NEMT) program. In response to that audit, New York indicated that it planned to implement a quality assurance program for NEMT services provided in the New York City area. We conducted this follow-up audit to determine whether the quality assurance program implemented by New York was adequate to ensure compliance with Federal and State requirements related to claiming Medicaid reimbursement for NEMT services.

Our objective was to determine whether New York's claims for Medicaid reimbursement for NEMT payments to transportation providers in New York City complied with Federal and State requirements.

How OIG Did This Audit

Our audit covered 4,768,858 payments totaling \$269,584,249 (Federal share) for NEMT services provided during calendar years 2018 and 2019 by transportation providers in New York City. We selected a stratified random sample of 100 payments for review. Specifically, we reviewed documentation maintained by the contractor hired by New York to manage its NEMT program as well as documentation from medical and transportation services providers.

New York Claimed \$196 Million, Over 72 Percent of the Audited Amount, in Federal Reimbursement for NEMT Payments to New York City Transportation Providers That Did Not Meet or May Not Have Met Medicaid Requirements

What OIG Found

Seventeen of the 100 sampled payments complied with Federal and State requirements. However, for 41 sampled payments, NEMT payments did not comply with Federal and State requirements and were therefore unallowable. For the remaining 42 sampled payments, we could not determine whether the services complied with Federal and State requirements.

On the basis of our sample results, we estimated that New York improperly claimed at least \$84,329,893 in Federal Medicaid reimbursement for payments to NEMT providers that did not comply with certain Federal and State requirements. In addition, we estimated that New York claimed \$112,028,279 in Federal Medicaid reimbursement for payments to NEMT providers that may not have complied with certain Federal and State requirements.

What OIG Recommends and New York Comments

We made a series of recommendations to New York, including that it refund \$84,329,893 to the Federal Government for the payments that did not comply with certain Federal and State requirements and work with the transportation manager to review the \$112,028,279 in Federal Medicaid reimbursement for payments to NEMT providers that may not have complied with certain Federal and State requirements and refund to the Federal Government any unallowable amounts. We also made recommendations for New York to improve its monitoring of its NEMT program.

In written comments on our draft report, New York did not indicate concurrence or nonconcurrence with our recommendations; however it (1) requested that we withdraw our repayment request from the audit report and provided additional documentation for 28 sampled payments, (2) stated that it has initiated audits and investigations that overlap the scope of this audit and will refund any identified overpayments to the Federal Government, and (3) described actions that it has taken since the end of our audit period to strengthen oversight of its NEMT program. After reviewing New York's comments and documentation, we revised our determinations for 16 sampled payments and revised the related findings and recommendations accordingly. We maintain that our findings and associated recommendations, as revised, are valid.

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INTRODUCTION

WHY WE DID THIS AUDIT

An Office of Inspector General (OIG) audit issued in 2011 identified major deficiencies with the New York State Department of Health's (State agency's) oversight of its nonemergency medical transportation (NEMT) program. In response to that audit, the State agency indicated that it planned to contract with a transportation manager to implement a quality assurance program for Medicaid NEMT services provided in the New York City area.¹ We conducted this follow-up audit to determine whether the quality assurance program implemented by the State agency was adequate to ensure compliance with Federal and State requirements related to claiming Medicaid reimbursement for NEMT services.

OBJECTIVE

Our objective was to determine whether the State agency's claims for Medicaid reimbursement for NEMT payments to transportation providers in New York City complied with Federal and State requirements.²

BACKGROUND

The 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 Medicaid program in accordance with a CMS-approved State plan. In New York, the State agency administers the Medicaid program.

New York's Medicaid Nonemergency Medical Transportation Program

The State agency contracts with a transportation manager to manage and oversee Medicaid fee-for-service NEMT services in New York City.³ The transportation manager determines eligibility for services based on a medical practitioner's order, provides prior authorization for the services, and arranges transportation at the appropriate level of service. To receive

¹ *Review of Medicaid Payments for Nonemergency Medical Transportation Services Claims Submitted by Providers in New York City* ([A-02-08-01017](#)), Nov. 30, 2011.

² We plan to conduct a separate audit of NEMT services provided by transportation providers located outside of New York City.

³ The contractor (Medical Answering Services, LLC) is the transportation manager for five of the State agency's six NEMT regions, including New York City. New York City is comprised of New York County (Manhattan), Kings County (Brooklyn), Bronx County (The Bronx), Richmond County (Staten Island), and Queens County (Queens).

payment for NEMT services, transportation providers attest to the provision of services and the transportation manager provides authorization for payment.

The State agency claimed \$686,661,863 (\$411,673,755 Federal share) in Medicaid reimbursement for payments made to 345 NEMT providers in New York City for services provided during the period January 2018 through December 2019 (audit period).⁴

Federal and State Requirements

Federal regulations require States to ensure necessary transportation for Medicaid beneficiaries to and from medical providers.⁵ To meet this requirement, States must cover the cost of transportation and other related travel expenses (e.g., NEMT) determined to be necessary by the State Medicaid agency to secure medical examinations and treatment for a beneficiary.⁶ Providers of services must maintain records necessary to fully disclose the extent of services provided to Medicaid beneficiaries.⁷

Requirements for New York's Medicaid NEMT program and payment for NEMT services are contained in its Medicaid State plan and in Title 18 § 505.10 of the New York Compilation of Codes, Rules, & Regulations (NYCRR). Prior authorization of NEMT services must generally be supported by a medical-practitioner's order for a beneficiary to obtain necessary medical care and Medicaid-covered services. Payment for NEMT services must be made for the least expensive available mode of transportation suitable to beneficiaries' needs. Further, NEMT providers must be lawfully authorized to provide transportation services and may use an ambulance, ambulette, taxicab, van, or livery service to provide NEMT services.

HOW WE CONDUCTED THIS AUDIT

Our audit covered 4,768,858 payments⁸ totaling \$445,040,125 (\$269,584,249 Federal share) for NEMT services provided during calendar years 2018 and 2019 by transportation providers in New York City for which the State agency claimed Federal Medicaid reimbursement.

⁴ These were the most recent data available at the start of our audit.

⁵ 42 CFR § 431.53. States are required to describe their methods for meeting this requirement in their Medicaid State plans.

⁶ 42 CFR § 440.170(a)(1)-(3).

⁷ Section 1902(a)(27)(A) of the Social Security Act (the Act).

⁸ A payment is comprised of Medicaid transportation payments and associated mileage, parking, and tolls, if any. We combined all of the claim lines under an individual Transaction Control Number into a single payment. Our sampling frame included payments with a Federal paid amount of \$25 or more to providers not under investigation by New York State.

We selected a stratified random sample of 100 payments for review. Specifically, for each sampled payment, we reviewed documentation maintained by the transportation manager as well as documentation from medical and transportation services providers for the associated beneficiary. In addition, we reviewed the transportation manager’s policies and procedures for authorizing NEMT services and providers’ documenting and billing of NEMT services.

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 the details of our audit scope and methodology, Appendix B contains our statistical sampling methodology, Appendix C contains our sample results and estimates, and Appendix D contains a summary of deficiencies for each sampled payment.

FINDINGS

The State agency claimed Medicaid reimbursement for NEMT payments to transportation providers in New York City that did not or may not have complied with Federal and State requirements. Specifically, 17 of the 100 sampled payments complied with Federal and State requirements. However, for 41 sampled payments, NEMT services did not comply with Federal and State requirements and were therefore unallowable. For the remaining 42 sampled payments, we could not determine whether NEMT services complied with Federal and State requirements because we were unable to obtain from the transportation providers documentation of compliance with vehicle and driver requirements (31 payments), contact the transportation provider (7 payments), or determine whether the associated beneficiary received a Medicaid covered service (4 payments).

Of the 41 unallowable payments, 4 did not meet more than 1 requirement. Table 1 summarizes the unallowable payments noted and the number of payments related to each type of deficiency.

Table 1: Summary of Requirements Not Met in Sampled Payments

Requirement Not Met	No. of Unallowable Payments
No valid medical practitioner’s order for transportation services	22
Transportation services not adequately documented	13
Compliance with driver qualification requirements not met	7
Services not provided	2
Level of service provided not authorized	1

The payments for unallowable and potentially unallowable services occurred because the State agency's monitoring of its NEMT program and transportation manager was not adequate to ensure compliance with requirements for authorizing, documenting, and billing NEMT services.

On the basis of our sample results, we estimated that the State agency claimed at least \$84,329,893 in Federal Medicaid reimbursement for payments to NEMT providers that did not comply with Federal and State requirements.⁹ In addition, we estimated that the State agency claimed \$112,028,279 in Federal Medicaid reimbursement for payments to NEMT providers that may not have complied with Federal and State requirements. Also, because providers did not provide any or did not provide sufficient documentation to assess their compliance with driver and vehicle requirements, we could not determine whether these transportation providers' drivers and vehicles met requirements intended to protect the health and safety of beneficiaries receiving services.

UNALLOWABLE PAYMENTS

No Valid Medical Practitioner's Order for Transportation Services

Generally, payment for NEMT services requires prior authorization.¹⁰ Specifically, a prior authorization official must determine,¹¹ based on a medical practitioner's order, that payment for a specific mode of transportation is necessary for a beneficiary to obtain necessary medical services (NYS Medicaid State Plan Attachment 3.1-D(A)(1)) (18 NYCRR §§ 505.10(b)(17), (d), and (e)(1)).¹² Appendix E contains a sample medical justification form that the State agency requires medical practitioners to complete when ordering NEMT services for beneficiaries.¹³ Once completed, the form should be maintained in the beneficiary's medical record and transmitted to the transportation manager.

⁹ 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 are designed to be less than the actual overpayment total 95 percent of the time.

¹⁰ Prior authorization is not required for instances such as hospital discharges, trips to urgent care, life sustaining treatment (e.g. chemotherapy and dialysis), or a same-day sick visit.

¹¹ The transportation manager is responsible for prior authorization of services and for maintaining documentation of the authorization.

¹² The default mode of transportation in New York City is public transportation unless there is a practitioner's order justifying a higher mode of transport.

¹³ The form is used by the transportation manager to determine the mode of transportation necessary for beneficiaries. A completed form can cover one trip or multiple trips; however, it should be updated if a beneficiary's status changes in any way.

For 22 sampled payments, the transportation manager did not provide a valid practitioner's order or other documentation to support the prior authorization of NEMT services. Specifically, the transportation manager:

- did not provide a practitioner's order (14 payments);
- provided a practitioner's order dated after the date of transport (6 payments);¹⁴
- provided a practitioner's order that did not indicate approved dates for transportation services (1 payment);¹⁵ and
- provided a practitioner's order that expired 3 months prior to the date of transport (1 payment).

Transportation Services Not Adequately Documented

The Act requires Medicaid providers to maintain records necessary to fully disclose the extent of the services provided to beneficiaries (The Act § 1902(a)(27)(A)). In addition, the State agency requires providers to maintain contemporaneous records demonstrating their right to receive payment under the Medicaid program and to keep for a period of 6 years from the date of services, all records necessary to disclose the nature and extent of services furnished and all information regarding claims for payment (18 NYCRR § 504.3(a)).

For 13 sampled payments, the transportation provider did not adequately document the associated transportation service. Specifically, for 11 sampled payments, the transportation provider did not provide records detailing the date of the transportation service, the pick-up and drop-off locations, the driver, and vehicle used. For two other sampled payments, the transportation provider did not provide any documentation of the transportation service.

Compliance with Driver Qualification Requirements Not Met

In order to receive Medicaid reimbursement, transportation providers must be lawfully authorized to provide transportation services on the date services are rendered (18 NYCRR § 505.10(e)(6)). This requirement includes compliance with applicable New York State Department of Transportation (DOT) driver qualification requirements and all applicable State agency certification requirements (e.g., completion of medical examinations, road tests, and

¹⁴ Specifically, the practitioners' orders for transportation were dated from 2 to 33 months after the service date.

¹⁵ Generally, a medical practitioner's order indicates the length of time that a beneficiary needs the recommended level of service.

other training).¹⁶ Transportation providers are required to maintain records that their drivers met these requirements.

For seven sampled payments, transportation providers' compliance with driver qualification requirements were not documented. Specifically, providers did not provide (1) required qualification records of ambulette drivers (four payments), (2) training or health records for ambulance drivers (two payments), and (3) copies of State-issued certifications for emergency medical technicians (one payment).

Services Not Provided

Providers must submit claims only for services that were actually furnished and medically necessary or otherwise authorized under the State's Social Services Law (18 NYCRR § 504.3(e)).

For two sampled payments, the transportation services billed were not provided. For both payments, the transportation provider stated that the beneficiary did not receive the service.

Level of Service Provided Not Authorized

Generally, payment for NEMT services requires prior authorization. Prior authorization of NEMT services means a prior authorization official's determination that payment for a specific mode of transportation is necessary for a beneficiary to obtain necessary medical services (NYCRR § 505.10(b)(17) and (d)). Payment for these services must be made for the least expensive available mode of transportation suitable to beneficiaries' needs, as determined by the prior authorization official (NYCRR § 505.10(e)(3)).

For one sampled payment, a level of service higher than what was authorized was used for the transportation service. Specifically, the medical practitioner's order stated that the most medically appropriate mode of transportation for the beneficiary was a taxi. The transportation manager subsequently authorized taxi services. However, the NEMT provider used and billed for costlier ambulette services.¹⁷

¹⁶ Ambulette drivers are required to retain what are known as "Article 19-A" qualification documents. These include documentation that drivers have completed medical examinations, defensive driving review forms, road tests, and oral or written tests (§ 509-d (3) of Article 19-A of the New York Vehicle and Traffic Law). Additionally, ambulance services providers are required to retain training and health records for all staff who provided transportation services. Training records include copies of State agency certifications, records of additional or specialized training, and all records of any in-service and continuing education programs (10 NYCRR § 800.21(k) and (p)(7)).

¹⁷ For estimation purposes, we questioned the entire cost of the payment because the payment had another deficiency that made the entire amount unallowable.

POTENTIALLY UNALLOWABLE PAYMENTS

Compliance with Vehicle Requirements Not Documented

In order to receive Medicaid reimbursement, transportation providers must be lawfully authorized to provide transportation services on the date services are provided (18 NYCRR § 505.10(e)(6)). This requirement includes compliance with all applicable State agency, New York State Department of Motor Vehicles (DMV), and New York City Taxi and Limousine Commission (TLC) requirements for vehicles, depending on the transportation service (i.e., the vehicle used).¹⁸

For 21 sampled payments, transportation providers' compliance with vehicle requirements was not documented. Specifically, providers did not provide documentation (e.g., certificates of inspection and TLC licenses that covered the sampled date of service) that vehicles met applicable requirements for providing taxi and livery services (20 payments), and ambulance services (1 payment). Therefore, we could not determine whether the vehicle(s) used to transport the beneficiaries complied with vehicle requirements.

Compliance with Driver Licensing Requirements Not Documented

In order to receive Medicaid reimbursement, transportation providers must be lawfully authorized to provide transportation services on the date services are rendered (18 NYCRR § 505.10(e)(6)). This requirement includes compliance with applicable DOT, DMV and TLC driver licensing requirements.¹⁹

For 10 sampled payments, transportation providers' compliance with driver licensing requirements were not documented. Specifically, providers did not provide documentation that the drivers associated with the payments for taxi and livery services (seven payments) and ambulette services (three payments) were licensed to operate the vehicles on the sampled date of service. Therefore, we could not determine whether the driver was licensed to provide transportation services.

¹⁸ For example, taxi/livery providers must meet certain requirements for their vehicles, including being issued an unexpired certificate of inspection and TLC license, where applicable (18 NYCRR § 505.10(e)(6)(iii) and 17 NYCRR § 720.2(A)). Ambulance services providers are required to have a valid State agency certificate of inspection for their vehicles (18 NYCRR § 505.10(e)(6)(i) and 10 NYCRR § 800.21(a)).

¹⁹ All taxi/livery and ambulette drivers are required to have a valid DMV-issued driver's license (§ 509 of Article 19 of the New York Vehicle and Traffic Law). Taxi/livery drivers must comply with all of the requirements of the DMV and the local municipality (18 NYCRR § 505.10(e)(6)(iii)). Ambulette drivers must comply with any applicable requirements of the DOT, DMV, and TLC (18 NYCRR § 505.10(e)(6)(ii)). Taxi/livery drivers are required to possess a valid TLC driver license (Title 35 § 58-12 and § 82-12 of the Rules of the City of New York). Ambulette drivers are required to be licensed to operate a passenger carrying motor vehicle in the State of New York (17 NYCRR § 721.3(a)).

Unable to Contact the Transportation Provider

The Act requires Medicaid providers to maintain records necessary to fully disclose the extent of the services provided to beneficiaries (The Act § 1902(a)(27)(A)). In addition, the State agency requires providers to maintain contemporaneous records demonstrating their right to receive payment under the Medicaid program and to keep for a period of 6 years from the date of services were furnished, all records necessary to disclose the nature and extent of services furnished and all information regarding claims for payment submitted by, or on behalf of, the provider (18 NYCRR § 504.3(a)).

For seven sampled payments, we were unable to contact the transportation provider to obtain any documentation related to the associated transportation service (e.g., the pick-up and drop-off locations, and driver and vehicle information). The providers did not respond to emails, multiple phone calls, and voicemail messages. Therefore, we could not obtain any documentation to determine whether the billed transportation services complied with requirements for payment.

Unable to Determine Whether the Beneficiary Received a Medicaid-Covered Service

An NEMT service is eligible for Medicaid payment only when the transportation service is essential for the beneficiary to obtain necessary medical care and services which may be paid for under the Medicaid program (NYS Medicaid State Plan Attachment 3.1-D and 18 NYCRR § 505.10(a)).

For four sampled payments,²⁰ we were unable to determine whether the associated beneficiary received a Medicaid-covered service on the date of the transportation service. For each of the payments, the State agency's Medicaid Management Information System (MMIS) did not indicate that the beneficiary received a Medicaid service on the date of the transportation service.²¹ Additionally, the transportation manager's documents did not contain information on the provider to which the beneficiary was transported.

CAUSE OF UNALLOWABLE AND POTENTIALLY UNALLOWABLE PAYMENTS

The unallowable and potentially unallowable payments occurred because the State agency's monitoring of its NEMT program and the transportation manager was not adequate to ensure compliance with requirements for authorizing, documenting, and billing NEMT services. The State agency has issued guidance to the transportation manager and transportation providers.

²⁰ In all, we could not determine whether the beneficiary associated with 34 sampled payments received a Medicaid covered service on the date of transport. However, 30 of these sampled payments had other deficiencies that made them unallowable.

²¹ The lack of a record in the MMIS does not mean that the beneficiary did *not* receive a Medicaid-eligible service on a particular date. For example, the beneficiary could have received a service (e.g., group therapy) for which the associated provider billed for services.

The State agency also requires the transportation manager to submit quarterly assurance reports that include data on complaints and verifications, customer service representative performance reports, and field liaison inspection reports. In addition, the State agency indicated that it periodically conducts site visits and compliance reviews to ensure that the transportation manager complies with all policies and procedures. It also periodically reviews a random sample of electronic data to verify that the transportation manager appropriately matched the mode of transportation used to transport beneficiaries to their medical condition. Additionally, the State agency requires that the transportation manager's staff perform utilization reviews under the direction of medical professionals. However, despite the State agency's guidance and oversight efforts, the transportation manager's procedures did not ensure that (1) it maintained required practitioners' orders for NEMT services; (2) beneficiaries received Medicaid-eligible services on NEMT service dates; and (3) transportation providers complied with Federal and State requirements for maintaining documentation related to drivers, adequately documenting the transportation services billed, billed only for services provided, and provided NEMT services at the level authorized.

RECOMMENDATIONS

We recommend that the New York State Department of Health:

- refund the estimated \$84,329,893 to the Federal Government for payments that did not comply with Federal and State requirements;
- work with the transportation manager to review the payments to transportation providers that may not have complied with Federal and State requirements, resulting in an estimated \$112,028,279 in Federal Medicaid reimbursement, and refund to the Federal Government any unallowable amounts; and
- improve its oversight of its NEMT program to ensure that the transportation manager strengthen its procedures to ensure that (1) prior authorization documentation, including medical practitioner's orders are properly completed and maintained; (2) transportation providers do not bill for transport on a date when a beneficiary does not receive a Medicaid-covered service; (3) transportation providers document that drivers and vehicles used to transport Medicaid beneficiaries meet applicable State requirements; (4) NEMT services are adequately documented; (5) transportation providers bill only for services that are actually provided; and (6) transportation providers bill for the level of service authorized.

STATE AGENCY COMMENTS

In written comments on our draft report, the State agency did not indicate concurrence or nonconcurrence with our recommendations; however, it requested that we withdraw our repayment request from the audit report. The State agency stated that various sampled payments identified in our draft report appropriately bypassed or allowed flexibility in the

frequency of the need for a practitioner order, such as not requiring a valid practitioner's order because the associated transportation service was urgent, or the beneficiary had a permanent condition. Additionally, the State agency stated that no State statute or regulation defines a specific period of time for which a written order specifying the appropriate mode of transportation is valid. The State agency also indicated that it directed its transportation manager to accept the level of transportation previously established for each enrollee by the prior transportation manager to ensure that there would be no interruptions in the delivery of medical services. Under separate cover, the State agency provided supporting documentation for 28 sampled payments and internal correspondence between the State agency and the current transportation manager shortly after the transportation manager was contracted by the State agency.²²

Additionally, the State agency stated that its Office of the Medicaid Inspector General (OMIG) has initiated audits and investigations that overlap with the scope of this audit and will refund any identified overpayments to the Federal Government. The State agency also indicated that its OMIG is auditing payments to transportation providers identified in the draft report as potentially unallowable and will pursue recovery of any payments it determines to be inappropriate.

The State agency also described actions that it has taken since the end of our audit period to strengthen documentation protocols and vendor procedures in its NEMT program, including making the medical practitioner's order form available as an electronic online form, which will make the form easier to access and complete. Additionally, the State agency stated that it plans to make the documentation of NEMT start and end times, as well as locations, trackable through Global Positioning System data.

The State agency's comments are included in their entirety as Appendix F.²³

OFFICE OF INSPECTOR GENERAL RESPONSE

After reviewing the State agency's comments and supporting documentation, we revised our determinations for 16 sampled payments²⁴ and revised the related findings and recommendations accordingly.²⁵ For these findings, we determined that the additional

²² Specifically, the State agency provided medical justification forms and/or documentation from the prior transportation manager for 28 sampled payments.

²³ The supporting documentation provided by the State agency under separate cover is not included because it contained personally identifiable information and internal correspondence between the State agency and the transportation manager.

²⁴ Of the 16 sampled payments, 12 contained other deficiencies.

²⁵ Specifically, we reduced the number of unallowable sampled payments by 12 (from 53 to 41). We increased the number of potentially unallowable sampled payments by 8 (from 34 to 42) and increased the number of sample payments that we determined were compliant by 4 (from 13 to 17).

documentation provided by the State agency supports the mode of transportation authorized or that the prior transportation manager approved the appropriate level of service for the enrollees.²⁶

We maintain that certain sampled payments identified in our draft report required a practitioner's order. In addition, certain practitioners' orders did not specify the period of time the transportation was needed or whether transportation services would be needed long-term. We also note that the State agency began transitioning to a new transportation manager in 2016 and our audit period covered 2018 and 2019, by which time the new transportation manager would have had ample time to obtain practitioner orders for trips during the audit period without interruptions in the delivery of services. In addition, we worked with the transportation manager to identify trips that were for emergency services and did not determine these payments to be inappropriate if there was no practitioners order, unless the payments contained other deficiencies.

We maintain that our findings and associated recommendations, as revised, are valid. In addition, we acknowledge the State agency's efforts to expand and strengthen its oversight of its NEMT program.

²⁶ Based on the State agency's 2016 correspondence with the current transportation manager, which the State agency provided after issuance of the draft report, we revised our determinations for sampled payments for which the State agency provided supporting documentation from the prior transportation manager. In its correspondence, the State agency directed the transportation manager to accept "for the time being" the level of service deemed appropriate by the prior transportation manager for enrollees.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

Our audit covered 4,768,858 payments totaling \$445,040,125 (\$269,584,249 Federal share) for NEMT services provided during calendar years 2018 and 2019 by transportation providers in New York City for which the State agency claimed Federal Medicaid reimbursement. We reviewed a stratified random sample of 100 of these payments.

We did not assess the State agency's overall internal control structure. Rather, we limited our review of internal controls to those applicable to our audit objective. Specifically, we reviewed guidance the State agency issued to the transportation manager and transportation providers, and the State agency's procedures for overseeing the transportation manager. In addition, we assessed the transportation manager's procedures for the authorization, documenting, and billing of NEMT services. We established reasonable assurance of the authenticity and accuracy of the data obtained from the State agency's MMIS, but we did not assess the completeness of the file.

We conducted our audit work virtually with the State agency, transportation manager, the transportation providers, and medical practitioners from November 2020 through February 2022.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal and State requirements;
- held discussions with CMS and State agency officials to gain an understanding of the State agency's NEMT program;
- met with the transportation manager to discuss its policies and procedures for managing and arranging NEMT services for Medicaid beneficiaries, including its processes for verifying eligibility, reviewing medical practitioner's orders for NEMT services, obtaining prior authorizations, and conducting quality assurance reviews;
- obtained from the State agency's MMIS payment files containing NEMT payments totaling \$686,661,863 for which the State agency claimed Medicaid reimbursement for calendar years 2018 and 2019;
- constructed a sampling frame of NEMT payments totaling \$445,040,125 (\$269,584,249 Federal share) made to 322 New York City transportation providers;

- selected for review a stratified random sample of 100 Medicaid NEMT payments from the sampling frame²⁷ and for each sampled payment:
 - determined whether the beneficiary was Medicaid eligible;²⁸
 - determined whether the Medicaid beneficiary received a Medicaid-covered service on the date of transport;²⁹
 - obtained and reviewed documentation from the transportation manager to determine if the practitioner ordered the NEMT services and noted the condition which justified the ordering of the NEMT services; and
 - interviewed the transportation provider and reviewed documentation maintained by the provider supporting the payment for NEMT services;³⁰
- estimated the total unallowable Federal Medicaid reimbursement and the potentially unallowable Federal Medicaid reimbursement in the sampling frame; and
- summarized the results of our audit and discussed the results with the State agency.

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.

²⁷ For details on our sampling methodology, including composition of the sampling frame and selection of the sample, see Appendix B.

²⁸ We determined, based on State enrollment data, whether the beneficiary was enrolled in Medicaid on the date of service associated with the sampled payment.

²⁹ We obtained claims data for the beneficiary from the State agency's MMIS and determined whether the beneficiary received a Medicaid-covered service on the date of transport. For beneficiaries for whom there were no claims data for the date of service in MMIS, we performed searches in CMS's National Claims History file of Medicare data to determine whether, for dually eligible beneficiaries, there was an associated Medicare claim. We performed online research of the addresses to which beneficiaries were transported and, if we were able to identify a medical or other provider (e.g., treatment clinics), we contacted the provider to verify whether the beneficiary received a Medicaid-covered service.

³⁰ We obtained records detailing the date of the transportation service, the pick-up and drop-off locations, the driver and vehicle used, prior authorization documentation, and documentation related to the driver/staff and vehicle.

APPENDIX B: STATISTICAL SAMPLING METHODOLOGY

SAMPLING FRAME

The sampling frame consisted of an Access database containing 4,768,858 payments³¹ totaling \$445,040,125 (\$269,584,249 Federal share) for NEMT services provided during calendar years 2018 and 2019 by transportation providers in New York City for which the State agency claimed Federal Medicaid reimbursement. The sampling frame included payments with a Federal paid amount of \$25 or more to providers not under investigation by the New York Medicaid Fraud Control Unit and select providers not under investigation by the New York Office of the Medicaid Inspector General.

SAMPLING UNIT

The sample unit was a payment for NEMT services.

SAMPLING DESIGN AND SAMPLE SIZE

We used a stratified random sample as described in the table below:

Table 2: Stratified Random Sample

Stratum	Dollar Range of Frame	Number of Payments in Frame	Sample Size	Dollar Value of Frame (Federal Share)
1	\$25.00 to \$49.99	3,009,679	34	\$100,650,489
2	\$50.00 to \$99.99	1,183,972	33	82,404,040
3	\$100.00 to \$1,835.18	575,207	33	86,529,720
Totals		4,768,858	100	\$269,584,249

SOURCE OF RANDOM NUMBERS

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

³¹ A payment is comprised of Medicaid transportation payments and associated mileage, parking, and tolls, if any. We combined all of the claim lines under an individual Transaction Control Number into a single payment.

METHOD OF SELECTING SAMPLE UNITS

We sorted the items in each stratum by Transaction Control Number, then we consecutively numbered the items in each stratum in the sampling frame. A statistical specialist generated the random numbers in accordance with our sample design. We then selected the corresponding frame items for review.

ESTIMATION METHODOLOGY

We used the OIG/OAS statistical software to estimate the total amount of unallowable and potentially unallowable NEMT payments in the sampling frame. 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 are designed to be less than the actual overpayment total 95 percent of the time.

APPENDIX C: SAMPLE RESULTS AND ESTIMATES

Table 3: Sample Results for Unallowable Payments

Stratum	Payments in Frame	Value of Frame (Federal Share)	Sample Size	Value of Sample (Federal Share)	Number of Unallowable Payments in Sample	Value of Unallowable Payments in Sample (Federal Share)
1	3,009,679	\$100,650,489	34	\$1,136	12	\$375
2	1,183,972	82,404,040	33	2,410	15	1,084
3	575,207	86,529,720	33	4,921	14	1,975
Total	4,768,858	\$269,584,249	100	\$8,467	41	\$3,433³²

Table 4: Estimated Value of Unallowable Payments in the Sampling Frame (Federal Share)
(Limits Calculated for a 90-Percent Confidence Interval)

Point Estimate	\$106,454,779
Lower Limit	\$84,329,893
Upper Limit	\$128,579,666

Table 5: Sample Results for Potentially Unallowable Payments

Stratum	Payments in Frame	Value of Frame (Federal Share)	Sample Size	Value of Sample (Federal Share)	Number of Potentially Unallowable Payments in Sample	Value of Potentially Unallowable Payments in Sample (Federal Share)
1	3,009,679	\$100,650,489	34	\$1,136	13	\$405
2	1,183,972	82,404,040	33	2,410	13	908
3	575,207	86,529,720	33	4,921	16	2,503
Total	4,768,858	\$269,584,249	100	\$8,467	42	\$3,816

³² Difference in total is due to rounding.

**Table 6: Estimated Value of Potentially Unallowable Payments in the Sampling Frame
(Federal Share)**
(Limits Calculated for a 90-Percent Confidence Interval)

Point Estimate	\$112,028,279
Lower Limit	\$88,435,601
Upper Limit	\$135,620,957

APPENDIX D: SUMMARY OF DEFICIENCIES FOR EACH SAMPLED PAYMENT

Categories of Deficiencies

1	No Valid Medical Practitioner’s Order for Transportation Services
2	Transportation Services Not Adequately Documented
3	Compliance with Driver Qualification Requirements Not Met
4	Services Not Provided
5	Level of Service Provided Not Authorized

Sample Payment	Deficiency 1	Deficiency 2	Deficiency 3	Deficiency 4	Deficiency 5	No. of Deficiencies
1						0
2						0
3						0
4	X	X				2
5			X			1
6						0
7						0
8						0
9						0
10						0
11						0
12	X					1
13						0
14						0
15						0
16						0
17						0
18						0
19				X		1
20						0
21	X					1
22		X				1 ³³
23						0
24	X					1
25						0
26	X					1

³³ We disallowed one leg of the associated round trip for the sampled payment. The remaining sampled payments do not have any partial disallowances.

Sample Payment	Deficiency 1	Deficiency 2	Deficiency 3	Deficiency 4	Deficiency 5	No. of Deficiencies
27						0
28			X			1
29		X				1
30						0
31		X				1
32						0
33	X					1
34						0
35						0
36						0
37	X					1
38	X					1
39	X					1
40						0
41						0
42						0
43	X					1
44						0
45	X					1
46						0
47						0
48						0
49	X					1
50	X					1
51	X					1
52						0
53						0
54						0
55						0
56	X					1
57			X			1
58		X				1
59				X		1
60	X	X				2
61						0
62						0
63						0
64						0
65			X		X	2

Sample Payment	Deficiency 1	Deficiency 2	Deficiency 3	Deficiency 4	Deficiency 5	No. of Deficiencies
66	X					1
67						0
68						0
69	X					1
70			X			1
71	X					1
72						0
73						0
74						0
75			X			1
76						0
77						0
78						0
79						0
80						0
81		X				1
82	X	X				2
83						0
84						0
85	X					1
86						0
87			X			1
88		X				1
89						0
90						0
91						0
92		X				1
93	X					1
94						0
95						0
96		X				1
97						0
98		X				1
99		X				1
100						0
Category Totals	22	13	7	2	1	45 ³⁴

³⁴ Four of the forty-one sampled unallowable payments contained multiple deficiencies.

APPENDIX E: SAMPLE MEDICAL JUSTIFICATION FORM



**Department
of Health**

**Office of
Health Insurance
Programs**

Form 2015 (03/18)

VERIFICATION OF MEDICAID TRANSPORTATION ABILITIES

Enrollee's Name: _____ Enrollee Date of Birth: ___/___/___ Enrollee Client ID Number: _____
 Enrollee's Address: _____ City: _____ State: _____ Zip Code: _____

1. What mode of transportation does this enrollee use for activities of daily living such as attending school, worship, and shopping? _____
2. Can the enrollee utilize mass/public transportation? Yes No. *If Yes, please proceed to the Medical Provider Information section of this Form.*
3. Does the enrollee have any medically documented reason that he/she cannot be transported in a group ride capacity? Yes No
If you checked Yes, please provide a medical justification in the box on page 2.
4. Please check one box below for the mode of transportation you deem most medically appropriate for this enrollee:

Taxi: The enrollee can get to the curb, board and exit the vehicle unassisted, or is a collapsible wheelchair user who can approach the vehicle and transfer without assistance, but cannot utilize public transportation.

Ambulette Ambulatory: The enrollee can walk, but requires door through door assistance.

Ambulette Wheelchair: The enrollee uses a wheelchair that requires a lift-equipped or a roll-up wheelchair vehicle and requires door through door assistance.

Stretcher Van: The enrollee is confined to a bed, cannot sit in a wheelchair, but does not require medical attention/monitoring during transport.

BLS Ambulance: The enrollee is confined to a bed, cannot sit in a wheelchair, and requires medical attention/monitoring during transport for reasons such as isolation precautions, oxygen not self-administered by patient, sedated patient.

ALS Ambulance: The enrollee is confined to a bed, cannot sit in a wheelchair, and requires medical attention/monitoring during transport for reasons such as IV requiring monitoring, cardiac monitoring and tracheotomy.

5. Is the above Mode of Transportation required for (check all that apply):
 - the enrollee's behavioral, emotional and/or mental health diagnosis? Yes No
 - for a mobility related issue? Yes No
 - required due to another health-related reason? Yes No
 - required due to unique circumstances that may impact a medical transportation request *(This may include but is not limited to circumstances such as: bariatric requirements, unique housing situations, and requirements for an escort, etc.)?* Yes No

If you answered Yes to any part of question 5 or selected a higher mode of transportation than what the enrollee uses for normal daily activities please proceed to number 6.

Fax to: (315)299-2786 Form must be completed in its entirety or it will not be processed or approved For questions please call (866)371-3881

Enrollee Name: _____ Enrollee Date of Birth: _____ Enrollee Client ID Number: _____

6. Enter **all** relevant medical, mental health or physical conditions and/or limitations that impact the required mode of transportation for this enrollee in the box below. Please include the level of assistance the enrollee needs with ambulation. (Example – enrollee requires 2-person assistance or enrollee requires 1-person assistance). If you answered Yes to question 3 or any part of question 5, it is important you provide as much detail as possible as to why you believe the enrollee's medical condition aligns with the requested mode of transportation. Insufficient details may cause the Form-2015 to be rejected and may lengthen the time it takes to get the enrollee approved for the higher mode of transportation.

Please indicate below the anticipated length of time this enrollee will require a higher mode of transportation.
 Temporarily until ___/___/___ Long Term (9-12 months) until ___/___/___ Permanent (subject to periodic review)

CERTIFICATION STATEMENT: I (or the entity making the request) understand that orders for Medicaid-funded travel may result from the completion of this form. I (or the entity making the request) understand and agree to be subject to and bound by all rules, regulations, policies, standards and procedures of the New York State Department of Health, as set forth in Title 18 of the Official Compilation of Rules and Regulations of New York State, Provider Manuals and other official bulletins of the Department, including 18 NYCRR § 504.8(a)(2), which requires providers to pay restitution for any direct or indirect monetary damage to the program resulting from improperly or inappropriately ordering services. I (or the entity making the request) certify that the statements made hereon are true, accurate and complete to the best of my knowledge, no material fact has been omitted from this form.

Medical Provider Information

Medical Provider's Name: _____ NPI #: _____ Date of Request: _____
 Clinic/Facility/Office Name: _____ Telephone #: _____ Fax #: _____
 Clinic/Facility/Office Address: _____ City: _____ State: _____ Zip: _____
 Name of person completing this form (Print): _____ Title: _____
 Name of Medical Provider attesting that all the information on this form is true (Print): _____
 Signature of Medical Provider: _____ Date: _____

Fax to: (315)299-2786 Form must be completed in its entirety or it will not be processed or approved For questions please call (866)371-3881

APPENDIX F: STATE AGENCY COMMENTS



Department of Health

KATHY HOCHUL
Governor

MARY T. BASSETT, M.D., M.P.H.
Commissioner

KRISTIN M. PROUD
Acting Executive Deputy Commissioner

June 9, 2022

Ms. Brenda Tierney
Regional Inspector General for Audit Services
Department of Health and Human Services - Region II
Jacob Javits Federal Building
26 Federal Plaza
New York, New York 10278

Ref. No: **A-02-21-01001**

Dear Ms. Tierney:

Enclosed are the New York State Department of Health's comments on the United States Department of Health and Human Services, Office of Inspector General's Draft Audit Report **A-02-21-01001** entitled, **"New York Claimed \$210 Million, Over 75 Percent of the Audited Amount. In Federal Reimbursement for Nonemergency Medical Transportation (NEMT) Payments to New York City Transportation Providers that Did Not Meet or May Not Have Met Medicaid Requirements."**

Thank you for the opportunity to comment.

Sincerely,

Kristin M. Proud
Acting Executive Deputy Commissioner

Enclosure

cc: Diane Christensen
Frank Walsh
Amir Bassiri
Geza Hrazdina
Daniel Duffy
Erin Ives
Timothy Brown
Amber Rohan
Brian Kiernan
James DeMatteo
James Cataldo
Michael Atwood
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**New York State Department of Health
Comments to Draft Audit Report A-02-21-01001 entitled,
“New York Claimed \$210 Million, Over 75 Percent of the Audited
Amount, in Federal Reimbursement for NEMT Payments to New York
City Transportation Providers That Did Not Meet or May Not Have Met
Medicaid Requirements” by the Department of Health and Human
Services Office of Inspector General**

The following are the responses from the New York State Department of Health (the Department) to Draft Audit Report A-02-21-01001 entitled, “New York Claimed \$210 Million, Over 75 Percent of the Audited Amount, in Federal Reimbursement for nonemergency medical transportation (NEMT) Payments to New York City Transportation Providers That Did Not Meet or May Not Have Met Medicaid Requirements” by the Department of Health and Human Services, Office of Inspector General (OIG).

General Comments:

As of March 2022, there were 4,166,216 Medicaid enrollees in New York City. In 2016, the Department engaged in a competitive procurement process, seeking an NEMT Transportation Manager (TM) that would provide NYC Medicaid enrollees with the highest quality and most cost-efficient service. A new TM was awarded the contract for enrollees within NYC. The new TM had established a record of providing high quality, cost-efficient service in fifty-five of New York State's sixty-two counties, and in the request for proposal response, offered to provide its service at a cost of \$0.40 per member per month. The previous TM offered its services at \$0.78 per member per month, nearly twice the amount. At the current enrollment, switching TMs has saved the Medicaid Program almost \$19 Million per year.

Because of the enormous number of people transitioning TMs, and the state's moral obligation to ensure that there would be no interruptions in the delivery of medical services, the Department directed the new TM to accept the level of transportation previously established for each enrollee. The TM continued to seek updated Form-2015s following the transition for the more than four million Medicaid enrollees transitioning. Neither State statute nor regulation defines a specific period of time for which the written order specifying the appropriate mode is valid. Based on the foregoing information and the details below, the Department requests that the repayment request be withdrawn from the audit report.

Recommendation #1:

Refund the estimated \$115,215,564 to the Federal Government for payments that did not comply with Federal and State requirements.

Response #1:

This OIG audit identified 38 claims with no valid practitioner's order. However, the Department identified several sampled payments that appropriately bypassed or allowed flexibility in the frequency of the need for a practitioner order. Of the 38 claims in this category:

- At least 17 (17) trips have a valid medical practitioner order on file.
- Four (4) were scheduled using the most cost-effective mode of transportation. When the most cost-effective transportation mode is used, a medical practitioner order is not required. In each case, the member's distance from public transportation made taxi the most cost-effective mode of transportation.

- Three (3) were for life-sustaining dialysis trips. To ensure member safety and facilitate access, NYS Medicaid allows these trips to be authorized prior to collecting the practitioner order and therefore these trips did not violate any state requirements. Further, given the process for practitioner ordering was entirely paper-based during the audit time frame, processing time could have delayed access to critical care if this policy was not implemented.
- Numerous trips had practitioner orders collected after the trip occurred. In at least one case, the member had a permanent condition, and consistent with policy at the time, practitioner orders were not needed for redundant documentation of a permanent condition.
- Shortly before the audit time frame, the TM contract in New York City transitioned to a new company, and the required frequency of practitioner orders were relaxed to ensure uninterrupted NEMT service and continued access to medical care during the contract transition for an enrolled Medicaid population of more than 4 million people.
 - The Department has requested copies of the practitioner order forms from the previous contractor for these trips. Due to the paper-based ordering system during the audit time frame, the previous contractor must locate physical forms in their storage warehouse.
- The majority of claims included trips for minors, members seeking methadone treatment or other addiction counseling, or members seeking emergency wound care. In such instances where the trip is deemed urgent, the TM is directed to authorize trips to ensure access to these needed and potentially life-saving services.
- Two (2) claims are still under review by the Department and the TM.

The Department has provided supporting documentation for these claims to OIG under separate cover. Once the Department completes its review, any claims that do not comply with Federal and State requirements will be refunded.

The Office of the Medicaid Inspector General (OMIG) has initiated NEMT audits and investigations that overlap with the OIG audit scope and will continue its reviews in this area. The federal share of any identified overpayments will be refunded to the Federal government. Pursuant to State regulations, any identified overpayments OMIG pursues for recovery are subject to the provider's right to due process.

Recommendation #2:

Work with the transportation manager to review the payments to transportation providers that may not have complied with Federal and State requirements, resulting in an estimated \$95,137,773 in Federal Medicaid reimbursement, and refund to the Federal Government any unallowable amounts.

Response #2:

The Department is referring these cases to OMIG for further review and recoupment. The Department is mitigating the issue of missing documentation for trip locations and times with the use of GPS data among all transportation providers participating with NYS Medicaid NEMT.

OMIG has previously performed audits and investigations of the NEMT program and has audit protocols which address the findings in this OIG draft audit report, including but not limited to reviewing for valid documentation of services provided, and valid documentation that drivers and vehicles meet applicable State requirements. For this audit, OMIG is analyzing the claim documentation provided by OIG and is initiating the audit process to pursue recovery of any

payments determined to be inappropriate. Pursuant to State regulations, any identified overpayments OMIG pursues for recovery are subject to the provider's right to due process.

Recommendation #3:

Improve its oversight of its NEMT program to ensure that the transportation manager strengthen its procedures to ensure that (1) prior authorization documentation, including medical practitioner's orders are properly completed and maintained; (2) transportation providers do not bill for transport on a date when a beneficiary does not receive a Medicaid-covered service; (3) transportation providers document that drivers and vehicles used to transport Medicaid beneficiaries meet applicable State requirements; (4) NEMT services are adequately documented; (5) transportation providers bill only for services that are actually provided; and (6) transportation providers bill for the level of service authorized.

Response #3:

Since the scope period of this audit, documentation protocols and vendor procedures in the NEMT program have been significantly strengthened. Most notably, the medical practitioner order form ("form 2015") has been made available as an electronic online form ("e2015"). In June 2022, all practitioner orders for transportation will be collected through the e2015. Because the form is easier to access and complete and has automatic processing, there is reduced need for trips to be authorized prior to collecting the form. However, life-sustaining and urgent trips will continue to be authorized prior to receiving the form to ensure member safety and access to care. Moreover, since the Fall of 2019, when a determination is made that a 2015 exemption exists, the exemption reason is documented in the trip record in the TM's system. Currently, a trip cannot be authorized unless a valid practitioner order is on file, or it falls into an exemption category (life-sustaining and/or urgent medical reason). All exemptions are reviewed by the TM on a weekly basis.

Documentation of trip start, end times and locations will soon become trackable through GPS data. All Medicaid transportation providers will be required to share GPS data with the Department's TM(s), and this data will be stored in a database which allows it to be analyzed for oversight, monitoring and program integrity purposes.