December 3, 2019

Frank Berry, Commissioner
Georgia Department of Community Health
2 Peachtree Street, NW
Atlanta, GA 30303

Re: Draft 1115 Waiver Application dated 11/4/2019

Dear Mr. Berry:

The Medical Transportation Access Coalition (MTAC) (www.mtaccoalition.org) was formed in 2017 to educate federal and state policymakers and other stakeholders about the benefits of medical transportation and the need for policies that support continued access to these services. The coalition’s founding and allied members include a diverse set of transportation brokers and providers, managed care organizations and trade associations, and patient advocacy groups. Two of our founding members, LogistiCare|Circulation and Southeastrans, are NEMT brokers headquartered in Georgia.

This letter is in response to Georgia’s draft application requesting Section 1115 authority to waive non-emergency medical transportation (NEMT) included as part of the broader package of new policies to be tested in the state. As discussed further below, we specifically ask Georgia to withdraw the proposal to eliminate NEMT given the following considerations: ongoing litigation, the increasing prominence of NEMT as a feature in health insurance benefit designs to improve health and well-being, and concerns regarding the NEMT waiver’s effects on access to care and adherence to clinically recommended care.

**Background**

The NEMT benefit in Georgia is a critical, often life-sustaining, benefit for a diverse population of Medicaid beneficiaries in the state. This is borne out by the following data from Southeastrans and LogistiCare|Circulation, two MTAC members who operate as non-emergency medical transportation (NEMT) brokers in the state’s five NEMT regions:

- Total trips to medically necessary care: 3,857,096 (2016); 3,785,590 (2017); 3,964,894 (2018); and 3,885,050 (as of late Nov. 2019).
- In a given NEMT region, about 6.5-12% of total beneficiaries in Georgia qualify for and use the benefit.
- The most common trip destinations are for adult day care (29%) and behavioral and mental health (25%), followed by dialysis (17%), a doctor’s office such as a primary care
provider for typical needs such as routine check-ups or follow-up care (8%), and specialists (5%).

**Stewart v. Azar Casts Doubt on NEMT Waiver’s Legality**

On March 27, 2019, a federal district court judge determined CMS’s approval of the entire Kentucky HEALTH demonstration program, including the waiver of NEMT, was unlawful. Adopting the framework of the Administrative Procedure Act (APA), the court found the program failed to promote the objectives of the Medicaid statute, one of which is to provide medical assistance to individuals who qualify for the program.¹ Like the Kentucky HEALTH program, the Georgia Pathways benefits package eliminates NEMT to be more consistent with commercial coverage. Presumably, though the application fails to explain explicitly how a commercial coverage package ties directly to the objectives of the Medicaid Act, the state believes a benefits package that is more consistent with commercial insurance helps to encourage more financial independence for beneficiaries. However, the court in Stewart v. Azar (the Kentucky HEALTH care), noted “financial self-sufficiency is not an independent objective of the Act and, as such, cannot undergird the Secretary’s finding under § 1115 that the project promotes the Act’s goals. This is so even where the Court accords Chevron deference to his interpretation of financial independence as an ‘objective’ contemplated in § 1115. For the reasons that follow, it is an unreasonable reading of the relevant provision because it is incompatible with the surrounding statutory language and aims.”

Further, an MTAC-commissioned study confirms the linkage between transportation and access to care. 977 Medicaid beneficiaries who use NEMT to make their appointments were surveyed in 2018 in three diverse states, Louisiana, Michigan, and New Jersey.² The following survey findings, in particular, show that eliminating NEMT serves no legitimate purpose and poses unnecessary risks for beneficiaries in: (1) reducing their ability to make their scheduled appointments and stay adherent to treatment guidelines; (2) posing significant financial barriers; and (3) worsening the health of certain beneficiaries who would otherwise be eligible for and utilize the NEMT benefit.

- According to the 2018 survey, without access to NEMT, 66.5% of patients receiving treatment for wound care for diabetes, 58.8% of patients receiving treatment for substance abuse, and 52.8% of dialysis patients would not be able to attend any medical appointments. On average, patients across all three treatment categories above reported that they would miss approximately 70% of their appointments without NEMT.

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¹ *Stewart v. Azar*, Case No. 18-152-JEB (D.D.C. Mar. 27, 2019)

Over three-quarters (82.6%) of patients said they would have to pay more out of pocket if they did not have access to NEMT, and approximately two-thirds (66.6%) reported having no other form of personal or public transportation that they could use to attend appointments as an alternative.

A vast majority of patients surveyed (92.7%) reported their health would be “much worse” (85.3%) or “slightly worse” (7.4%) without access to NEMT. Moreover, 103 of 977 patients surveyed reported that they "would die" or “would probably die” without NEMT.

If a significant proportion of beneficiaries with common chronic conditions are unable to access health care without the provision of NEMT to manage their health—as this survey strongly suggests—we question whether the proposed continued elimination of NEMT fulfills all the objectives of the Medicaid program, including the provision of medical assistance to those that Congress intended to serve through the program.

**NEMT is Increasingly Consistent with Commercial Coverage Plan Designs**

Despite the fact that there is no statutory requirement under the Patients First Act to waive NEMT for the Pathways population, Georgia nonetheless seeks to waive the federal requirement to provide NEMT under 45 CFR 431.53 to be more consistent with commercial insurance benefits. However, payers in both government programs and the private sector are increasingly providing transportation for enrollees as an additional (voluntary) benefit. This is a particularly growing market trend for the most vulnerable plan members, such as enrollees with common chronic conditions or those with no other reliable, safe, and affordable means to obtain care. In the Medicare Advantage program, CMS has promoted NEMT as a supplemental benefit and, because so many private MA plan sponsors see the value of NEMT, it is being offered in 25% more plans in 2019 than in 2018. For 2020, the number of MA plans to offer transportation benefits will grow from 1,449 to 1,941, representing a 25% increase from 2019.

The trend in MA is expanding to the private insurance and employee benefits sector which is also providing transportation for enrollees as an additional (voluntary) benefit. Just recently,

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6 A few examples that show the growth of transportation offerings in private insurance benefits are: (1) The Blue Cross Blue Shield Association and Lyft entered into a national partnership “to ensure Americans are not missing
Florida Blue, the largest qualified health plan issuer in Florida, announced it will offer transportation to enrollees in Exchange plans who have an unmet need, following the lead of other plans.7

Data from Other State Demonstrations Reveal Troubling Findings

With exceptions for those who are considered medically frail or have other hardships, Iowa and Indiana have also waived NEMT for their Medicaid expansion population. Evaluations for these programs reveal troubling findings that Georgia may wish to consider. For example, Iowa’s independent initial review report found with statistical significance, that beneficiaries in the expansion population who do not receive NEMT are more likely to have some need for assistance to travel to health visits due to usually or always relying on others for transportation in comparison to Medicaid state plan beneficiaries who received the benefit. While CMS extended the waiver, it required additional evaluation to be conducted, given the lack of clarity on the impact.8

Unfortunately, Iowa’s latest evaluation report also makes a number of troubling findings:

- There were significantly more NEMT waiver members reporting unreliable transportation (4%) when compared to Medicaid members (2%), not part of the demonstration.9

- NEMT waiver members were significantly more likely to usually or always need transportation help compared to Medicaid members who were not part of the demonstration (22% compared to 18%).10 This statistically significant difference is one of the largest (4 percent) of all NEMT-related survey data.


9 This 5% figure will likely increase if MCOs do not provide unreimbursed transportation resulting in the creation of a true “control” group which can be compared to the “demonstration” group.

10 To this end, we applaud CMS’s approval of North Carolina’s Healthy Opportunities pilots, which specifically allow for reimbursement for plans to supplement mandatory non-emergency medical transportation with related
• More generally, 11% of all NEMT waiver members and 12% of Medicaid members, not part of the demonstration report an unmet need for transportation, and 8% of both cohorts report they worried “a great deal” about their ability to pay for the cost of transportation to or from a health care visit. This is the case despite the voluntary provision of unreimbursed transportation by MCOs in Iowa to date. This unmet need is not unique to Iowa; it supports a call to action for all states to explore how innovative tools and programs (e.g., GPS tracking, member outreach, decreased wait times, case managers) could be better utilized to provide more reliable NEMT and in turn, financial security and access to care.

**Maintaining the NEMT Benefit in Georgia Saves Money in the Long Run**

Generally, Georgia and other states cover a specific NEMT trip to a specific individual when certain conditions are met. As noted above, NEMT is a critical benefit that is only utilized by those with no other means of transportation. Conditions for coverage include:

• The beneficiary is eligible for Medicaid
• The medical service is eligible for Medicaid coverage and medically necessary
• The beneficiary has no other means of getting to and from the medical service
• The NEMT trip is authorized in advance
• The NEMT trip is to the nearest qualified medical provider
• The NEMT trip is the lowest cost available transportation mode that is appropriate for the member

Accordingly, NEMT is preserved for a small minority (6.5-12% in Georgia) of the most vulnerable Medicaid enrollees. According to data from LogistiCare|Circulation and Southeastrans, roughly 10-14% of NEMT rides are provided through lower-cost alternatives, such as mass transit, volunteer drivers, or mileage reimbursement.

Further, using Medicaid claims and clinical guidelines, an MTAC-commissioned study examined whether NEMT, by increasing treatment adherence, saves money for Medicaid programs for three chronic conditions (dialysis, SUD, and diabetic wound care). The study found per 30,000

Medicaid members (10,000 with each condition), Medicaid savings per month is $40,040,304.11. This study affirms previous studies which model savings delivered by NEMT.\(^\text{11}\)

Ultimately, a state uses well-managed NEMT as a tool for containing Medicaid spend, which aligns with Georgia’s goals in expanding coverage to increase the Pathways population’s access to affordable coverage and to improve their health and well-being. This is why, we believe, it is appropriate to preserve NEMT as the state shapes its final waiver application for CMS review.

We appreciate your thoughtful consideration of this letter as part of the administrative record, including the cited resources hyperlinked or otherwise referenced throughout. If you have questions, please contact tricia.beckmann@faegrebd.com.

Sincerely,

Tricia Beckmann, JD  
Director, Faegre Baker Daniels Consulting  
Advisor to Medical Transportation Access Coalition

\(^{11}\) See summary of beneficiary survey data below for more information, including methodology and margin of error. Available at: https://mtaccoalition.org/study-reveals-non-emergency-medical-transportation-nemt-is-extremely-cost-effective-and-life-saving-to-medicaid-program/.  
\(^{12}\) A report prepared for the Arkansas Health Reform Task Force concluded if access to NEMT services saved only one hospitalization in 100 trips, the return on investment (ROI) would be 10 to 1. Available at: https://www.stephengroupinc.com/images/engagements/Final-Report-Volume-II.pdf. Another study conducted by Florida State University found NEMT’s ROI factor to be 11 to 1. J. Cronin, Florida Transportation Disadvantaged Programs Return on Investment Study, Florida State University and Marking Institute (2008). Available at: https://ctd.fdot.gov/docs/AboutUsDocs/roi_final_report_0308.pdf.