December 5, 2019

Allison Taylor, Medicaid Director
Indiana Family and Social Services Administration
402 West Washington Street, Room W374
Indianapolis, Indiana 46204

Re: Renewal Request for the Healthy Indiana Plan (HIP) Section 1115 Waiver (Project Number 11-W-00296/5)

Dear Ms. Taylor:

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.

This letter is in response to Indiana’s draft application requesting to renew the non-emergency medical transportation (NEMT) waiver included as part of the larger HIP 2.0 demonstration program. As discussed further below, we specifically ask Indiana to reconsider this request given 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 negative impact on access to care and adherence to clinically recommended care.

Background

The NEMT benefit in Indiana 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. Southeastrans holds a contract with FSSA to manage reimbursed transportation for the fee-for-service population and a contract with MDWise to manage transportation for HIP 2.0 members. Similarly, LogistiCare | Circulation manages transportation provided to HIP 2.0 members by Anthem.

- Total trips to medically necessary care: 1,017,216 (2018) and 1,483,535 (2019) (Note: the total state figures are likely higher when taking into account other MCOs)
• About 14% of total fee-for-service (FFS) beneficiaries in Indiana qualify for and use the benefit, and a smaller percentage (estimated to be less than 5%) of MCO members use unreimbursed NEMT provided voluntarily through MCOs like MDWise and Anthem.

• The most common trip destination for MCO members is for substance abuse treatment or other behavioral health needs (16-18%). Dialysis (36%) is the most common trip destination for fee-for-service beneficiaries. Other common trip destinations among both populations are a doctor’s office visit such as a primary care provider for typical needs such as routine check-ups or clinically recommended follow-up care and specialists visits.

**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. Like the Kentucky HEALTH program, the HIP demonstration 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, 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...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. 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.

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• 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.

• 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**

Further, 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.\(^3\) 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.\(^4\) 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.\(^5\)

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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, 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.

Data from the Draft Evaluation Report Reveals Troubling Findings

The Healthy Indiana Plan Interim Evaluation Report dated November 6, 2019 (the “Report”), reveals troubling findings associated with the NEMT waiver. While the majority of beneficiaries expressed satisfaction with the HIP demonstration, reasons for dissatisfaction by providers and beneficiaries included a lack of adequate transportation resources. Indeed, a lack of transportation may be affecting HIP Basic members’ access to important health care services. The Report finds, “HIP Basic members had lower participation and utilization rates for preventive services, primary care, specialty services, and urgent care centers from 2015 to 2018 as compared to HIP Plus members. Many factors could contribute to this difference between benefit plan groups, including case mix (10% of HIP Basic members are medically frail as compared to 17% of HIP Plus members), health literacy, lack of transportation to providers, among others.” This is true despite the voluntary provision of transportation by many MCOs who are not reimbursed by the state. We view this situation as an opportunity to modify the waiver to cover transportation services to remove barriers to appropriate, timely care. In addition, we suggest the state and MCOs work together to address this problem by performing targeted outreach to those members who express problems getting to the doctor or who miss their appointments so they are more aware of transportation options and have a concrete plan to schedule and make their appointments. Addressing the reported lack of transportation

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 vital health care appointments simply because they lack reliable transportation.” The announcement notes “While assistance is available for many who receive Medicaid coverage, millions of Americans are still unable to regularly access care because they lack reliable transportation options.” Blue Cross Blue Shield Association, “Blue Cross and Blue Shield and Lyft Join Forces to Increase Access to Health Care in Communities with Transportation Deserts,” May 10, 2017, available at: https://www.bcbs.com/news/press-releases/blue-cross-and-blue-shield-and-lyft-join-forces-increase-access-health-care (last accessed: November 19, 2019); (2) Blue Cross Blue Shield of Michigan’s enrollee materials, available at http://www.mibluecrosscomplete.com/content/dam/microsites/blue-cross-complete/blue-cross-complete-blue-cross-complete-transportation-services.pdf (last accessed: November 19, 2019); and (3) Blue Shield of California enrollee materials, available at: https://www.blueshieldca.com/provider/content_assets/documents/Announcements/LogistCare_FAQ.pdf (last accessed: November 19, 2019).


resources would coincide with one of the recommendations of the report to develop policies to further decrease avoidable emergency department use. Beneficiaries experiencing avoidable ED trips may see an ambulance ride as their most reliable method to receive care, but investments in cost-effective NEMT is the wiser approach to achieve the state’s aims.

We are not blind to the fact that even if reimbursed NEMT is restored, affected HIP members may still experience challenges accessing care; as the Report acknowledges, transportation is just one of many barriers these Hoosiers face. However, the reality is the majority of NEMT trips are to treatments to prevent or maintain more costly care episodes, most commonly for dialysis and substance use disorder treatment.⁹

The state should also consider that individuals who are very poor experience greater barriers to care through lack of adequate transportation resources. The state’s 2016 evaluation report for the NEMT waiver found that among all members who did not have State-provided transportation who scheduled an appointment, those with income at or below the federal poverty level (FPL) were more likely to report transportation as a reason for missing an appointment compared to those with income greater than the poverty level (5.1 percent compared to 1.7 percent, z=5.31, p<0.001).¹⁰

We also recommend that the state perform a more rigorous evaluation with respect to the transportation waiver to better isolate and understand its effects. The 395-page Report only mentions transportation a few times and fails to drill down into important details about how the waiver connects to access to care, such as whether the lack of transportation deters members from scheduling appointments, whether the lack of transportation causes members to miss appointments once scheduled, whether HIP Basic or HIP Plus members experience more transportation barriers, comparing urban, rural and suburban member experience or possibly fee-for-service beneficiaries (who receive NEMT) with HIP members, and understanding the role and limitations of unreimbursed transportation by MCOs.

**The NEMT Waiver is Not ‘Routine, Successful, or Non-complex’**

Indiana seeks federal approval of the NEMT waiver for an additional 10-year period pursuant to a November 2017 CMS guidance document providing states with the option to extend a “routine, successful, non-complex section 1115(a) waiver and expenditure authorities in a state for a period up to 10 years.”¹¹ Federal regulations also require the application to contain a

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⁹ See recent trip data from LogistiCare, the largest national Medicaid NEMT broker, reported by Leavitt Partners, “Moving Forward Together: Opportunities to Improve Program Integrity in Medicaid Non-Emergency Medical Transportation,” July 24, 2019, available at: [https://leavittpartners.com/whitepaper/moving-forward-together/](https://leavittpartners.com/whitepaper/moving-forward-together/)


“comprehensive description of the demonstration application or extension to be submitted to CMS that contains a sufficient level of detail to ensure meaningful input from the public.” The application fails to address how the demonstration meets these criteria and therefore does not provide sufficient detail to provide meaningful public input.

We also do not believe the NEMT waiver can be construed as routine, successful or non-complex. First, only two states (Iowa and Indiana) have implemented the comprehensive elimination of NEMT for certain non-disabled adults, so it is not a routine waiver, and there is no precedent for renewing it for 10 years. Second, as mentioned above, the evaluation reveals that a lack of adequate transportation resources prevents the state from fulfilling the Medicaid Act’s objective of providing medical services to beneficiaries; this is the case despite the voluntary provision of unreimbursed transportation by MCOs. Finally, the waiver is complex both in its implementation and effects, which is precisely why CMS required additional evaluation in 2016. It is complex in that MCOs are voluntarily providing unreimbursed transportation but may cease to do so during the 10-year period, and the effects of the waiver appear to be felt differently across different cohorts—the evaluations to date suggest individuals who are very poor and/or live in rural areas experience more acute transportation barriers the waiver only exacerbates.

**Restoring the NEMT Benefit Could Save Money in the Long Run**

Generally, a specific NEMT trip is reimbursed 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 (likely less than 10% of all FFS and MCO beneficiaries in Indiana) of the most vulnerable Medicaid enrollees. According to data from LogistiCare Circulation and Southeastrans, a significant number of NEMT rides are provided through lower-cost alternatives, such as mass transit and mileage reimbursement, particularly for ambulatory beneficiaries. About 4% of FFS beneficiaries utilize these lower-cost options, while as many as 10% of MCO members utilize these lower-cost options.

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.\textsuperscript{12} This study affirms previous studies which model savings delivered by NEMT.\textsuperscript{13}

Ultimately, a state uses well-managed NEMT as a tool for containing Medicaid spend, which aligns with Indiana’s goals in facilitating prevention and clinical care outside of the ED. 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

\textsuperscript{12} 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/.

\textsuperscript{13} 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.