



December 2013
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AGENCY REVIEW

NON-EMERGENCY MEDICAL TRANSPORTATION INTERNAL CONTROLS

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

AUDIT OVERVIEW

The BMS Controls for NEMT Providers Appear to Be Appropriate;
However, the BCF Controls for NEMT Recipients, Volunteers, and
Common Carriers Are Inadequate

The DHHR Allows Common Carriers to Be Reimbursed at Higher
PSC Rates for NEMT Services



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EXECUTIVE SUMMARY

This performance review of the non-emergency medical transportation (NEMT) program is part of the agency review of the Department of Health and Human Resources (DHHR), as authorized by *West Virginia Code §4-10-8(b)(5)*. The objectives of this review are to determine why the cost of the NEMT program is increasing, if the internal controls related to NEMT are adequate for deterring fraud, waste, and abuse, and if common carriers are reimbursed for NEMT services at a more expensive rate than the standard Medicaid rate.

Report Highlights

Issue 1: The BMS Controls for NEMT Providers Appear to Be Appropriate; However, the BCF Controls for NEMT Recipients, Volunteers, and Common Carriers Are Inadequate.

- The overall cost of the NEMT program in West Virginia has increased 74 percent from \$14.6 million in 2003 to \$25.5 million in 2012. The cost increase is primarily driven by the increase in Medicaid recipients receiving NEMT reimbursements from the Bureau for Children and Families (BCF)-administered Recipient Automated Payment Information Data System (RAPIDS) which reimburses payment directly to individuals, volunteers, or common carriers.
- The internal controls utilized by the BMS are appropriate when regulating Medicaid enrolled NEMT providers, while the controls utilized by the BCF are inadequate.
- Currently, there are no mandatory checks used by BCF staff to verify the legitimacy and appropriateness of NEMT claims. Instead the BCF leaves it up to the discretion of the caseworker to administer controls only if they suspect suspicious activity.
- Caseworkers who administer the NEMT program for the BCF experience large caseloads and a 16 percent annual turnover rate making it likely that discretionary controls are not taking place to the levels they should be.

Issue 2: The DHHR Allows Common Carriers to Be Reimbursed at Higher PSC Rates for NEMT Services

- Current policy regulating the NEMT program allows common carriers to charge a Public Service Commission (PSC)-established rate which is higher than the standard Medicaid rate.

PERD Evaluation of the Agency's Written Response

The Office of the Legislative Auditor's Performance Evaluation and Research Division received the DHHR's response on December 6, 2013. The DHHR concurred with the findings and recommendations and indicated that once a NEMT Broker is in place, the concerns identified in the report will no longer be an issue. The DHHR stated that "the BMS has taken action to eliminate unnecessary NEMT expense

to the state and Medicaid program and to drastically reduce or eliminate the prevalence of NEMT fraud and abuse by submitting a State Plan Amendment to CMS on November 20, 2013, requesting the approval for a Transportation Brokerage system.”

In addition to responding to each recommendation, the DHHR provided additional information regarding two points in the report. Regarding the first point, the information listed in the report by PERD was based on information provided in an inquiry response from an email sent by the DHHR in February 2013. In reference to the second point, PERD wanted to acknowledge the fact that common carriers are able to transport multiple Medicaid recipients and charge each recipient for the same trip at the more expensive PSC rate. The agency response can be found in Appendix F.

Recommendations

1. *The Legislative Auditor recommends that the DHHR should establish a control that requires Bureau of Children and Families’ staff to verify appropriate trip mileage when reviewing NEMT reimbursement applications.*
2. *The Legislative Auditor recommends that the DHHR should establish a control that requires Bureau of Children and Families’ staff to verify the legitimacy of claims when reviewing NEMT reimbursement applications.*
3. *The Legislative Auditor recommends that the BCF should develop a control utilized by BCF supervisors that would determine if BCF workers are abusing the NEMT Program.*
4. *The Legislative Auditor recommends that the DHHR should establish a control that determines that the least expensive method of transportation is being utilized for every NEMT trip.*
5. *The Legislative Auditor recommends that the DHHR should develop an NEMT overpayment recoupment procedure.*
6. *The Legislative Auditor recommends that the DHHR should consider alternative measures such as dedicating staff or hiring a contractor to determine the prevalence of fraud and abuse by verifying the appropriateness and legitimacy of NEMT claims*
7. *The Legislative Auditor recommends that the DHHR should conduct a performance system analysis of the CHET system to determine the overall performance of the program.*
8. *The Legislative Auditor recommends that the Department of Health and Human Resources take action to change its NEMT policies to require that all NEMT service providers that receive reimbursement from Medicaid, other than the recipient, his or her friends, family, or volunteer, be enrolled into BMS’ Medicaid program through the Medicaid Provider Enrollment Agreement in order that the providers are paid at the same rate in all systems.*

ISSUE1

The BMS Controls for NEMT Providers Appear to Be Appropriate; However, the BCF Controls for NEMT Recipients, Volunteers, and Common Carriers Are Inadequate.

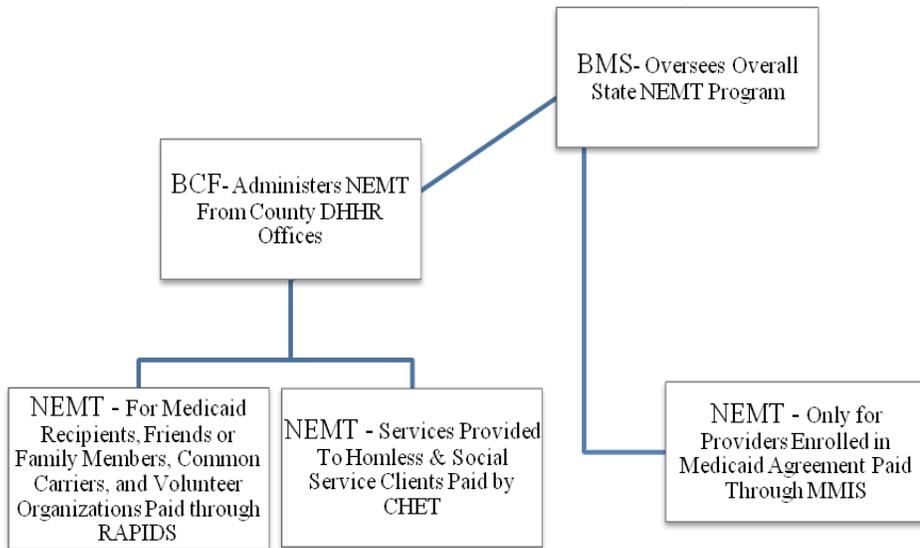
Issue Summary:

The internal controls used by the Bureau for Children and Families (BCF) are inadequate when administering non-emergency medical transportation (NEMT) for Medicaid recipients, their family members, their friends, volunteers, and common carriers compared to the internal controls utilized by the Bureau for Medical Services (BMS) when administering NEMT for transportation providers enrolled in the West Virginia Medicaid Program. The Department of Health and Human Resources' (DHHR) NEMT program is administered by the two different bureaus, the BMS and the BCF, and NEMT reimbursement is made from three different computer systems (see Figure 1). The Legislative Auditor evaluated the internal controls of both bureaus and determined that the controls utilized by the BMS are appropriate when regulating Medicaid enrolled NEMT providers, while the BCF controls are inadequate for monitoring each Medicaid recipient requesting NEMT reimbursement from each county DHHR office in the state. This is an issue because the number of Medicaid recipients receiving NEMT reimbursement from the BCF administered Recipient Automated Payment Information Data System (RAPIDS) has increased by 79 percent from 2003 to 2012 compared to the number of recipients utilizing the BMS administered Medicaid Management Information System (MMIS) which has decreased by 9 percent. The internal controls of the BCF relating to NEMT are a concern because its NEMT policy does not require its workers to verify the legitimacy or appropriateness of NEMT claims.

The number of Medicaid recipients receiving NEMT reimbursement from the BCF administered Recipient Automated Payment Information Data System (RAPIDS) has increased by 79 percent from 2003 to 2012 compared to the number of recipients utilizing the BMS administered Medicaid Management Information System (MMIS) which has decreased by 9 percent.

Figure 1

DHHR’s Non-Emergency Medical Transportation Program Organizational Chart



Background

Established in 1987, the DHHR’s non-emergency medical transportation program is a reimbursement program for recipients of Medicaid for the cost of transportation and other expenses associated with travel to receive medical services. Reimbursement for transportation and related expenses, such as overnight lodging and meals, is available to Medicaid recipients who:

- require transportation to keep an appointment for medical services covered under the Medicaid group for which they were approved,
- receive scheduled Medicaid-covered services at a clinic, hospital or doctor’s office,
- receive pre-authorization as necessary, and
- comply with the 60-day application submittal deadline.

Reimbursement is also available to Medicaid recipients who must travel to obtain necessary medical examinations and tests required to determine Medicaid eligibility.

The NEMT program in West Virginia is administered by two separate bureaus under the DHHR; the Bureau for Medical Services and

Established in 1987, the DHHR’s non-emergency medical transportation program is a reimbursement program for recipients of Medicaid for the cost of transportation and other expenses associated with travel to receive medical services.

the Bureau for Children and Families where each bureau handles separate responsibilities of the program. Although the BMS is responsible for setting policy for the entire program, each bureau follows its own distinct set of policies and procedures. The BMS reimburses payments only to NEMT providers that are enrolled in West Virginia's Medicaid program and receive payment from the MMIS system, while the BCF administers NEMT reimbursement from DHHR county offices to individual Medicaid recipients, volunteers, and common carriers for NEMT services that receive payment from RAPIDS or the Computerized Homeless, Emergency Assistance and Non-Emergency Medical Transportation System (CHET). A brief description of each system is listed below:

- **MMIS** – The Medicaid Management Information System is a mechanized claims processing and information retrieval system for Medicaid. The MMIS supports Medicaid functions and maintains information such as provider enrollment, client eligibility, claims processing, and prior authorization. The MMIS provides NEMT reimbursement only to transportation providers that are enrolled in the West Virginia Medicaid Program. In fiscal year 2012, MMIS reimbursed \$5 million for NEMT services.
- **RAPIDS** – The Recipient Automated Payment Information Data System is West Virginia's mainframe eligibility determination and benefit calculation system. The system provides an automated facility for the administration and management of various public assistance programs and supports the information needs at the county, state and federal levels, where NEMT source information is entered into the system and payment files are generated. The types of payments result from requests that originate from the various DHHR county offices for friends or family members who transport Medicaid eligible members to an approved Medicaid service. In fiscal year 2012, RAPIDS reimbursed approximately \$20 million for NEMT services.
- **CHET** – The Computerized Homeless, Emergency Assistance and Non-Emergency Medical Transportation System captures the NEMT costs incurred on behalf of eligible homeless program participants. The function is similar to RAPIDS, as source information is entered into the system and payment files are generated. The CHET system reimbursed approximately \$366,000 for NEMT services in fiscal year 2012.

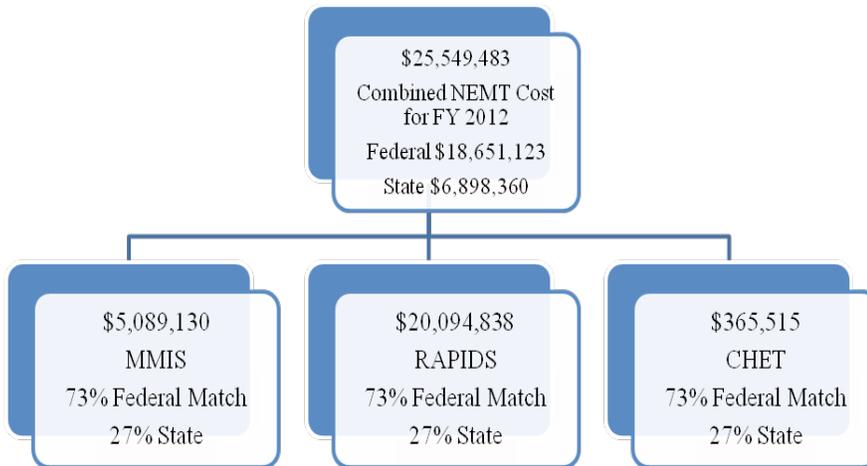
The BMS reimburses payments only to NEMT providers that are enrolled in West Virginia's Medicaid program and receive payment from the MMIS system.

The BCF administers NEMT reimbursement from DHHR county offices to individual Medicaid recipients, volunteers, and common carriers for NEMT services that receive payment from RAPIDS or the Computerized Homeless, Emergency Assistance and Non-Emergency Medical Transportation System (CHET).

Figure 2 illustrates that the NEMT costs deriving from RAPIDS make up the bulk of the overall cost of the NEMT program.

Figure 2

The Combined NEMT Cost for FY 2012 and the Cost for Each NEMT Computer Reimbursement System



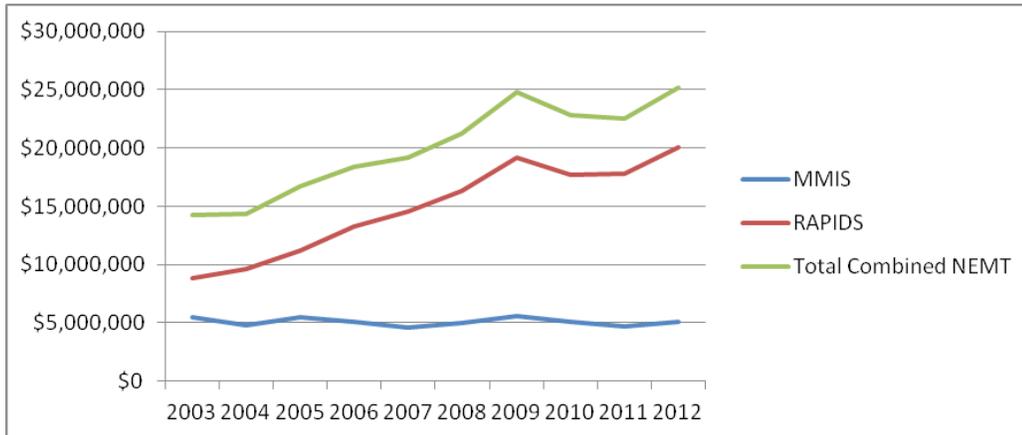
The Cost of the NEMT Program Is Increasing

The overall cost of the NEMT program in West Virginia is increasing. Figure 3 shows that from 2003 to 2012, the total cost of the NEMT program has increased by 74 percent from \$14.6 million in 2003 to \$25.5 million in 2012. The cost increase is primarily driven by NEMT reimbursements made from RAPIDS. The funding for the NEMT program has a federal matching assistance payment of 73 percent to 27 percent being paid by the State. The NEMT reimbursement coming out of RAPIDS has more than doubled by increasing 127 percent from \$8.8 million in 2003 to approximately \$20.1 million in 2012. What was once 60 percent of the overall cost of the NEMT program in 2003 has increased to 79 percent of the total cost in 2012.

The NEMT reimbursement coming out of RAPIDS has more than doubled by increasing 127 percent from \$8.8 million in 2003 to approximately \$20.1 million in 2012.

Figure 3

Medicaid Recipient NEMT Reimbursement From RAPIDS Is Driving Upward the Total Cost of the Overall NEMT Program*



* The CHET figures for NEMT are excluded from the graph primarily due to the smaller cost attributed to the system.

The primary contributing factor to the increase in the NEMT costs coming from RAPIDS is the increase in Medicaid recipients receiving NEMT reimbursement from the system. From 2003 to 2012, the number of recipients receiving NEMT reimbursement from RAPIDS has increased by 79 percent from 27,172 recipients in 2003 to 48,748 recipients in 2012. During that same time period, the overall number of Medicaid recipients in West Virginia has increased by only 11 percent. Table 1 breaks down the number of recipients reimbursed out of the three different computerized payment systems (MMIS, RAPIDS, and CHET), along with the combined total number of NEMT recipients and the total number of Medicaid recipients for each year as well as the average annual growth rate for each group for fiscal year 2003 to fiscal year 2012.

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Table 1
Breakdown of Number of NEMT Recipients and Growth Rates From
FY 2003 to FY 2012

| Fiscal Year | MMIS | RAPIDS | CHET** | Total NEMT Recipients | Overall Medicaid Recipients |
|--|-------------|---------------|---------------|------------------------------|------------------------------------|
| 2003 | 13,042 | 27,172 | 6 | 40,220 | 373,883 |
| 2004 | 18,182 | 39,738 | 2 | 57,922 | 382,837 |
| 2005 | 13,644 | 33,510 | 3 | 47,157 | N/A* |
| 2006 | 13,747 | 36,250 | 7 | 50,004 | 386,378 |
| 2007 | 12,590 | 38,857 | 12 | 51,549 | 384,539 |
| 2008 | 12,599 | 43,261 | 15 | 55,875 | 393,187 |
| 2009 | 11,685 | 45,903 | 18 | 57,606 | 405,178 |
| 2010 | 11,483 | 47,155 | 30 | 58,668 | 414,935 |
| 2011 | 11,018 | 48,275 | 78 | 59,371 | 415,030 |
| 2012 | 11,851 | 48,748 | 360 | 60,959 | 410,770 |
| Average Annual Growth Rate 2003 to 2012 | 0% | 8% | 91% | 6% | 1% |

Source: The Bureau for Medical Services, the Bureau for Children and Families, and the DHHR's Management Information Services.

**The BMS was unable to obtain the number of overall Medicaid recipients for FY 2005.*

***The Legislative Auditor contacted the DHHR in order to question the unusual data results regarding the number of distinct individuals receiving NEMT reimbursement from CHET, and the total NEMT cost attributed to the system; however, the DHHR was unable to explain the data.*

The data in Table 1 indicate that from 2003 to 2012, while the rate of recipients utilizing NEMT providers that receive reimbursement from the MMIS system has been declining, the number of Medicaid recipients receiving NEMT reimbursement from RAPIDS has caused the overall NEMT program to increase by an average of 6 percent per year, or by 52 percent from 2003 to 2012. As of 2012, approximately 12 percent of all Medicaid recipients in West Virginia were receiving NEMT reimbursement from the RAPIDS system; up from 7 percent in 2003. When asked about the causes for growth of the NEMT program over the past 10 years, the BMS stated that one cause was the “popularity of the program.” This “popularity” may be attributed to the fact that RAPIDS is the only payment system that allows for NEMT reimbursement to be made to individual recipients with discretionary internal controls administered by the agency.

When asked about the causes for growth of the NEMT program over the past 10 years, the BMS stated that one cause was the “popularity of the program.”

Ultimately, the data indicate that the number of NEMT recipients and the cost to Medicaid are increasing, mainly due to the increase of recipients receiving NEMT reimbursements from RAPIDS and the costs attributed to them. The proposed Medicaid expansion under the Affordable Care Act could have a sizable impact on the costs and utilization of NEMT in the state. The BMS estimates that by adding the expected 100,000 to 150,000 West Virginians to Medicaid as a result of normal growth and the Affordable Care Act, one could anticipate the current system of NEMT to increase by one-third. According to that estimate, the overall costs for NEMT could increase to \$34 million a year.

The BMS Utilizes Appropriate Controls in Its Administration of the NEMT Program

Due to the separation of NEMT duties and policies between the BMS and the BCF, the internal controls utilized to deter fraud, waste, and abuse are different. The BMS relies mainly on having NEMT providers enroll in the West Virginia Medicaid program through the Medicaid Provider Enrollment Agreement and being reimbursed out of the MMIS system in order to deter fraud, waste, and abuse. The Medicaid Provider Enrollment Agreement advises providers of Medicaid requirements and regulations when conducting NEMT services. The Medicaid Provider Enrollment Agreement advises that providers adhere to Medicaid regulations when conducting NEMT services. The MMIS system has in place control edits that identify application errors or inconsistencies in order to prevent unauthorized or unnecessary payments.

The BMS relies mainly on having NEMT providers enroll in the West Virginia Medicaid program through the Medicaid Provider Enrollment Agreement and being reimbursed out of the MMIS system in order to deter fraud, waste, and abuse.

In order to enroll and participate in the West Virginia Medicaid Program, a transportation provider must meet applicable general and specific requirements listed in Chapter 524 of the DHHR's policy manual. The BMS-enrolled NEMT providers are reimbursed for transportation services at the standard Medicaid approved rate, \$9 per trip and \$0.66 per mile after 15 miles. Enrollment ensures that all NEMT providers have a valid and current West Virginia business license as well as making sure the driver has a valid and current driver's license with insurance. All transport vehicles are to be inspected annually by the appropriate regulatory authority to satisfy the corresponding requirements, and all records and documentation must be maintained for six years from the date of service and made available upon request to the BMS. An NEMT provider verification of attendance form (see Appendix C), which records the date and time of appointment, the time of the recipient pickup and drop-off, and the mileage at point of pickup and point of drop-off, must be completed and maintained in the providers' files. The BMS may request these certification documents during post-period reviews as well as any other additional forms of documentation, such as trip logs, maintained by

the provider to substantiate the paid service. These controls provide the BMS the ability to validate the legitimacy of NEMT claims.

According to the BMS, in order to process NEMT claims through MMIS, eligible NEMT providers submit claims directly to the BMS' claims fiscal agent for payment. The MMIS system has inherent edits that verify if the recipient is eligible for Medicaid benefits, if the provider is eligible to provide the services, and if the claim is submitted correctly with the correct service identifiers such as procedural codes and modifiers that apply any system edits unique to the service being rendered.

For example, some of the more common NEMT edits utilized by the MMIS system include:

- edits that detect duplications to make sure the same trip is not being reimbursed twice for the same recipient,
- whether or not the recipient was eligible for Medicaid on the date of service, and
- if there is any overlap in coverage from Medicare.

Table 2 shows examples of the types of system edits used by MMIS along with the number of denials of requests attributed to these edits for the years 2010 to 2012. The MMIS system utilizes 472 edits when determining recipient eligibility for various reimbursements, however, not all edits apply to NEMT. From 2010 to 2012, the MMIS system applied an average of 33 of the edits each year to deny reimbursement for NEMT claims. The Legislative Auditor reviewed an audit of the MMIS system conducted by Ernest & Young which was issued in August, 2013 along with other various system checks that determine that the DHHR does conduct periodic evaluations to assure that the system is operating properly.

The MMIS system has inherent edits that verify if the recipient is eligible for Medicaid benefits, if the provider is eligible to provide the services, and if the claim is submitted correctly with the correct service identifiers such as procedural codes and modifiers that apply any system edits unique to the service being rendered.

From 2010 to 2012, the MMIS system applied an average of 33 of the edits each year to deny reimbursement for NEMT claims.

Table 2
Examples of MMIS System Edits for Denials of Requests for NEMT Reimbursement

| MMIS Edits For NEMT Reimbursement | | | |
|--|-----------------------------------|-----------------------------------|-----------------------------------|
| Reason for Denial | Number of Denials for 2010 | Number of Denials for 2011 | Number of Denials for 2012 |
| Provider billed amounts for NEMT that were not appropriate for the time span submitted | 15,083 | 13,281 | 15,946 |
| Duplicate claim – Same recipient | 12,433 | 11,175 | 7,285 |
| Medicare is primary payer of claim – Not Medicaid | 1,388 | 1,439 | 1,669 |

Source: The Bureau for Medical Services.

More Adequate Controls Are Needed by the BCF to Address the Risk of Fraud, Waste, and Abuse Related to the NEMT Program

The looseness of the BCF’s internal controls related to the NEMT program, along with the increase of NEMT recipients receiving reimbursement from the RAPIDS system, increase the risk for fraud, waste, and abuse related to the program. The BCF staff follow NEMT policy guidelines according to the *West Virginia Income Maintenance Manual*. However, the policy guidelines rely heavily on worker discretion to determine the validity and appropriateness of NEMT claims. The BCF utilizes several different staff positions such as Economic Service Workers, Family Support Specialists, and Social Service Workers from DHHR county offices to help administer its part of the NEMT program. As of June 2013, BCF had 1,160 of these employees helping to administer the NEMT program as part of their normal day-to-day responsibilities.

When processing an NEMT reimbursement application for the RAPIDS system, initially the required NEMT application (see Appendix D) is given to the Medicaid recipient upon request. This form is taken to the medical provider, where it is signed and dated by a representative of the Medicaid-approved medical provider. The transportation provider also signs the form and writes down the mileage and other expenses related to the trip. The recipient then returns the application to the local DHHR office for processing. A DHHR Economic Service worker will review the application to determine if the trip mileage and other reimbursements are listed, also reviewing the signatures from both the medical and transportation providers. Once reviewed, the application

The looseness of the BCF’s internal controls related to the NEMT program, along with the increase of NEMT recipients receiving reimbursement from the RAPIDS system, increase the risk for fraud, waste, and abuse related to the program.

The BCF utilizes several different staff positions such as Economic Service Workers, Family Support Specialists, and Social Service Workers from DHHR county offices to help administer its part of the NEMT program.

is entered into the RAPIDS system which generates the payment to the individual or transportation provider, from which payments are issued on a weekly basis.

Individuals and providers who receive NEMT reimbursement from RAPIDS or CHET are not required to register with BMS and participate in the West Virginia Medicaid Provider Enrollment Agreement. As a result, these NEMT providers and individuals are not subject to the same Medicaid regulations as are the BMS enrolled transportation providers that receive NEMT reimbursement through MMIS, such as requiring NEMT drivers to be subject to Medicaid regulations that require being licensed, insured, and documenting all trips for post-review validation. In addition, if a recipient, friend or family member, or volunteer such as a community-based service agency is providing the transportation, that individual will be reimbursed at the current state mileage reimbursement rate, or \$0.47 per mile. If a recipient uses a common carrier, the NEMT service is reimbursed at the Public Service Commission (PSC)-established rate which can be more expensive than the standard Medicaid rate. The recipient may also be reimbursed for economical hotel room allowances and \$5 for certain meals if the trip requires an overnight stay.

Before NEMT applications are entered in to the RAPIDS or CHET systems for reimbursement, the primary control to deter fraud, waste, and abuse related to NEMT is the reliance that the attending BCF worker will determine if NEMT applications are legitimate and appropriate. According to DHHR policy:

Unless the worker has sufficient reason to suspect misuse or abuse, and/or finds reasonable proof that misuse has occurred, properly completed and signed applications will be assumed to be correct.

The problem with the current policy is that the control is left up to the discretion of the BCF worker. The BCF does not have controls in place to determine the validity of the trip and the appropriateness of the reimbursement. Without these controls, there is a high risk for fraud, waste, and abuse related to the BCF's administration of the NEMT program. Listed below are areas of risk where fraud, waste, and abuse could occur within the BCF's administration of the NEMT program.

- **BCF workers are not required to verify NEMT trip mileage.**

BCF policy states that the worker may use the applicant's statement of total mileage, unless the amount appears incorrect. BCF

Individuals and providers who receive NEMT reimbursement from RAPIDS or CHET are not required to register with BMS and participate in the West Virginia Medicaid Provider Enrollment Agreement.

According to DHHR policy: Unless the worker has sufficient reason to suspect misuse or abuse, and/or finds reasonable proof that misuse has occurred, properly completed and signed applications will be assumed to be correct.

BCF workers are not required to verify NEMT trip mileage.

workers may use MapQuest to determine if a trip's mileage was appropriate; however, this is not required. Workers may use their own common knowledge or estimation of the area when determining appropriate trip mileage if they choose. However, this information could be inaccurate and could result in unnecessary expenses applied to Medicaid.

Therefore, the Legislative Auditor recommends that the DHHR should establish a control that requires Bureau of Children and Families' staff to verify appropriate trip mileage when reviewing NEMT reimbursement applications.

- **There are no follow-up checks performed by BCF staff in order to verify the legitimacy of NEMT trip claims.**

Unlike the BMS, the BCF does not conduct any type of post-review of NEMT trips in order to verify the legitimacy of the claim. Without verifying the legitimacy of the trip claim, it is possible that fraudulent NEMT claims are being reimbursed by RAPIDS. The BCF acknowledges that NEMT fraud and abuse is usually found by a BCF worker "stumbling" on to it.

Therefore, the Legislative Auditor recommends that the DHHR should establish a control that requires BCF staff to verify the legitimacy of claims when reviewing NEMT reimbursement applications.

- **There are no checks utilized by the DHHR supervisors in order to determine if BCF employees are abusing the NEMT program.**

In addition to not conducting any type of post-review of NEMT trip claims, BCF supervisors do not have controls in place to determine if BCF employees are abusing the NEMT program. From 2006 to 2010, there were three BCF employee fraud cases involving NEMT. From May 2009 to August 2009, a BCF Economic

There are no follow-up checks performed by BCF staff in order to verify the legitimacy of NEMT trip claims.

There are no checks utilized by the DHHR supervisors in order to determine if BCF employees are abusing the NEMT program.

From May 2009 to August 2009, a BCF Economic Service Worker directed \$50,826 in fraudulent NEMT payments to herself by "piggy backing" false reimbursements on to legitimate claims.

Service Worker directed \$50,826 in fraudulent NEMT payments to herself by “piggy backing” false reimbursements on to legitimate claims. In another case, a BCF office assistant presented \$12,497 in false NEMT applications from 2006 to 2010, to eligibility workers in her office which utilized fabricated doctor visits and contained fraudulent medical practitioner signatures. Finally, from 2008 to 2010, another BCF Economic Service Worker issued \$6,212 in false NEMT reimbursements by “piggy backing” them onto legitimate applications and routed them to her home address. The potential for fraud, waste, and abuse exists due to the fact that BCF workers have a lot of authority when approving an NEMT application because it is primarily their discretion that will decide if an application is appropriate and approved.

The RAPIDS computer system has control edits in place to identify NEMT application errors or inconsistencies for the purpose of preventing unauthorized or unnecessary payments.

Therefore, the Legislative Auditor recommends that the BCF should develop a control utilized by BCF supervisors that would determine if BCF workers are abusing the NEMT Program.

Since there is no follow-up review to check for the legitimacy of the trip, and no post-review of any kind to determine if the reimbursement was appropriate for the trip, the potential for fraud, waste, and abuse exists. Therefore, the DHHR should establish controls to be utilized by the BCF to verify the legitimacy of NEMT claims and reduce the potential for fraud, waste, and abuse when processing NEMT applications.

RAPIDS Has Edits That Help Deter Some NEMT Fraud, Waste, and Abuse

The RAPIDS computer system has control edits in place to identify NEMT application errors or inconsistencies for the purpose of preventing unauthorized or unnecessary payments. If errors are identified by the system, the reimbursement to the applicant is denied. The applicant may re-apply once the discrepancy has been resolved. Some examples are edits that determine:

- if recipients fail to complete NEMT application,
- if individuals are already receiving the requested assistance,

- if medical service obtained is not covered by Medicaid, and
- if the individual is not receiving Medicaid and has no pending Medicaid application.

Table 3 shows examples of types of system edits utilized by RAPIDS and the number of denials of requests attributed to these edits for the years 2010 to 2012. These examples are just a sample of the number of edits utilized by the computer system, overall RAPIDS consists of 444 edits used to determine recipient eligibility for various reimbursements. From 2010 to 2012, an average of 63 edits was used each year to decline reimbursement for NEMT claims.

| Table 3 | | | |
|--|-----------------------------------|-----------------------------------|-----------------------------------|
| Example of RAPIDS System Edits for Denials of Requests for NEMT Reimbursement | | | |
| RAPIDS Edits for NEMT Reimbursement | | | |
| Reason for Denial | Number of Denials for 2010 | Number of Denials for 2011 | Number of Denials for 2012 |
| Individual is not receiving Medicaid and has no pending Medicaid application. | 4,887 | 5,849 | 6,458 |
| Individual is already receiving the requested assistance | 1,148 | 1,168 | 1,272 |
| Date traveled was more than 60 days before the date of NEMT application | 8,395 | 8,789 | 9,553 |
| <i>Source: The Bureau for Children and Families.</i> | | | |

Evidence from the system edits show that the edits are working. However, there are a large number of individuals who are attempting to receive NEMT reimbursement while not being eligible to do so. From 2003 to 2012, there was an increase of 209 percent for denials of requests from RAPIDS for individuals seeking NEMT reimbursement because the individual was not receiving Medicaid and had no pending Medicaid application, from 2,093 denials in 2003 to 6,458 denials in 2012. This evidence could indicate that there are individuals who are trying to abuse the NEMT program. Overall, in 2012, RAPIDS denied 20,408 requests for NEMT reimbursement for various reasons that added up to \$841,823 in denied claims. In addition, although RAPIDS does not have system-wide audit, the DHHR has various procedures in place along with periodic staff meetings to address proper operation of the system.

Overall, in 2012, RAPIDS denied 20,408 requests for NEMT reimbursement for various reasons that added up to \$841,823 in denied claims.

Although the edits do catch discrepancies that result in denial for NEMT reimbursement, if an NEMT application is approved by a worker without verifying the legitimacy and appropriateness of the claim, and the recipient is Medicaid eligible, most likely the reimbursement will be processed by RAPIDS. As a result, the lack of assurance that NEMT claims are legitimate could result in unnecessary expenses for RAPIDS.

Least Expensive Transportation Method Should Always Be Determined

Another example of a loose control is how the BCF workers decide which transportation method is least expensive. According to the *West Virginia Income Maintenance Manual*, the least expensive method of transportation must always be considered first and used, if available. NEMT recipients are required to check a box on the application form when applying for NEMT reimbursement indicating that they understand that they are to use the least expensive transportation available, taking into consideration their physical condition and the travel locations. However, when asked how the worker determines which method of transportation is least expensive and appropriate for the NEMT recipient, the BCF responded:

The client's statement of available transportation is generally accepted. However, based upon the Caseworkers' discretion, and knowledge of their community and the client, they may notice unreasonable transportation requests and follow up with the client.

Again, the control is the discretion of the worker and the recipient's statement is generally accepted. There is no control that requires the worker to verify that the least expensive method of transportation available is being used. The difference in cost to Medicaid could be as low as \$0.47 per mile per trip if the recipient is driving themselves, riding with a family member, a friend, or a volunteer. But, it could be as high as a \$1.82 per mile trip with a minimum cost of \$36.40 per one-way trip if the recipient is using a common carrier. Current BCF policy allows common carriers to be reimbursed at a PSC-established rate for NEMT services (see Issue 2 for further discussion). Table 4 shows a comparison of different NEMT reimbursement rates allowed from different transportation providers and the computer system that provides the payment. In this example, there could potentially be a difference of \$58.70 being charged for the same 30-mile trip. Resulting in an unnecessary expense made to Medicaid. Since the recipient's statement of available transportation is generally

Although the edits do catch discrepancies that result in denial for NEMT reimbursement, if an NEMT application is approved by a worker without verifying the legitimacy and appropriateness of the claim, and the recipient is Medicaid eligible, most likely the reimbursement will be processed by RAPIDS.

...when asked how the worker determines which method of transportation is least expensive and appropriate for the NEMT recipient, the BCF responded: The client's statement of available transportation is generally accepted.

There is no control that requires the worker to verify that the least expensive method of transportation available is being used.

accepted and there is no follow-up or post-review to determine if the reimbursement was legitimate and appropriate, the potential for fraud, waste, and abuse exists.

| Table 4 Comparison of NEMT Reimbursement Rates From Different Transportation Providers | | | |
|---|---|---|--|
| | Medicaid Enrolled Provider – MMIS | Medicaid Recipient, Friend or Family Member, Community-Based Service Agency – RAPIDS | Public Service Commission Common Carrier – RAPIDS |
| NEMT Reimbursement Rate | \$9 Per One-Way Trip, Plus \$0.66 Per Mile After 15 Miles | \$0.47 Per Mile | As Much As \$1.82 Per Mile, \$36.40 Minimum Per One-Way Trip |
| Cost for a 30-Mile NEMT Trip (Round Trip) | \$18.00 | \$14.10 | \$72.80 |
| <i>Source: West Virginia Income Maintenance Manual, DHHR Policy Manual Chapter 524, PSC Certification Tariff for Tis-N-Bubs Transportation Services, Inc.</i> | | | |

When asked what procedure is utilized to determine if NEMT services provided by a common carrier are justified, the BCF stated that the decision was based on the clients’ physical condition, the date, time and location of the medical appointment, and the availability of transportation providers. The BCF also stated that, “It is not common that a client request approval for a more expensive method of transportation.” However, evidence shows that common carriers receive a significant percentage of the NEMT reimbursements coming out of RAPIDS. Table 5 shows the amounts paid out to common carriers for NEMT services from 2003 to 2012. In 2012, common carriers accounted for approximately \$2.4 million in NEMT reimbursements coming from RAPIDS. That represents 12 percent of the \$20 million RAPIDS paid out in NEMT reimbursements in 2012.

In 2012, common carriers accounted for approximately \$2.4 million in NEMT reimbursements coming from RAPIDS. That represents 12 percent of the \$20 million RAPIDS paid out in NEMT reimbursements in 2012.

| Table 5 Payments Made Out of RAPIDS to Common Carriers From 2003 to 2012 | | |
|---|--|---|
| Year | Number of Common Carriers | Common Carrier NEMT Payments |
| 2003 | 4 | \$299,035 |
| 2004 | 8 | \$570,619 |
| 2005 | 9 | \$692,115 |
| 2006 | 12 | \$639,869 |
| 2007 | 9 | \$751,207 |
| 2008 | 8 | \$1,585,197 |
| 2009 | 10 | \$942,120 |
| 2010 | 9 | \$1,858,270 |
| 2011 | 9 | \$2,060,506 |
| 2012 | 10 | \$2,447,963 |
| <i>Source: Recipient Automated Payment Information Data System (RAPIDS).</i> | | |

In addition, the BCF claims that approval for NEMT services by a common carrier must be approved by a BCF caseworker each time a common carrier is used and that caseworkers should permanently record any approval in the comments case section of the RAPIDS system. However, the BCF also indicated that there may be instances where prior approval documentation was not completed by the caseworker. The Legislative Auditor conducted a small sample of two common carriers' NEMT claims from 2012 and determined that the usage of common carriers is not being approved prior to each trip. As a result, the potential for waste exists due to BCF workers processing NEMT reimbursement without giving prior approval as required and not determining if the method of transportation was the least expensive method available. **Therefore, the Legislative Auditor recommends that the DHHR should establish a control that determines that the least expensive method of transportation is being utilized for every NEMT trip.**

The Legislative Auditor conducted a small sample of two common carriers' NEMT claims from 2012 and determined that the usage of common carriers is not being approved prior to each trip.

The BCF's Current Policy Regarding NEMT Overpayment Recoupment May Result in Unnecessary Expenses

The BCF policy for NEMT overpayment recoupment should be improved in order to reduce unnecessary expenses that may be lost in un-recouped NEMT overpayments. According to BCF policy, there is currently no repayment procedure for NEMT. However, recipients must be informed that fraudulent claims will result in denial of subsequent requests up to the amount of the claim and could result in permanent ineligibility for NEMT. When intentional misrepresentation is suspected and when the amount of the payment is \$500 or more, the case is referred to the DHHR's Office of the Inspector General (OIG) for further investigation. When it is determined that there is a case of unintentional misrepresentation or worker error, repayment from the recipient is not pursued. According to the policy, BMS may pursue repayment from the NEMT provider, but not from the recipient.

According to the OIG, if a BCF county office worker suspects fraud regarding an NEMT claim, the worker will refer the claim to the OIG's Investigations and Fraud Management. If OIG decides the matter is not referred for prosecution and the amount in question is under \$500, the local office is notified and any improper NEMT payments are to be withheld from future payments from the office. However, BCF staff does not keep any documentation for NEMT overpayments or improper payments, and according to the BCF, "if a client is overpaid by an amount around \$10, the BCF will not pursue to get the amount back." In addition, BCF staff claim that since there is not an overpayment repayment procedure, "if no fraud is found, no repayment by the recipient is required." This practice could result in unnecessary waste in the form of un-recouped overpayments. Due to the large number of Medicaid recipients receiving NEMT reimbursement from the RAPIDS system, and since BCF workers are not required to verify the appropriateness and legitimacy of NEMT trips, the collective cost of minimal NEMT overpayments could be substantial. **The Legislative Auditor recommends that the DHHR should develop an NEMT overpayment recoupment procedure.**

According to BCF policy, there is currently no repayment procedure for NEMT. However, recipients must be informed that fraudulent claims will result in denial of subsequent requests up to the amount of the claim and could result in permanent ineligibility for NEMT.

If OIG decides the matter is not referred for prosecution and the amount in question is under \$500, the local office is notified and any improper NEMT payments are to be withheld from future payments from the office.

The BCF's Staff Turnover Rate and Large Caseloads Negatively Affect Its Ability to Properly Monitor NEMT

The large caseload and 16 percent turnover rate for the BCF staff that administers the NEMT program from DHHR county offices contribute to the risk of fraud, waste, and abuse related to the program. The BCF utilizes staff from eight different position types from DHHR county offices to administer the NEMT program and process NEMT

applications through the RAPIDS and CHET systems. These staff positions include Economic Service Workers, Family Support Specialists, and Social Service Workers. The processing of NEMT applications is only part of the staff's day-to-day responsibilities. For example, typical responsibilities for an Economic Service Worker are listed below. It should be noted, many of these duties are conducted by the other aforementioned positions as well.

- Conduct in-depth interviews of potential recipients to gain overview of individual's financial resources, social circumstances pertinent to eligibility for services, and to establish eligibility for specific programs and benefits, such as food stamps and medical services;
- Determine eligibility for economic assistance using eligibility manuals and guidelines;
- Contact banks, employers, medical facilities, physicians, and neighbors as necessary by phone or letter to substantiate recipient data;
- Complete appropriate economic service forms and codes for computer entry thereby authorizing basic services for recipient;
- Update each assigned recipient's case file by scheduling periodic office visits with recipient;
- Take calls from recipients and public and sees "walk-ins" requesting information on economic service programs;
- Direct recipient to community resources when needs cannot be met through economic services and/or additional assistance is required;
- Compute amount of benefit recipient will receive using appropriate monetary guidelines and calculator; and
- Pursue collection of any payments against individuals and households who receive Food Stamp Program benefits to which they were not entitled.

While the processing of NEMT applications appears to be a simple task, the workers' large caseloads have an impact when they have to tend to their other responsibilities.

While the processing of NEMT applications appears to be a simple task, the workers' large caseloads have an impact when they have to tend to their other responsibilities. Table 6 shows the ratio for Income Maintenance caseloads for BCF Economic Service Workers and Family Support Specialists from 2008 to 2012. According to the BCF, the current caseload standard for an Income Maintenance worker is 450 to 1. Although the data do not indicate the actual number of NEMT applications to the number of BCF workers that process NEMT applications, the ratio data indicate the average number of all active cases (Supplemental Nutrition Assistance Program, Medicaid, West Virginia Works cases or a combination) each worker has. The data show that from 2008 to 2012 the caseload to worker ratio for these positions far exceeds the current caseload standard.

| Table 6 Ratio for Income Maintenance Caseloads to BCF Economic Service Workers and Family Support Specialists From 2008 to 2012 | | | | | |
|--|------------|------------|------------|------------|------------|
| | 2008 | 2009 | 2010 | 2011 | 2012 |
| Income Maintenance Caseload to Worker Ratio | 494.1 to 1 | 521.4 to 1 | 540.2 to 1 | 548.9 to 1 | 553.5 to 1 |
| <i>Source: Bureau for Children and Families</i> | | | | | |

The increase of NEMT reimbursement claims being turned into county DHHR offices has put a strain on BCF staff by taking up a lot of the staff’s time processing NEMT claims. When asked what are the BCF’s administrative constraints or burdens for operating the NEMT program, the BCF stated:

The time spent in processing the thousands of NEMT applications per month is quite a burden to field staff in Family Assistance and Office Assistants. For example, there were 108,781 NEMT payments completed for October, November, and December 2012.

In addition to the large caseload BCF workers have to deal with, there is a large turnover rate for BCF positions that process NEMT claims. For the calendar years 2011 to 2013, the average turnover rate for these positions was nearly 16 percent, losing an average of 186 positions each year. Every year these positions have to be filled and the new staff has to be trained. Combined with the increase in Medicaid recipients and NEMT use, the high turnover rate and large caseloads make it difficult to deter fraud and abuse related to the program while inhibiting the proper implementation of proper controls. **The Legislative Auditor recommends that the DHHR should consider alternative measures such as dedicating staff or hiring a contractor to determine the prevalence of fraud and abuse by verifying the appropriateness and legitimacy of NEMT claims.**

The increase of NEMT reimbursement claims being turned into county DHHR offices has put a strain on BCF staff by taking up a lot of the staff’s time processing NEMT claims.

... there is a large turnover rate for BCF positions that process NEMT claims.

The CHET System Does Not Have System Edits for NEMT or Have Periodic System Reviews to Assure That the System Is Operating Properly

Although the procedure for processing NEMT applications through CHET is almost identical to processing NEMT application through RAPIDS, the CHET system does not have NEMT denial of request edits like RAPIDS that will deny an NEMT reimbursement request due to an application error or eligibility issue. In addition, the DHHR does not perform any type of system review or audit of the CHET system to determine if it is performing as intended.

The CHET system is used to process NEMT reimbursement for all homeless and Social Service clients who receive their Medicaid out of the Family and Children Tracking System (FACTS) or those who are pending Medicaid approval in RAPIDS. The same application process used for RAPIDS is followed until the form is returned to the local DHHR office. These applications are given to a DHHR Social Service Worker or aide to check for correctness, accuracy of the mileage, other expenses, and making sure all signatures have been provided by the medical provider and transportation provider. Once this is done, the information is then transferred by hand to a DF-67-B form by the worker or aide. Once completed, the DF-67-B is given to the local office's financial clerk to be entered into the CHET system for payment. These checks are issued once a month.

According to the DHHR, there are no denial of request edits for the CHET system regarding NEMT reimbursement. Without denial of request edits related to NEMT, it is possible that errors or inaccuracies are going un-noticed and are resulting in unnecessary expenses. In addition, the DHHR does not perform any type of system review or audit of the CHET system to determine if the system is operating properly; for example, safeguarding assets, maintaining data integrity, and operating effectively to achieve the DHHR's goals or objectives. Without a system review or audit to assess the system's performance, the DHHR cannot determine if the system is working as intended. **The Legislative Auditor recommends that the DHHR should conduct a performance system analysis of the CHET system to determine the overall performance of the program.**

...the DHHR does not perform any type of system review or audit of the CHET system to determine if it is performing as intended.

According to the DHHR, there are no denial of request edits for the CHET system regarding NEMT reimbursement.

Conclusion

The increase in NEMT cost coming from RAPIDS is growing at an average rate of approximately 10 percent each year, and has more than doubled over the past ten years. Most of the growth can be attributed to the increase in Medicaid recipients utilizing the system, while other factors are inflation and allowing common carriers to be reimbursed a higher PSC rate. However, some of the growth may be a result of loose controls, resulting in individuals seeing the NEMT program as easy to defraud or abuse. Given the growth of the NEMT program, the DHHR cannot remain idle on a program that has reached over \$25 million in total cost. Furthermore, the BCF staff turnover rate and large caseload inhibits the implementation of necessary controls. The Legislative Auditor understands the agency has limited resources. However, the DHHR needs to determine the prevalence of fraud and abuse related to the program. Improved controls would include the verification of the appropriateness and legitimacy of NEMT claims by the BCF prior to reimbursement.

The Legislative Auditor understands the agency has limited resources. However, the DHHR needs to determine the prevalence of fraud and abuse related to the program.

Recommendations

1. *The Legislative Auditor recommends that the DHHR should establish a control that requires Bureau of Children and Families' staff to verify appropriate trip mileage when reviewing NEMT reimbursement applications.*
2. *The Legislative Auditor recommends that the DHHR should establish a control that requires Bureau of Children and Families' staff to verify the legitimacy of claims when reviewing NEMT reimbursement applications.*
3. *The Legislative Auditor recommends that the BCF should develop a control utilized by BCF supervisors that would determine if BCF workers are abusing the NEMT Program.*
4. *The Legislative Auditor recommends that the DHHR should establish a control that determines that the least expensive method of transportation is being utilized for every NEMT trip.*
5. *The Legislative Auditor recommends that the DHHR should develop an NEMT overpayment recoupment procedure.*
6. *The Legislative Auditor recommends that the DHHR should consider alternative measures such as dedicating staff or hiring a contractor to determine the prevalence of fraud and abuse by verifying the appropriateness and legitimacy of NEMT claims.*

Improved controls would include the verification of the appropriateness and legitimacy of NEMT claims by the BCF prior to reimbursement.

- 7. The Legislative Auditor recommends that the DHHR should conduct a performance system analysis of the CHET system to determine the overall performance of the program.*

Issue 2

The DHHR Allows Common Carriers to Be Reimbursed at Higher PSC Rates for NEMT Services.

Issue Summary

Current policy that regulates the NEMT program in West Virginia allows common carriers to charge a Public Service Commission (PSC)-established rate when being reimbursed for NEMT services which is higher than the standard rate for NEMT providers enrolled in the West Virginia Medicaid program through the Medicaid Provider Enrollment Agreement. As a result, RAPIDS is paying an unnecessary expense for the NEMT reimbursement to common carriers. In addition, PSC common carriers are not subject to the same Medicaid regulations as the transportation providers enrolled in the Medicaid program. PSC common carriers are able to transport multiple Medicaid recipients and charge each recipient for the same trip at the more expensive PSC rate.

Although the DHHR is aware of common carriers being reimbursed at the more expensive PSC rates for NEMT services, it has not taken action to change the policy that allows it. In order to reduce unnecessary expenses from the NEMT program, the DHHR should take action to change its NEMT policies to require all NEMT service providers to be enrolled in the BMS' Medicaid program through the Medicaid Provider Enrollment Agreement in order to limit the amount a transportation provider can be reimbursed for NEMT services.

These [BCF] NEMT providers are not subject to the same Medicaid regulations as the enrolled BMS transportation providers.

Current Policy Allows Common Carriers to Be Reimbursed for NEMT at a More Expensive PSC Rate

Current BMS and BCF policy regarding NEMT allows common carriers to charge a PSC-established rate which is higher than the standard Medicaid rate when it comes to being reimbursed for non-emergency medical transportation. The NEMT program in West Virginia consists of payments made to Medicaid recipients or transportation providers on behalf of eligible members who need transportation to a medical facility. The NEMT program in West Virginia is administered by two separate bureaus under the DHHR that deal with two separate responsibilities of the program. The BMS reimburses payments to NEMT providers that are enrolled in its West Virginia Medicaid Program and receive payment from the MMIS, while the BCF reimburses payments individuals, volunteers, and common carriers for NEMT services from the RAPIDS and the CHET payment systems.

The BMS only enrolls qualified NEMT providers that utilize specialized multi-passenger vans and specialized multi-patient medical transport vans to transport Medicaid recipients. In order to enroll and participate in the West Virginia Medicaid Program, a transportation provider must meet applicable general and specific requirements listed in Chapter 524 of DHHR's policy manual. Enrollment ensures that all NEMT transportation providers have a valid and current West Virginia business license as well as making sure the driver has a valid and current driver's license along with insurance. All transport vehicles are inspected annually by the appropriate regulatory authority to satisfy the corresponding requirements, and all records and documentation must be maintained for six years from the date of service and made available upon request to the BMS. In addition, enrolled NEMT service providers are reimbursed only at the standard Medicaid rate.

The BCF administers the NEMT program through individual local county DHHR offices, where NEMT reimbursement is paid out of the RAPIDS and the CHET payment systems to individuals, volunteers, and common carriers. These providers are not required to register with the BMS enrollment unit. As a result, these NEMT providers are not subject to the same Medicaid regulations as the enrolled BMS transportation providers.

Both the BMS and the BCF allow for common carriers to be used for NEMT services. The DHHR policy manual defines common carrier services as transportation services provided by public railways, buses, cabs, airlines or other common carriers at rates established by the West Virginia Public Service Commission, or applicable federal regulatory agency. The BCF along with Medicaid policy states that a common carrier may be used for NEMT services if and only when a private automobile or cheaper option is not available and prior approval is granted. Although the BMS policy for *West Virginia Medicaid Reimbursement Rates for Covered Transportation Services* states that common carriers' NEMT services shall be reimbursed at the PSC-approved rate per mile, the BMS claims that it does not reimburse NEMT services at the PSC rate.

The DHHR policy manual defines common carrier services as transportation services provided by public railways, buses, cabs, airlines or other common carriers at rates established by the West Virginia Public Service Commission, or applicable federal regulatory agency.

The BMS has a flat rate for all NEMT providers of \$9 per one-way trip and an additional \$0.66 per mile after the first 15 miles.

Rates Charged for NEMT Services Vary

Both the BMS and the BCF allow for different NEMT reimbursement rates, depending on the transportation utilized. The BMS has a flat rate for all NEMT providers of \$9 per one-way trip and an additional \$0.66 per mile after the first 15 miles. As for the BCF, if a recipient, family member, friend, or volunteer such as a community-based service agency is providing the transportation, that individual

will be reimbursed at the current state mileage reimbursement rate, or \$0.47 per mile. However, BCF policy allows Medicaid recipients to use common carriers for NEMT purposes if no other cheaper transportation is available. The policy states, “When a common carrier is the provider, the established round-trip fare is paid.” This rate can be considerably higher than both the BMS standard rate and the current state reimbursement rate. This is a result of common carriers having their rates established by the PSC and each common carrier rate may be different depending on the tariff accepted by the PSC. For example, one particular PSC common carrier in the state that caters to Medicaid recipients needing transportation to dialysis-treatment facilities has a tariff that allows it to be reimbursed at \$1.82 per mile with a minimum charge of \$36.40 per trip, while another PSC common carrier charges \$20 per passenger per trip with an additional \$0.75 per mile after the first 30 miles. Table 7 shows different reimbursement rates being charged for NEMT services.

Additionally, According to BCF policy, individuals, family members, friends, and volunteers may only be reimbursed for one patient claim per trip (There may be other recipients in the vehicle making the same trip, but transportation providers can only be reimbursed for one). However, this is not the case for PSC common carriers receiving NEMT reimbursement from the RAPIDS system. According to the BCF:

PSC approved providers are actually paid per person and not per trip. So they do get paid more than once for the same trip if they have multiple Medicaid passengers in the vehicle. RAPIDS does have an audit built into the system for duplicate payment request for the Medicaid recipient for the same day, but not for the transportation provider.

As a result, the same PSC common carrier that has a rate of \$1.82 per mile and minimum charge of \$36.40 per one-way trip can transport multiple Medicaid recipients and charge each one for the same trip, therefore, significantly increasing the cost to the Medicaid compared to what it would cost a BMS enrolled Medicaid transportation provider or individual making the same trip.

As for the BCF, if a recipient, family member, friend, or volunteer such as a community-based service agency is providing the transportation, that individual will be reimbursed at the current state mileage reimbursement rate, or \$0.47 per mile.

One particular PSC common carrier in the state has a tariff that allows it to be reimbursed at \$1.82 per mile with a minimum charge of \$36.40 per trip, while another PSC common carrier charges \$20 per passenger per trip with an additional \$0.75 per mile after the first 30 miles.

Table 7
Examples of Different NEMT Reimbursement Rates

| Provider Type | BMS Enrolled Provider | BCF- Individual, Friend or Family, Volunteer | PSC Common Carrier 1 | PSC Common Carrier 2 |
|----------------------|---|---|--------------------------------------|---|
| Mileage Rate | \$0.66 Per Mile, After the First 15 Miles | \$0.47 Per Mile | \$0.75 Per Mile After First 30 Miles | \$1.82 Per Mile |
| Rate Per Trip | \$9.00 Per Passenger Per One-Way Trip | None | \$20 Per Passenger Per One-Way Trip | \$36.40 Minimum Charge Per Passenger Per One-Way Trip |

Source: Bureau of Medical Services, Bureau for Children and Families, and the Public Service Commission.

According to the BMS, the above-mentioned PSC common carrier that has a NEMT rate of \$1.82 per mile and \$36.40 minimum charge per one-way trip was once enrolled in the BMS Medicaid program. After a review of the provider’s services by the BMS in the year 2000, an initial finding revealed that the provider owed an amount of \$112,835 for improper payments. In 2002, a settlement agreement was signed for \$78,984, which was eventually paid in 2005. During this time, the provider terminated its provider relationship with the BMS effective January 2004, in order to provide NEMT services as a PSC common carrier and be reimbursed through RAPIDS at the higher PCS rate. For 2012, this PSC common carrier received \$715,914 in NEMT reimbursements from RAPIDS. Ultimately, this NEMT provider that was once charged for over-billing the State and receiving over \$112,000 in improper NEMT payments is allowed to continue conducting business, instead as a common carrier, and be reimbursed at a higher rate with less oversight.

The PSC common carriers benefit primarily by receiving a higher payment rate for NEMT services. Also, in addition to not being subject to Medicaid regulations and program integrity audits, there is no comparable oversight conducted by the PSC on these common carriers. By allowing PSC common carriers to charge the PSC rate for NEMT services, Medicaid is paying an unnecessary expense.

An NEMT provider that was once charged for over-billing the State and receiving over \$112,000 in improper NEMT payments is allowed to continue conducting business, instead as a common carrier, and be reimbursed at a higher rate with less oversight.

The PSC common carriers benefit primarily by receiving a higher payment rate for NEMT services. Also, in addition to not being subject to Medicaid regulations and program integrity audits, there is no comparable oversight conducted by the PSC on these common carriers.

The BMS Has Not Taken Action to Change Its NEMT Policy

Although the BMS is aware of common carriers being reimbursed at more expensive PSC rates for NEMT services through the RAPIDS system, it has not taken action to change the policy that allows it. According to the *West Virginia Income Maintenance Manual*, common carriers that submit NEMT claims to local DHHR offices in order to be reimbursed by the RAPIDS system may be reimbursed by the established round-trip fare. According to this policy, the usage of a common carrier by a Medicaid recipient is to be used only when a cheaper alternative is not an option and prior approval is granted. When approval for NEMT by a common carrier is approved, according to the BCF, the worker should make record of it in the comments case section of the RAPIDS system. However, the BCF has indicated that there may be instances when approval by the caseworker was not recorded. As stated in Issue 1, the Legislative Auditor conducted a small sample of two common carriers' NEMT claims from 2012 and determined that the usage of common carriers are not being approved prior to each trip. As a result, the potential for waste exists due to BCF workers processing NEMT reimbursement without giving prior approval as required and not determining if the method of transportation was the least expensive method available.

When asked by the Legislative Auditor if there have been any attempts made by the BMS to change the policy that allows common carriers to be reimbursed for NEMT services through the RAPIDS system at a PSC approved rate, the BMS responded by stating:

BMS is required to follow its State Plan in reimbursing providers. In order to change its reimbursement system, BMS would need to draft and submit a new SPA for submission and approval to CMS. The current reimbursement is in compliance with the approved State Plan.

When asked if the BMS could require any company providing Medicaid reimbursed NEMT services to be enrolled as a Medicaid provider in the MMIS system and prohibit reimbursement through the RAPIDS system, it responded, "Yes, BMS could legally require all companies to enroll." The Legislative Auditor again asked if there have been any attempts to make a change in the policy. The BMS responded only by stating that it is currently reviewing the SPA internally.

When asked if the BMS could require any company providing Medicaid reimbursed NEMT services to be enrolled as a Medicaid provider in the MMIS system and prohibit reimbursement through the RAPIDS system, it responded, "Yes, BMS could legally require all companies to enroll."

The Legislative Auditor again asked if there have been any attempts to make a change in the policy. The BMS responded only by stating that it is currently reviewing the SPA [StatePlan Amendment] internally.

The Legislative Auditor requested a legal opinion from Legislative Services on this matter see Appendix E). It concluded that some of the so-called “common carriers” are in fact acting as “specialized multi-passenger van transport” services, and therefore should be enrolled as Medicaid providers and charging the established Medicaid rates. Regarding the charging of higher NEMT rates, the legal opinion further states that although the common carriers may not charge, demand, collect, or receive more or less than their PSC-approved rates, there is no legal bar to those common carriers applying for and receiving approval to charge rates consistent with NEMT rates set by the DHHR. **In order to reduce unnecessary expenses from the Medicaid program, the Legislative Auditor recommends that the DHHR take action to change its NEMT policies to require that all NEMT service providers that receive reimbursement from Medicaid, other than the recipient, his or her friends, family, or volunteer, be enrolled as a provider into the BMS’ Medicaid program through the Medicaid Provider Enrollment Agreement in order that the providers are paid at the same rate in all systems.**

The Legislative Auditor requested a legal opinion from Legislative Services on this matter. It concluded that some of the so-called “common carriers” are in fact acting as “specialized multi-passenger van transport” services, and therefore should be enrolled as Medicaid providers and charging the established Medicaid rates.

Conclusion

DHHR’s administration of the NEMT program in West Virginia is costing West Virginia significant money by allowing PSC common carriers to be reimbursed at a higher rate for NEMT services which is an unnecessary expense to the state and to the Medicaid program. The BMS and the BCF should take action to change its NEMT policies to require all NEMT service providers be enrolled into BMS’ Medicaid program through the Medicaid Provider Enrollment Agreement so that all transportation providers are paid the standard Medicaid rate for NEMT services. By doing so, all NEMT providers would be required to abide by the regulations set forth by the BMS and Medicaid. If left unresolved, the unnecessary expenses to the state Medicaid program will continue.

The BMS and the BCF should take action to change its NEMT policies to require all NEMT service providers be enrolled into BMS’ Medicaid program through the Medicaid Provider Enrollment Agreement so that all transportation providers are paid the standard Medicaid rate for NEMT services.

Recommendation

8. *The Legislative Auditor recommends that the Department of Health and Human Resources take action to change its NEMT policies to require that all NEMT service providers that receive reimbursement from Medicaid, other than the recipient, his or her friends, family, or volunteer, be enrolled into BMS’ Medicaid program through the Medicaid Provider Enrollment Agreement in order that the providers are paid at the same rate in all systems.*

Appendix A Transmittal Letter

WEST VIRGINIA LEGISLATURE *Performance Evaluation and Research Division*

Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0610
(304) 347-4890
(304) 347-4939 FAX



John Sylvia
Director

November 25, 2013

Karen L. Bowling, Cabinet Secretary
West Virginia Department of Health and Human Resources
One Davis Square, Suite 100 East
Charleston, WV 25301

Dear Secretary Bowling:

This is to transmit a draft copy of the Performance Review of the Department of Health and Human Resources' Non-Emergency Medical Transportation program. This report is scheduled to be presented during the December 9-11 interim meeting of the Joint Committee on Government Operations, and the Joint Committee on Government Organization. We will inform you of the exact time and location once the information becomes available. It is expected that a representative from your agency be present at the meeting to orally respond to the report and answer any questions the committees may have.

We need to schedule an exit conference to discuss any concerns you may have with the report. We would like to have the meeting on Monday or Tuesday December 2-3, 2013. Please notify us to schedule an exact time. In addition, we need your written response by noon on Wednesday December 4, 2013 in order for it to be included in the final report. If your agency intends to distribute additional material to committee members at the meeting, please contact the House Government Organization staff at 340-3192 by Thursday December 5, 2013 to make arrangements.

We request that your personnel not disclose the report to anyone not affiliated with your agency. Thank you for your cooperation.

Sincerely,

A handwritten signature in blue ink that reads "Brian Armentrout".

Brian Armentrout
Research Manager

Enclosure

_____ *Joint Committee on Government and Finance* _____

Appendix B

Objective, Scope and Methodology

The Performance Evaluation and Research Division (PERD) within the Office of the Legislative Auditor conducted this performance review of the non-emergency medical transportation (NEMT) program as part of the Agency Review of the Department of Health and Human Resources, as required and authorized by the West Virginia Performance Review Act, Chapter 4, Article 10, of the *West Virginia Code*, as amended. The purpose of the NEMT program, as established in West Virginia Code §9-5-16, is to reimburse non-emergency medical transportation for recipients of Medicaid for the cost of transportation and other expenses associated with receiving medical services.

Objectives

The objectives of this review are to determine why the cost of the NEMT program are increasing and to determine if the internal controls related to NEMT are adequate for deterring fraud, waste, and abuse and to determine if common carriers are reimbursed for NEMT services at more expensive rate than transportation providers enrolled in the West Virginia Medicaid program.

Scope

The scope of this review consisted of the NEMT program's cost and internal controls. Data analyzed were the costs of the program and the number of NEMT recipients from 2003 to 2013. NEMT policies and procedures reviewed included DHHR/ Bureau of Children and Families – West Virginia Income Maintenance Manual: Non-Emergency Medical Transportation; Chapter 27, DHHR/ Bureau of Medical Services Policy Manual – Chapter 524: Transportation; and the DHHR – Your Guide to Medicaid. Databases utilized to receive NEMT related data were the MMIS, RAPIDS, and CHET computer systems. In addition, data was obtained from the Public Service Commission to determine the tariff established rates for NEMT services for certain common carriers. The data reviewed applies to all Medicaid recipients using NEMT services and their providers in West Virginia.

Methodology

PERD gathered and analyzed several sources of information and conducted audit procedures to assess the sufficiency and appropriateness of the information used as audit evidence. The information gathered and audit procedures are described below.

- 1. Interviews.** Testimonial evidence gathered for this review through interviews with the DHHR's staff or other agencies was confirmed by written statements and in some cases by corroborating evidence. Information was received from DHHR's Bureau of Medical Services, DHHR's Bureau for Children and Families, Public Service Commission, and DHHR's Office of the Inspector General via face-to-face interviews for the purpose of receiving first-hand information regarding policies, procedures, program organization, burdens, and other concerns related to the NEMT program. In addition, PERD staff also conducted telephone and email correspondence with DHHR staff that worked directly with the MMIS, RAPIDS, and CHET systems in order to obtain more detailed data and explanations regarding NEMT reimbursements from the systems.

- 2. Documentation Review.** PERD staff obtained and reviewed NEMT policy and procedure manuals from both the BMS and the BCF; budgetary data from the BMS and also the DHHR's Management Information Services (MIS); NEMT recipient data from the BMS, RAPIDS, and the DHHR's MIS regarding CHET; information regarding NEMT brokerage programs in other states from published reports; BCF staffing and caseload data related to NEMT from the BCF; and common carrier tariffs obtained from the PSC. Regarding the CHET system, the Legislative Auditor contacted the DHHR in order to question the unusual data results regarding the number of distinct individuals receiving NEMT reimbursement from CHET for the years 2003 to 2012, and the total NEMT cost attributed to the system for the same years; however, the DHHR was unable to explain the data. PERD staff requested and obtained system reviews for MMIS and RAPIDS that acknowledge that the DHHR does conduct periodic evaluations to assure that the systems are operating properly. A system review for CHET was also requested; however, the DHHR stated that they are unaware of a system review for CHET ever being conducted.

This performance audit was conducted in accordance with generally accepted government auditing standards. Those standards require that the audit is planned and performed to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. The Legislative Auditor believes that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix C Recipient/Provider Verification/Certification of Attendance

RECIPIENT/PROVIDER VERIFICATION/CERTIFICATION OF ATTENDANCE AT SCHEDULED MEDICAL APPOINTMENT

The West Virginia Medicaid Program reimburses approved providers for non-ambulance non-emergency medical transportation of Medicaid eligible individuals to scheduled medical appointments. Such reimbursement is allowed only after the transportation has been provided, and recipient attendance at the scheduled medical service verified. By affixing their signatures below on this document, the medical service provider, transportation provider, and Medicaid recipient certify that the named Medicaid recipient attended a scheduled medical appointment with the named medical provider, transported by the named transportation provider, on the date or dates indicated on this form.

Date of Scheduled Medical Appointment: ___/___/___ Appointment Time: ___:___ AM/PM

Patient's Name: _____ Medicaid I.D. Number _____

Name and Address of Medical Vendor: _____

Name and Address of Transportation Provider: _____

Vehicle Identification: _____

Time of Client Pickup: ___:___ AM/PM Mileage at Point of Pickup: _____

Time of Client Drop-off: ___:___ AM/PM Mileage at Point of Drop-off: _____

I understand that payment for the services certified on this form will be from Federal and State funds, and that any false claims, statements, or documents, or concealment of a material fact, may be prosecuted under applicable Federal or State laws.

Signature of Medical Vendor's Representative: _____ Date: ___/___/___

Signature of Driver: _____ Date: ___/___/___

Signature of Medicaid Patient: _____ Date: ___/___/___

Revised 05/03
BMS Form 26-01

Appendix D WV Department of Health and Human Resources Application for Non-Emergency Medical Transportation Program

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES APPLICATION FOR NON-EMERGENCY MEDICAL TRANSPORTATION PROGRAM (NEMT)

Section I: TO BE COMPLETED BY APPLICANT.
Note: This must be completed in ink and turned in to the local DHHR office within 60 days of the earliest trip.

Name: _____ Date(s) of Travel: _____

Street, Route or PO Box Number: _____

City _____ Zip Code _____ County _____

Telephone Number _____ Social Security Number _____

MA ID number from each patient's Medicaid card (this is the 11-digit number to the left of the person's name on the card):

Section II: APPLICANT RESPONSIBILITIES AND SIGNATURE

Please read each statement carefully and check either Yes or No.

1. Yes No **I understand that I may request a Fair Hearing if I am not satisfied with the decision regarding my application for non-emergency medical transportation payments (NEMT). I may also request a Fair Hearing if I feel that I have been discriminated against because of race, color, national origin, sex, age, religion, or political belief, or because I am disabled. I further understand that I may be represented by an attorney at a Fair Hearing, but that neither DHHR nor any of its authorized representatives will pay for the legal services.**
2. Yes No **I understand that I may be asked to verify any or all information on this application form or to provide additional information and that failure to provide this verification or information will result in denial. I also understand that alterations on this form must be initialed by me or the application may be denied.**
3. Yes No **I understand that this completed application, including all required verification, must be received by the local DHHR office no later than 60 days from the date of the trip for which I am requesting payment. I further understand that if the application or verification is received 61 or more days after the trip, that my application will be denied.**
4. Yes No **I understand that I am to use the least expensive transportation available, taking into consideration my physical condition and the travel locations.**
5. Yes No **I understand that the following expenses must be approved before the trip is taken: lodging, out-of-state transportation, double round trips on the same day and requests for an immediate family member to stay with a patient at a medical facility. Receipts for lodging must be provided with the application.**
6. Yes No **I understand that meals are permitted for the patient and the driver of a private vehicle when overnight lodging is approved. All meals are the responsibility of the patient and driver when an overnight stay has not been approved.**

DFA-NEMT-1
(Revised 6/09)

Appendix E

Legal Opinion From Legislative Services

I N T E R

**L E G I S L A T I V E
S E R V I C E S**

O F F I C E

MEMO

To: Brian Armentrout, PERD
From: Emma Case, Counsel
Subject: NEMT Transportation
Date: 11/27/2013

I. Background (information provided by PERD)

Some common carriers are enrolled as providers by the Bureau for Medical Services (BMS) and paid through the MMIS system. Those providers are paid at the rate established for Non-Ambulance Transportation in the Provider Handbook.

Currently, Medicaid recipients receiving Non-Emergent Medical Transportation (NEMT) paid through the RAPIDS system by the Bureau for Children and Families (BCF) from a "common carrier" are reimbursed at the Public Service Commission (PSC) established rate for each carrier. This rate usually exceeds the amount that is reimbursed for "Non-Ambulance Transportation," (Specialized Multi-Patient Medical/Van Transport) in some cases by a large margin. Sometimes the clients pay directly and are reimbursed, and other times there is a prior arrangement with the NEMT provider, and the reimbursement goes directly to the provider from DHHR.

Some common carriers are enrolled as Medicaid providers by the Bureau for Medical Services (BMS) and paid through the MMIS system. Those providers are paid at the rate established for Non-Ambulance Transportation in the Provider Handbook and subject to a higher level of oversight from the centralized system than RAPIDS payments, which are handled by county DHHR offices individually.

At least one provider, D & L Limousine, Inc., includes the established rate for Non-Ambulance Transportation in their PSC Tariff which approves them as a "common carrier by motor vehicle" for "all vehicles approved by" DHHR. By contrast, another company, Tis-N-Bubs Transportation Services, Inc., is approved to transport "passengers in a specialized limousine service to and from dialysis-treatment facilities," but is not enrolled as a provider with BMS and charges a significantly higher rate (but one that is approved by the PSC). Similarly, Mountain State, Inc. is authorized as a common carrier to provide "specialized multipassenger van service, to and from the offices of physicians and of other providers of health care and medical services," but is not enrolled, and also charges a higher (PSC-approved) rate.

II. Question Presented

PERD has asked counsel to determine whether there is a legal requirement that BCF must pay a higher, PSC-approved rate for NEMT, or, alternatively, whether there is a legal requirement that prevents DHHR from paying the PSC-approved rate and instead restricts them to the Non-Ambulance Transportation rate. The question may also arise as to whether all of the transports in question are truly "common carriers" in the sense intended by the state plan or are non-ambulance transportation providers (and thus subject to the enrollment requirements and approved rates).

III. Applicable Law

a. Medicaid Non-Emergent Medical Transportation

The West Virginia Code does not contain any guidance for the requirements of payment for NEMT by Medicaid. According to West Virginia's Medicaid State Plan under Title XIX of the Social Security Act, BMS recognizes "non-ambulance medical transport service" as a provider for the purposes of reimbursement. (State Plan, Attachment 3.1-D, Page 1 of 1, at 1.) "Eligible recipients will seek the most economical means of transportation to their medical appointments. These arrangements will be made with an enrolled transportation provider of the recipients' choice." (Id., at 3.) Non-ambulance medical transport services must be licensed and meet certain regulations in order to be reimbursed. (Id., at 4.) The Plan only allows for payment for transportation by common carrier "when transportation is not otherwise available to recipients." (Id., at 5.) The State Plan does not specifically define "enrolled transportation provider," nor does it restrict the type of provider that may be enrolled. It does require that transportation provided must "assure the most economical means appropriate to meet the recipients' medical needs."

The West Virginia Medicaid Provider Manual (produced by DHHR) more clearly delineates the requirements for specialized multi-passenger van transportation, including submission of a PSC Certificate of Convenience and Necessity, current certification in first aid and CPR and provision of vehicle registration to the Provider Enrollment Unit at BMS. Provider Manual, Chapter 524, at 4. These providers submit claims directly to the BMS. Id., at 8. Specialized multi-patient medical transports also submit claims directly to the BMS, but are governed procedurally by W. Va. Code §16-4C-1, et seq. (governing ambulances).

Common carrier and individually-provided transportation is administered through county offices and does not (according to the Provider Manual) require enrollment with the BMS enrollment unit, but rather is subject to the procedural requirements of the OFS Income Maintenance Manual. Id., at 4. Common carriers are reimbursed "at rates established by the WV Public Service Commission, or applicable Federal regulatory agency." Id., at 8. The Income Maintenance Manual reiterates that common carriers are an acceptable form of transportation, and that "[w]hen a common carrier is the provider, the established roundtrip fare is paid." Income Maintenance Manual, 27.13(F),(G). It also noted that applicants who "choose a more expensive method than the one available are reimbursed at the least expensive rate." Id. The Income Maintenance Manual does not appear to contemplate direct submission of claims to BMS by common carriers, because it is aimed at recipients, and contains restrictions on what they can be reimbursed, not restrictions on what can be paid directly to common carriers.

b. Public Service Commission Common Carrier Rates

A "common carrier by motor vehicle" ("common carrier") is defined as:

any person who undertakes, whether directly or by lease or any other arrangement, to transport passengers or property, or any class or classes of property, for the general public over the highways of this State by motor vehicles for hire, whether over regular or irregular routes, including such motor vehicle operations of carriers by rail, water or air and of express or forwarding agencies, and leased or rented motor vehicles, with or without drivers.

W. Va. Code §24A-1-2(2). Among other forms of transport, taxicabs are considered common carriers. *McKee v. Public Serv. Comm'n*, 124 W. Va. 10 (1942). Common carriers are regulated by the PSC, and may not "charge, demand, collect, or receive a greater or less or different remuneration for the transportation of passengers or property, or for any service therewith, than the rates, fares, and charges which have been legally established and filed with the commission; nor shall any such carrier refund, remit, discount or rebate in any manner or by an device any portion of the rates, fares, and charges required to be collected by the tariffs on file with or ordered by the commission." W. Va. Code §24A-1-4; see also *West Va. AAA Statewide Ass'n v. Public Serv. Comm'n*, 186 W. Va. 287 (1991) (holding that an agreement to exchange deductions in fees for wrecking operators for referrals to a particular operator constituted an illegal discount in violation of this section). A common carrier may receive approval for different rates for different classes of service within one tariff. See W. Va. Code §24A-1-4; West Virginia Code State R. §150-2-24, 25.

The PSC also regulates "contract carriers by motor vehicles," which includes any person (excluding common carriers by motor vehicles) "who under special and individual contracts or agreements, and whether directly or by lease or any other arrangement, transports passengers or property over the highways in this State by motor vehicles for hire." W. Va. Code §24A-1-2(3). Among other requirements, applicants for licensure as contract carriers must establish that they will not "impair the efficient public service of any authorized common carrier or common carriers adequately serving the same territory." W. Va. Code §24A-3-3(a). Although there has been no assertion that the NEMT providers are not common carriers, a review of selected tariffs indicates that at least some of these providers' only approved activity may be to provide NEMT to Medicaid patients, which raises the question of whether this falls within the definition of a common carrier providing transportation "for the general public." However, the PSC has approved those providers' tariffs as a common carrier, and accordingly, that question goes beyond the scope of this legal opinion.

IV. Analysis

First, it appears that common carriers (including taxis) may not legally charge, demand, collect, or receive more or less than the rates approved by the PSC, although one common carrier may be approved for a variety of different rates for different classes of service. (See III.b.) There is not a requirement by either the PSC or WV DHHR that common carriers serving Medicaid

recipients apply to the PSC for and charge a specific rate to Medicaid recipients. (It appears to be possible, however, as at least one common carrier has done that, and is also an enrolled provider through Medicaid. It is not clear whether the PSC or DHHR has made clear distinctions between traditional common carriers, which, by definition, are "for the general public" and specialized multi-passenger van transportation limited patients receiving medical treatment. At least one provider is certified as a common carrier by the PSC, but solely for "the transportation of passengers in specialized limousine service to and from dialysis-treatment facilities;" it is not clear how this differs from a "specialized multi-passenger van."

Second, common carriers are one form of transportation approved by the West Virginia Medicaid State Plan to be reimbursed if no other transportation is available. (See III.a.) The West Virginia DHHR has established a policy of reimbursing Medicaid recipients the PSC-approved rates for approved transportation via common carriers. (Id.) Accordingly, under the currently-established policies of the West Virginia DHHR, if there is no alternative or more economical means of transport available, a recipient should likely be reimbursed at the PSC-approved rate for transport by a common carrier, if the transportation is authorized by DHHR. However, there does not appear to be any support in the plan or policy for a policy of common carriers directly submitting bills to the agency. Further, direct billing, in combination with the other attributes above, indicates that it is more likely at least some of the so-called "common carriers" are in fact acting as "specialized multi-passenger van transport" services, and therefore should be enrolled and charging the established rates. Finally, although the common carriers may not charge, demand, collect, or receive more or less than their PSC-approved rates, as noted above, there is no legal bar to those common carriers applying for and receiving approval to charge rates consistent with non-ambulance medical transport rates set by DHHR.

Appendix F Agency Response



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

Earl Ray Tomblin
Governor

Bureau for Medical Services
Commissioner's Office
350 Capitol Street – Room 251
Charleston, West Virginia 25301-3706
Telephone: (304) 558-1700 Fax: (304) 558-1451

Karen L. Bowling
Cabinet Secretary

December 6, 2013

Mr. John Sylvia, Director
West Virginia Performance Evaluation and Research Division
Office of the Legislative Auditor
Building 1, Room W-314, State Capitol Complex
Charleston, West Virginia 25305-0610

RE: Performance Review of DHHR Non-Emergency Medical Transportation Program

Dear Mr. Sylvia:

The West Virginia Department of Health and Human Resources (DHHR), has received and reviewed the draft report regarding the review of DHHR's Non-Emergency Medical Transportation (NEMT) program that was submitted to our office on November 25, 2013. The DHHR offers the following as formal response to the recommendations contained in the draft report:

1. The Legislative Auditor recommends that the DHHR should establish a control that requires Bureau of Children and Families' staff to verify appropriate trip mileage when reviewing NEMT reimbursement applications.
 - a. *Once the NEMT Broker is in place, this will no longer be an issue. The NEMT Broker will verify each trip and the appropriate payment. The current process is DFA NEMT 1, is signed by the customer and driver, if they are not the same, and self-attested indicating the appropriate mileage. There are responsibilities that the customer signed acknowledging that all information on the application is correct and may need to be verified. Workers in the local office are very familiar with their local areas, and if the mileage seems excessive, then electronic means are used to verify if the mileage is correct.*
2. The Legislative Auditor recommends that the DHHR should establish a control that requires Bureau of Children and Families' (BCF) staff to verify the legitimacy of the claims when reviewing NEMT reimbursement applications.

John Sylvia
December 6, 2013
Page 2

- a. Once the NEMT Broker is in place, this will no longer be an issue. The NEMT Broker will arrange each NEMT trip and complete pre-trip and post-trip validation checks to verify the legitimacy of NEMT claims.*
3. The Legislative Auditor recommends that the BCF should develop a control utilized by BCF supervisors that would determine if BCF workers are abusing the NEMT program.
 - a. A manual change will be made to indicate that Supervisors must do audits monthly on NEMT applications coming into the office. Once the NEMT Broker is in place, this will no longer be an issue. The NEMT Broker will handle all NEMT activities and payments so the BCF staff will no longer be required to issue the NEMT payments.*
4. The Legislative Auditor recommends that the DHHR should establish a control that determines that the least expensive method of transportation is being utilized for every NEMT trip.
 - a. Once the NEMT Broker is in place, this will no longer be an issue. The NEMT Broker will screen every trip request to utilize the least expensive method of transportation that is the most appropriate for the member.*
5. The Legislative Auditor recommends that the DHHR should develop an NEMT overpayment recoupment procedure.
 - a. Once the NEMT Broker is in place, this will no longer be an issue. The NEMT Broker will be required to report any suspected fraud, misuse or abuse to BMS within three (3) calendar days of discovery for subsequent investigation by BMS.*
6. The Legislative Auditor recommends that the DHHR should consider alternative measures such as dedicating staff or hiring a contractor to determine the prevalence of fraud and abuse by verifying the appropriateness and legitimacy of NEMT claims.
 - a. The NEMT Broker will arrange and verify appropriateness and legitimacy of every NEMT claim which will drastically reduce or eliminate the prevalence of NEMT fraud and abuse.*
7. The Legislative Auditor recommends that the DHHR should conduct a performance system analysis of the CHET system to determine the overall performance of the program.

John Sylvia
December 6, 2013
Page 3

- a. An internal process will be set up to conduct a performance system analysis. Once the NEMT Broker is in place this will no longer be an issue and all NEMT claims will come through the Broker.*

8. The Legislative Auditor recommends that the Department of Health and Human Resources should take action to change its NEMT policies to require that all NEMT service providers that receive reimbursement from Medicaid, other than the recipient, his or her friends, family or volunteer, be enrolled into BMS' Medicaid Provider Enrollment Agreement to limit the amount a transportation provider can be reimbursed for NEMT services.
 - a. The BMS has taken action to eliminate unnecessary NEMT expense to the state and the Medicaid program by submitting a State Plan Amendment to CMS on November 20, 2013, requesting the approval for a Transportation Brokerage system. If approved, all transportation providers must contract with the NEMT Broker and the Broker will be receive, at the minimum, the current Medicaid rate with the contracted transportation providers.*

The NEMT solicitation is currently posted in the purchasing bulletin. The bid opening date, in which all vendor proposals must be received, is December 9, 2013.

In addition to the responses provided to each recommendation, the DHHR would like to provide additional information regarding two points made in the report. The first point is regarding the statement appearing in the report that BMS estimates 100,000 to 150,000 West Virginians will become eligible for Medicaid due the expansion of the program on January 1, 2014. Based on the actuarial analysis prepared by CCRC, Medicaid's projected adult expansion enrollment estimates range from 63,000 in Year 1 (2014) to 95,000 individuals in year 2023. The second point of clarification is regarding statements regarding common carriers identified in Issue 2, first paragraph of the Issue Summary. While Public Service Commission (PSC) approved, common carriers may invoice for their PSC approved rate for services reimbursed through DHHR county offices and, if approved under their tariff, they are permitted to transport more than one individual per trip and they are permitted to bill for each individual transported. This policy is consistent with BMS' policy provisions.

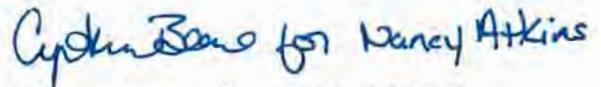
John Sylvia
December 6, 2013
Page 4

If you have additional questions or concerns, please feel free to contact Tina Bailes, Deputy Commissioner of Finance and Administration at 304-356-4907 or Tina.R.Bailes@wv.gov.

Sincerely,



Nancy Exline
Commissioner
Bureau for Children and Families



Nancy Atkins, RN, MSN, NP-BC
Commissioner
Bureau for Medical Services

NVA/TB/ko

Attachment

Cc: Karen Bowling, Cabinet Secretary, Department of Health and Human Resources
Brian Cassis, Director, DHHR Office of Internal Control and Policy Development
Dave Bishop, Inspector General
Tina Bailes, Deputy Commissioner, Bureau for Medical Services, Finance and Administration



WEST VIRGINIA LEGISLATIVE AUDITOR

PERFORMANCE EVALUATION & RESEARCH DIVISION

Building 1, Room W-314, State Capitol Complex, Charleston, West Virginia 25305

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