Non-Emergency Medical Transportation Report

Health Care Administration

January 2012

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Legislative Report

Minnesota Department of **Human Services**

INTRODUCTION

In 2011, legislation was enacted directing the Department of Human Services (DHS) to develop a proposal to create a single administrative structure for providing non-emergency medical transportation (NEMT) to fee-for-service Medical Assistance (MA) recipients.[1] In developing its report and recommendations, DHS was directed to consolidate access and special transportation services into one administrative structure.[2]

In developing its recommendations, the department was required to address a number of issues with the NEMT system that were identified in a 2011 program evaluation by the Office of the Legislative Auditor (OLA).[3] The OLA report identified areas in need of improvement in the delivery and administration of NEMT services and made a number of recommendations.

The 2011 legislation required the department to establish a Nonemergency Medical Transportation Advisory Council ("Advisory Council") to assist in developing a single administrative structure for providing NEMT services. The legislation specified a number of organizations to be represented on the Advisory Council. The organizations included consumer groups, providers, transportation coordinators and counties. The council also included representatives from state agencies as well as legislators. The Advisory Council met six times from September to December of 2011.

The legislation required the department to submit a report and any necessary draft legislation to the chairs and ranking minority members of committees with jurisdiction over health care policy and finance by January 15, 2012.

CURRENT NEMT SYSTEM

Nonemergency medical transportation (NEMT) is a federally mandated benefit that enables Medicaid recipients to access covered health care services. The federal government requires states to provide NEMT assistance to the nearest qualified provider using the least expensive type of appropriate transportation. Federal law requires states to describe methods that will be used to meet that requirement. Within

[1] *Laws of Minnesota 2011*, First Special Session, Chapter 9, Article 3, Section 6.

[2] The legislation does not define "single administrative structure". However, the 2011 legislation lists a number of issues that must be considered when developing recommendations for the single administrative structure. Many of the issues would likely be included among the elements in a single administrative structure. See Appendix A for the list of elements.

[3] Office of the Legislative Auditor, *Evaluation Report: Medical Nonemergency Transportation*, February 2011.

those federal requirements, states have discretion over how to administer NEMT services.

There are currently two categories of NEMT covered by MA in Minnesota. These include "access transportation services" (ATS) and "special transportation services" (STS). Those categories differ based on recipient eligibility, types of transportation available and program administration.

ATS is available to all MA recipients receiving services on a curb-to-curb or door-to-door basis. STS is available to MA recipients who, because of a physical or mental impairment, are unable to use "common carrier transportation"[4] and does not require ambulance service. MA clients are assessed to determine the need for STS services through a "level of need" (LON) assessment. The assessment also sets a time frame for how long a client is eligible for STS services.

ATS is defined as ambulatory or wheelchair transport by bus, taxicab, or other commercial carrier or by private automobile. STS transportation includes ambulatory taxi-style vehicles, wheelchair taxi-style vehicles and stretcher vehicles. STS vehicles must be certified by the Department of Transportation (MnDOT). STS drivers must provide certain driver assisted services including helping clients into and out of medical facilities and taking them to the door or station for their appointment.

Counties are primarily responsible for ATS, and there is variance among counties in how the services are admninistered and the types of transportation available. From 2004 to 2009, DHS contracted with a private vendor to coordinate ATS services for 11 counties in the Twin Cities area. In 2009, the Legislature prohibited the department from contracting for ATS. Subsequently, ten of the metro counties jointly contracted with the same vendor to coordinate ATS services. Under the contract the coordinator checks eligibility, determines the most appropriate form of transportation and reimburses providers.

In counties in Greater Minnesota, MA recipients receiving services under a fee-for-service system receive ATS services in a variety of ways. In some counties, financial aid workers determine eligibility for NEMT services, determine the most appropriate form of transportation, schedule trips and submit necessary paperwork for provider reimbursement. In other counties, a county transportation coordinator determines the most appropriate form of transportation and schedules rides. The role of transportation coordinator varies by county. In some counties the transportation coordinator may be the public transportation system while in other counties another office, such as human services, may serve as the coordinator.

[4] Minnesota Rules, Part 9505.0315, Subpart 1, defines "common carrier transportation" as the transport of a recipient by a bus, taxicab, or other commercial carrier or by private automobile.

DHS has primary responsibility for STS for MA recipients in the state. Since 2005, DHS has contracted with a vendor to conduct level of need assessments to determine whether MA recipients are eligible for STS. The vendor also determines how long each recipient's eligibility for STS will last. Once STS eligibility is established, recipients or their caregivers call STS providers themselves when they need a ride to or from a medical appointment. Transportation providers submit bills directly to DHS for reimbursement.

OFFICE OF LEGISLATIVE AUDITOR (OLA) PROGRAM EVALUATION

Much of the work of DHS and the Advisory Council has focused on addressing the findings and recommendations of the OLA Report. A number of the key findings included the following:

- "Minnesota's dual medical nonemergency transportation systems are duplicative and confusing." [5]
- "The Department of Human Services has administered key elements of special transportation in an ad hoc fashion." [6]
- "The Department of Human Services' recordkeeping regarding special transportation has been poor."[7]
- "The Department of Human Services has adopted special transportation eligibility criteria that are narrower than the criteria in state law."[8]
- "Policy decisions by the Department of Human Services, market forces and ambiguities in state law have created barriers to medical nonemergency transportation for a small number of Medical Assistance recipients."[9]
- "The broker's assessment forms for determining special transportation eligibility have focused mostly on physical impairements and have asked for little information about mental impairments."[10]
- "The Department of Human Services has frequently limited Medical Assistance recipients' eligibility for special transportation to extremely short periods."[11]

The Advisory Council discussed how best to address the findings and recommendations in the OLA report as directed by the 2011 legislation. The recommendations in this report address a number of issues raised in the OLA report. However the Advisory

[5] Office of the Legislative Auditor, *Evaluation Report: Medical Nonemergency Transportation*, February, 2011. p. 19
[6] Ibid. p. 21
[7] Ibid. p. 23
[8] Ibid. p. 24
[9] Ibid. p. 25
[10] Ibid. p. 27
[11] Ibid. p. 29

Council recognized early on that additional work would be needed to identify strategies and build consensus on how best to address a number of the issues in the OLA report.

A number of issues that will need further work, include, but are not limited to:

- Development of a policy and funding source to reimburse no-load miles for volunteers. (These are miles that a volunteer drives after dropping off a client at a medical appointment or at the client's residence. No load miles are not eligible for MA reimbursement under state and federal law.)
- Development of a policy manual for nonemergency medical transportation services.
- Identification of appropriate entities to be responsible for the various administrative duties associated with the nonemergency medical transportation system.

RECOMMENDATIONS

1) Create an ongoing Non-Emergency Medical Transportation (NEMT) Advisory Committee ("NEMT Advisory Committee").

The Advisory Council has been meeting since September. The group is made up of a diverse group of individuals with different backgrounds and perspectives. All have shown a strong commitment to improve the current non-emergency medical transportation (NEMT) system. The group has had many thoughtful discussions and exchanged ideas about how to address problems with the current system. There is recognition of the need for an ongoing group to address the important and complex issues facing the NEMT system.

The Advisory Council recommends the creation of a permanent NEMT Advisory Committee to advise DHS on policy matters related to non-emergency transportation. Among other things, the NEMT Advisory Committee would periodically review and make recommendations on NEMT policies and be involved in developing and updating the NEMT policy manual. The NEMT Advisory Committee would more fully examine the issues the Advisory Council has been addressing and work towards building a consensus on how to address those issues.

Membership on the NEMT Advisory Committee would include representatives of consumers, providers, transportation coordinators, counties, state agencies and legislators. It would also include a liaison from the Minnesota Council on Trasportation Access. All NEMT Advisory Committee meetings and actions would be open to the public along with notices of all meetings.

Proposed Action: 2012 legislation.

2) **Eliminate the separate ATS and STS designations for non-emergency medical transportation services.**

The current administrative system creates a distinction between Access Transportation Services (ATS) and Special Transportation Services (STS). The distinction does not serve a useful purpose and is frustrating for both MA enrollees and transportation providers. The separate designations for MA NEMT services should be eliminated. The Advisory Council recommends a system that recognizes that MA recipients fall along a continuum of needs and resources, and that allows for flexibility in how services are delivered to clients.

This recommendation acknowledges the need to maintain a strong regulatory structure for providers. This includes maintaining the current regulatory structure for current STS providers and expanding its application to include taxis and other common carriers, but would not include volunteer, mass transit or personal mileage transportation.

Proposed Action: 2012 legislation directing that the distinction between STS and ATS services be eliminated by January 1, 2014. The NEMT Advisory Council will propose policies for the new NEMT system for consideration during the 2013 session.

3) **Establish an assessment process that effectively matches the needs and resources of an MA enrollee with the most appropriate, least restrictive form of non-emergency medical transportation.**

The council recommends that a comprehensive, statewide standard enrollee assessment process be developed to identify a client's level of needs, abilities and resources, and match them with a mode of transportation that best meets their needs in the area in which they are receiving services. In particular, the assessment process should include a strong component that addresses mental health issues when determining the most appropriate mode of transportation.

Decisions related to an assessment should be based on clearly defined criteria that are available to clients, providers and counties. A guiding principal will be that the process to evaluate client need is standardized across the state (while acknowledging that transportation options & availability will vary greatly), and aligns with other similar existing processes , e.g. Social Security eligibility determinations. The assessment process should allow for extended eligibility for certain types of nonemergency medical transportation in cases where a client's condition is unlikely to change. The ongoing NEMT Advisory Council would be charged with advising on the development and periodic review of the assessment process.

The NEMT assessment process would be coordinated with other assessment processes, such as those used by the Social Security Administration and Metro Mobility, to avoid duplication. The Advisory Council recognizes that an assessment process may not adequately consider certain enrollee circumstances, and an appeals process should be in place for clients and providers to address those situations. Finally, the assessment process should recognize that not all clients will need an assessment.

Proposed Action: The NEMT Advisory Council will develop recommendations for the new assessment process and potential legislation for consideration during the 2013 session.

4) Establish a more effective process for reporting, tracking and resolving complaints involving NEMT services.

The duties involved in regulating and overseeing NEMT services are shared by numerous entities. The responsibility for regulating NEMT services at the state level is split between the Department of Human Services and the Department of Transportation. In addition, health plans, counties and transportation coordinators also have a role in overseeing NEMT services. It is not at all surprising then that the Legislative Auditor found that NEMT clients are often unsure of where to go if they have problems or need additional information. The Advisory Council recommends that information on how and where to report problems and obtain information be made more readily available to consumers and that uniform policies for providing information to consumers be developed. Furthermore, the Advisory Council recommends that information about the resolution of complaints be more available, as permitted under data privacy laws, to ensure accountability.

Due to the fragmentary nature of regulatory and oversight responsibilities, a number of different agencies are responsible for receiving and resolving complaints. The Advisory Council recommends the creation of a single database for monitoring complaints that come to the various entities that regulate and oversee NEMT services. Existing systems that store data from different sources into a single database should be considered as possible models, including the Office of Health Facilities complaints at the Department of Health.

The Advisory Council recommends the establishment of an effective feedback loop for entities that are the subject of individual complaints.

The Advisory Council recommends the establishment of a Web page and an electronic communications strategy to inform counties, providers and clients about updates and changes to NEMT policies and other timely information.

Proposed Action: The NEMT Advisory Committee will develop recommendations and potential legislation for consideration during the 2013 session.

5) Eliminate Real and Perceived Conflicts of Interest for Transportation Coordinators

The Advisory Council recognizes that there is potential conflict of interest when a transportation coordinator is also a provider of services. This situation could lead to MA enrollees not receiving appropriate services, a misuse of taxpayer dollars and a potential competitive advantage for the coordinator/provider. Therefore, the Advisory Council recommends that steps be taken to prohibit level of need providers from having a financial interest in delivering services.

Steps must be taken to ensure that any methods used to prevent conflicts of interest do not inhibit effective arrangements for delivering services in local communities. Because counties and other government entities perform level of need assessments and operate public transportation services, government entities should be be able to continue arrangements they have, and should not be subject to any efforts that would infringe on that ability.

Proposed Action: The NEMT Advisory Committee will develop recommendations for a conflict of interest policy and potential legislation for consideration during the 2013 session.

6) Maximize the Use of Public Transportation Unless it is Determined to be Not Appropriate.

The Advisory Council learned about policies in other states where MA recipients are given incentives to use less expensive public transit to get to medical appointments. In some states, an MA recipient who uses public transportation is offered a monthly bus pass to encourage the use of that form of transportation. The Advisory Council recommends a pilot project to offer monthly bus passes for NEMT clients to increase the use of public transportation when it is cost-effective. The Advisory Council also recommends examining other strategies that have been successful in increasing the use of public transportation by MA recipients to get to medical appointments.

Proposed Action: 2012 legislation. DHS is in the process of working with the Department of Transportation to review options for how this recommendation could be carried out. Once we have a proposal, we will route it to members of the Advisory Council for reiview.

7) Establish standardized measures to evaluate performance and cost-effectiveness.

The OLA report found that oversight and evaluation of services needs to be improved in terms of both data collection and analysis. The Advisory Council recommends the adoption of key performance measures to assess the cost-effectiveness and quality of non-emergency medical transportation. It recommends that DHS be required to collect, audit and periodically report on these data. The Advisory Council also recommends that consumer surveys be used more to evaluate the quality of services being provided. Some possible measures could include:

For coordinators/brokers:

- Number and diversity of provider types in a service area
- Speed with which clients are matched with an appropriate ride
- Internal safeguards to prevent fraud and abuse

For providers:

- Timeliness of pickups and drop offs.
- Safety records
- Percentage of the time for which claims have the required documentation

For LON assessment provider

- Time period for completing a requested assessment
- Time period for making decisions when an LON assessment has been appealed.
- Maintaining staff with a range of medical and mental health training to comprehensively assess a client for appropriate mode of NEMT services.

Steps should be taken to improve transparency by making data on quality and performance available to consumers and providers.

Proposed Action: The NEMT Advisory Committee will develop recommendations

APPENDICES

A. Laws of 2011, First Special Session, Chapter 9, Article 3, Section 6. Nonemergency Medical Transportation Single Administrative Structure Proposal

B. Nonemergency Medical Transportation Advisory Council members

C. Draft legislation

APPENDIX A

Laws of Minnesota 2011, First Special Session, Chapter 9, Article 3, Section 6

Sec. 6. **NONEMERGENCY MEDICAL TRANSPORTATION SINGLE ADMINISTRATIVE STRUCTURE PROPOSAL.**

(a) The commissioner of human services shall develop a proposal to create a single administrative structure for providing nonemergency medical transportation services to fee-for-service medical assistance recipients. This proposal must consolidate access and special transportation into one administrative structure with the goal of standardizing eligibility determination processes, scheduling arrangements, billing procedures, data collection, and oversight mechanisms in order to enhance coordination, improve accountability, and lessen confusion.

(b) In developing the proposal, the commissioner shall:

(1) examine the current responsibilities performed by the counties and the Department of Human Services and consider the shift in costs if these responsibilities are changed;

(2) identify key performance measures to assess the cost effectiveness of nonemergency medical transportation statewide, including a process to collect, audit, and report data;

(3) develop a statewide complaint system for medical assistance recipients using special transportation;

(4) establish a standardized billing process;

(5) establish a process that provides public input from interested parties before special transportation eligibility policies are implemented or significantly changed;

(6) establish specific eligibility criteria that include the frequency of eligibility assessments and the length of time a recipient remains eligible for special transportation;

(7) develop a reimbursement method to compensate volunteers for no-load miles when transporting recipients to or from health-related appointments; and

(8) establish specific eligibility criteria to maximize the use of public transportation by recipients who are without a physical, mental, or other impairment that would prohibit safely accessing and using public transportation.

(c) In developing the proposal, the commissioner shall consult with the nonemergency medical transportation advisory council established under paragraph (d).

(d) The commissioner shall establish the nonemergency medical transportation advisory council to assist the commissioner in developing a single administrative structure for providing nonemergency medical transportation services. The council shall include, but not be limited to:

(1) one representative each from the Departments of Human Services and Transportation;

(2) one representative each from the following organizations: the Minnesota State Council on Disability, the Minnesota Consortium for Citizens with Disabilities, ARC

of Minnesota, the Association of Minnesota Counties, the Metropolitan Inter-County Association, the R-80 Medical Transportation Coalition, the Minnesota Paratransit Association, legal aid, the Minnesota Ambulance Association, the National Alliance on Mental Illness, Medical Transportation Management, and other transportation providers; and

(3) four members from the house of representatives, two from the majority party and two from the minority party, appointed by the speaker, and four members from the senate, two from the majority party and two from the minority party, appointed by the Subcommittee on Committees of the Committee on Rules and Administration.

The council is governed by Minnesota Statutes, section 15.509, except that members shall not receive per diems. The commissioner of human services shall fund all costs related to the council from existing resources.

(e) The commissioner shall submit the proposal and draft legislation necessary for implementation to the chairs and ranking minority members of the senate and house of representatives committees or divisions with jurisdiction over health care policy and finance by January 15, 2012.

APPENDIX B

Members of the Nonemergency Medical Transportation Advisory Council

Sue Abderholden, National Alliance on Mental Illness

State Representative Bob Barrett

Troy Beam, SmartLink

Daryl Bessler, Association of Minnesota Counties

State Representative Patti Fritz

State Senator Barb Goodwin

Peg Heglund, Association of Minnesota Counties

Dan Hirsch, Discover Ride/Metro Transportation Providers Alliance

State Senator Gretchen Hoffman

Lars Keunow, ARC of Minnesota

Lucas Kunach, Minnesota Consortium of Persons with Disabilities

Scott Leitz, Minnesota Department of Human Services

Sarah Lenz, Minnesota Department of Transportation

Buck McAlpin, Minnesota Ambulance Association

State Representative Joe McDonald

State Senator Scott Newman

State Representative Kim Norton

Daniel Papin, Metropolitan Inter-County Association

Mike Pinske, R-80 Medical Transportation Coalition

Barb Platten, Minnesota Transportation Management

Dalaine Remes, Legal Aid

Diogo Ries, Minnesota State Council on Disability

State Senator Kathy Sheran

Michael J. Weidner, Minnesota Paratransit Association

APPENDIX C

Draft Legislation

Section _____

(a)The commissioner shall present recommendations and proposed legislation for a single administrative structure and delivery system for nonemergency medical transportation to the legislature by no later than January 15, 2013. In developing the proposal, the commissioner shall consult with and consider the recommendations proposed by the Nonemergency Medical Transportation Advisory Committee for a single administrative structure and delivery system under section 256B.0625, subdivision 18c.

(b) Effective no later than July 1, 2013, the commissioner shall begin implementing a single administrative structure and delivery system for nonemergency medical transportation.

Section _____

Subd. 18c.**Nonemergency Medical Transportation Advisory Committee.**

(a) The commissioner shall establish a Nonemergency Medical Transportation Advisory Committee, which consists of 17 voting members. The Nonemergency Medical Transportation Advisory Committee shall advise the commissioner regarding the administration of nonemergency medical transportation covered under the medical assistance program. The Nonemergency Medical Transportation Advisory Committee shall meet at least quarterly. The Nonemergency Medical Transportation Advisory Committee shall annually elect a chair from among its members, who shall work with the assistant commissioner for health care to establish the agenda for each meeting.

(b) The Nonemergency Medical Transportation Advisory Committee shall develop recommendations for a single administrative structure and delivery system for providing nonemergency medical transportation for medical assistance recipients. The recommendations shall be presented to the Commissioner by December 15, 2012.

(c) The Nonemergency Medical Transportation Advisory Committee shall advise and make recommendations to the commissioner on:

(1) the development of and periodic updates to a policy manual for nonemergency medical transportation services;

(2) eligibility criteria and an assessment process to determine the most appropriate mode of transportation for medical assistance clients that includes the frequency of eligibility assessments and the length of time an eligibility assessment remains valid;

(3) policies and a funding source for reimbursing for no load miles;

(4) policies to prevent waste, fraud and abuse and improve the efficiency of the nonemergency medical transportation system;

(5) other issues identified in the 2011 Program Evaluation on medical nonemergency transportation by the Office of the Legislative Auditor; and

(6) other aspects of the nonemergency medical transportation system as requested by the commissioner.

(d) The Nonemergency Medical Transportation Advisory Committee shall coordinate activities with the Minnesota Council on Transportation Access established under section 174.285.

Section _____

Subd. 18d. **Nonemergency Medical Transportation Advisory Committee members.**

The Nonemergency Medical Transportation Advisory Committee consists of:

(1) twovoting members who represent counties, at least one of which must represent a county or counties other than Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Washington and Wright;

(2) four voting members who represent consumers, including persons with physical and development disabilities, persons with mental illness, seniors, children and low-income individuals;

(3) four voting members who represent providers that deliver nonemergency medical transportation services to persons enrolled in medical assistance;

(4) two voting members of the house of representatives, one from the majority party and one from the minority party, appointed by the speaker, and two voting members from the senate, one from the majority party and one from the minority party appointed by the Subcommittee of the Committee on Rules and Administration;

(5) one voting member who represents health plans that meet the definition of demonstration provider in section 256B.69, subdivision 2;

(6) one voting member who represents an organization that contracts with state or local governments to coordinate transportation services for persons enrolled in medical assistance; and

(7) the commissioner of transportation or the commissioner's designee.

Members of the Nonemergency Medical Transportation Advisory Committee shall not be employed by the Department of Human Services.

Section _____

Subd. 18e. **Nonemergency Medical Transportation Advisory Committee terms and compensation.**

Committee members shall serve staggered three-year terms, with one-third of the voting members' terms expiring annually. Members may be reappointed by the commissioner. The commissioner may require more frequent Nonemergency Medical Transportation Advisory Committee meetings as needed. The Nonemergency Medical Transportation Advisory Committee does not expire as provided in section 15.059, subdivision 6.