

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF MEDICAID AND MEDICAL ASSISTANCE
Statutory Authority: 31 Delaware Code, Section 512 (31 Del.C. §512)

PROPOSED

PUBLIC NOTICE

Non-Emergency Medical Transportation (NEMT)

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code), 42 CFR §447.205, and under the authority of Title 31 of the Delaware Code, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Medicaid and Medical Assistance (DMMA) is proposing to amend Title XIX Medicaid State Plan regarding transportation specifically, to establish coverage and reimbursement methodologies for non-emergency medical transportation (NEMT) services.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to, Planning, Policy and Quality Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906, by email to Nicole.M.Cunningham@delaware.gov, or by fax to 302-255-4413 by 4:30 p.m. on January 31, 2020. Please identify in the subject line: Non-emergency Medical Transportation (NEMT).

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

SUMMARY OF PROPOSAL

The purpose of this notice is to advise the public that Delaware Health and Social Services (DHSS)/Division of Medicaid and Medical Assistance (DMMA) is proposing to amend Title XIX Medicaid State Plan regarding transportation specifically, to establish coverage and reimbursement methodologies for non-emergency medical transportation (NEMT) services.

Statutory Authority

- 42 U.S.C. §1902(a)(70)
- 42 CFR section 440.170(a)

Background

The Medicaid non-emergency medical transportation (NEMT) benefit is authorized under the Social Security Act under section 1902(a)(70) and 42 CFR section 440.170. It ensures necessary transportation to and from providers and includes coverage for transportation and related travel expenses necessary to secure medical examinations and treatment.

Summary of Proposal

Purpose

The purpose of this proposed regulation is to establish coverage and reimbursement methodologies for non-emergency medical transportation (NEMT) services for all Medicaid eligible individuals.

Summary of Proposed Changes

Effective for services provided on and after January 1, 2020 Delaware Health and Social Services/Division of Medicaid and Medical Assistance (DHSS/DMMA) proposes to amend Attachment 3.1-A Page 9a and Attachment 4.19-B Page 3 of Title XIX Medicaid State Plan regarding transportation specifically, to establish coverage and reimbursement methodologies for non-emergency medical transportation (NEMT) services.

Public Notice

In accordance with the *federal* public notice requirements established at Section 1902(a)(13)(A) of the Social Security Act and 42 CFR 447.205 and the state public notice requirements of Title 29, Chapter 101 of the Delaware Code, Delaware Health and Social Services (DHSS)/Division of Medicaid and Medical Assistance (DMMA) gives public notice and provides an open comment period for thirty (30) days to allow all stakeholders an opportunity to provide input on the proposed regulation. Comments must be received by 4:30 p.m. on January 31, 2020.

The provisions of this state plan amendment (SPA) are subject to approval by the Centers for Medicare and Medicaid Services (CMS). The draft SPA page(s) may undergo further revisions before and after submittal to CMS based upon public comment and/or CMS feedback. The final version may be subject to significant change.

Provider Manuals and Communications Update

Also, there may be additional provider manuals that may require updates as a result of these changes. The applicable Delaware Medical Assistance Program (DMAP) Provider Policy Specific Manuals and/or Delaware Medical Assistance Portal will be updated. Manual updates, revised pages or additions to the provider manual are issued, as required, for new policy, policy clarification, and/or revisions to the DMAP program. Provider billing guidelines or instructions to incorporate any new requirement may also be issued. A newsletter system is utilized to distribute new or revised manual material and to provide any other pertinent information regarding DMAP updates. DMAP updates are available on the Delaware Medical Assistance Portal website: <https://medicaid.dhss.delaware.gov/provider>

Fiscal Impact

The anticipated fiscal impact is below:

	Federal Fiscal Year 2020	Federal Fiscal Year 2021
Federal funds	\$5,657	\$5,721
General (State) funds	\$4368	\$4,394

Revision: CMS

Attachment 3.1-A
Page 9a

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

SECTION 3 – SERVICES: GENERAL PROVISIONS

3.1 Amount, Duration, and Scope of Services

Medicaid is provided in accordance with the requirements of section 1902(a), 1902(e), 1903(i), 1905(a), 1905(p), 1905(r), 1905(s), 1906, 1915, 1916, 1920, 1925, 1929 and 1933 of the Act; section 245A(h) of the Immigration and Nationality Act; and 42 CFR Parts 431, 440, 441, 442 and 483.

A. Categorically Needy

24. Any other medical care, and other type of remedial care recognized under State law, specified by law Secretary (in accordance with section 1905(a)(28) of the Social Security Act and 42 CFR 440.170).

a. Transportation (provided in accordance with 42 CFR 440.170 as an optional medical service) excluding “school-based” transportation.

Not Provided

Provided without a broker as an optional medical services: Payment may be made for the following non-emergency medical transportation services when:

- : It is medically necessary for the member to travel to receive treatment and/or medical evaluation;
- : The location of the medical service provided is greater than 25 miles from the member’s place of residence; and
- : The member is required to remain on the premises of the medical service provider overnight; or
- : The medical service provided results in displacement of the member for a consecutive 24-hour period.

i. Lodging Service – Transportation-related services authorized by the single state agency to provide overnight lodging for eligible recipients and, with prior authorization, one authorized escort.

Provider Requirements:

- a. Lodging service providers must enroll with the state Medicaid program directly into the Delaware Medicaid claims processing system; and
- b. Providers must submit for reimbursement directly into the Delaware Medicaid claims processing system.

- ii. Lodging and Meals Service – Transportation-related services authorized by the single state agency to provide overnight lodging, which includes meals (such as Ronald McDonald Houses), for eligible recipients and, with prior authorization, one authorized escort.

Provider Requirements –

- a. Lodging and Meals providers must enroll with the state Medicaid program; and
- b. Providers must submit for reimbursement directly into the Delaware Medicaid claims processing system.
- c. Limitations – In the event that the member is admitted as inpatient, and provided meals via that inpatient admission, meals for the member will not be covered.

~~(If state attests “Provided without a broker as an optional medical service” then insert supplemental information.) Describe below how the transportation program operates including types of transportation and transportation related services provided and any limitations. Describe emergency and non-emergency transportation services separately. Include and interagency or cooperative agreements with other Agencies or programs.~~

- Non-emergency transportation is provided through a brokerage program as an optimal ~~medical~~ medical service in accordance with 1902(a)(70) of the Social Security Act and 42 CFR 440.170(a)(4).

No. SPA# _____	Approval Date _____
TN Supersedes _____	
TN No. SPA# <u>10-002</u>	Effective Date <u>January 1, 2020</u>

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
STATE/TERRITORY: **DELAWARE**

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES-
OTHER TYPES OF CARE

- Transportation Services are reimbursed as follows:
 1. Emergency Transportation: Effective for dates of service on or after January 1, 2012, emergency transportation is reimbursed as a percentage of the Medicare Fee Schedule for Delaware as follows:
 - Ground Mileage, per Statute Mile will be 22%
 - Advanced Life Support. Emergency Transport will be 13%
 - Basic Life Support, Emergency Transport will be 17%
 - Conventional Air Services. Transport One Way (Rotary Wing) will be 39%
 - Rotary Wing Air Mileage, per Statute Mile will be 38%
 2. Non-emergency Transportation without a broker: Effective for dates of service on or after January 1, 2020, non-emergency transportation services provided by transportation service providers enrolled with the state Medicaid program who submit for reimbursement directly are reimbursed as follows:
 - Lodging – Except as otherwise noted in the plan, State-developed fee schedule rates are the same for both government and private providers of Lodging services. The agency’s Lodging fee schedule is effective for services provided on and after January 1, 2020. The fee schedule and any annual/periodic adjustments to the fee schedule are available on the DMAP website at: <http://www.dmap.state.de.us/downloads>.
 - Lodging and Meals – Except as otherwise noted in the plan, State-developed fee schedule rates are the same for both government and private providers of Lodging and Meals services. The agency’s Lodging and Meals fee schedule is effective for services provided on and after January 1, 2020. The fee schedule and any annual/periodic adjustments to the fee schedule are available on the DMAP website at: <http://www.dmap.state.de.us/downloads>.
 3. Non-emergency Transportation with a broker: The broker is reimbursed a monthly capitated rate for each Medicaid client residing in the State.
- Optometrist and Opticians are reimbursed for examinations as physicians are paid as described in Attachment 4.19-B Other Types of Care, Physician, Podiatry and Independent Radiology Services.

Except as otherwise noted in the Plan, State-developed fee schedule rates are the same for both governmental and private individual practitioners. The fee schedule and any annual/periodic adjustments to the fee schedule are published and found at: <https://www.dmap.state.de.us/downloads/hcpcs.html>.

Spectacle frames and lenses and contact lenses ~~and~~ are reimbursed based on Level II HCPCS procedure codes. The agency's fee schedule rate for these procedure codes was set on July 1, 2002 and is available on the DMAP website.

- Out-of-State Services, for which Delaware has established a universal rate or cap, will be reimbursed at the provider's usual and customary charge or Delaware's rate/cap, whichever is lower.

Where there is no universal rate/cap (i.e. providers are paid a provider-specific rate), Delaware Medicaid will establish a rate or cap that is consistent with the reimbursement methodology defined in other sections of Attachment 4.19-B for that specific service and pay the provider the lower of that rate/cap or their usual and customary charge.

TN No. SPA	Approval Date
Supersedes	
TN No. SPA #11-009	Effective Date <u>January 1, 2020</u>

Attachment 4.19-B
Page 3b

- Extended Services to Pregnant Women - Government providers are reimbursed on a negotiated rate basis which will not exceed actual costs which result from efficient and economic operation of the provider. Reimbursement of non-governmental providers will be based on reasonable charges which will not exceed the prevailing charges in the locality for comparable services as determined from the annual DMAP Nursing Wage Survey. The agency's fee schedule rate was set as of June 1, 2002 and is effective for services on or after that date. The fee schedule and any periodic adjustments are published on the DMAP website at: <http://www.dmap.state.de.us/downloads.html>.

23 DE Reg. 519 (01/01/20) (Prop.)