STATE OF NEW YORK

3606

2023-2024 Regular Sessions

IN ASSEMBLY

February 3, 2023

Introduced by M. of A. PRETLOW -- read once and referred to the Committee on Health

AN ACT to amend the social services law, in relation to transportation management brokers

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 4 of section 365-h of the social services law, as amended by section 2 of part LL of chapter 56 of the laws of 2020, is amended to read as follows:

4. [~~(a)~~] The commissioner of health is authorized to assume responsibility from a local social services official for the provision and reimbursement of transportation costs under this section. If the commissioner elects to assume such responsibility, the commissioner shall notify the local social services official in writing as to the election, the date upon which the election shall be effective and such information as to transition of responsibilities as the commissioner deems prudent. The commissioner is authorized to contract with a transportation manager or managers to manage transportation services in any local social services district, other than transportation services provided or arranged for enrollees of managed long term care plans issued certificates of authority under section forty-four hundred three-f of the public health law. Any transportation manager or managers selected by the commissioner to manage transportation services shall have proven experience in coordinating transportation services in a geographic and demographic area similar to the area in New York state within which the contractor would manage the provision of services under this section. Such a contract or contracts may include responsibility for: review, approval and processing of transportation orders; management of the appropriate level of transportation based on documented patient medical need; and development of new technologies leading to efficient transportation services. If the commissioner elects to assume such responsibil-

EXPLANATION--Matter in **italics** (underscored) is new; matter in brackets [-] is old law to be omitted.

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ity from a local social services district, the commissioner shall examine and, if appropriate, adopt quality assurance measures that may include, but are not limited to, global positioning tracking system reporting requirements and service verification mechanisms. Any and all reimbursement rates developed by transportation managers under this subdivision shall be subject to the review and approval of the commissioner.

[~~(b)(i) Subject to federal financial participation, for periods on and after April first, two thousand twenty-one, in order to more cost-effectively provide non-emergency transportation to Medicaid beneficiaries who need access to medical care and services, the commissioner is authorized to contract with one or more transportation management brokers to manage such transportation on a statewide or regional basis, as determined by the commissioner, in accordance with the federal social security act as follows:~~

~~(A) The transportation management broker or brokers shall be selected through a competitive bidding process based on an evaluation of the broker's experience, performance, references, resources, qualifications and costs; provided, however, that the department's selection process shall be memorialized in a procurement record as defined in section one hundred sixty-three of the state finance law;~~

~~(B) The transportation management broker or brokers shall have oversight procedures to monitor Medicaid beneficiary access and complaints and ensure that enrolled Medicaid transportation providers are licensed, qualified, competent and courteous.~~

~~(C) The transportation management broker or brokers shall be subject to regular auditing and oversight by the department in order to ensure the quality of the transportation services provided and adequacy of Medicaid beneficiary access to medical care and services.~~

~~(D) The transportation management broker or brokers shall comply with requirements related to prohibitions on referrals and conflicts of interest required by the federal social security act.~~

~~(ii) The transportation management broker or brokers may be paid a per member per month capitated fee or a combination of capitation and fixed cost reimbursement and the contract shall include, but not be limited to, responsibility for:~~

~~(A) establishing a network of high-quality Medicaid enrolled providers; provided, however, that in developing such network the transportation management broker shall evaluate the qualifications of current Medicaid transportation providers on a priority basis for participation in its network, and leverage reputable transportation providers with a proven record of serving Medicaid beneficiaries with high-quality services;~~

~~(B) continuing outreach to Medicaid enrolled providers to assess and resolve service quality issues;~~

~~(C) developing mandatory corrective actions for any Medicaid enrolled provider that falls under quality performance standards;~~

~~(D) establishing a prior approval process which shall include verifying Medicaid eligibility and reviewing, approving and processing transportation orders;~~

~~(E) managing the appropriate level of transportation based on documented patient medical need to ensure that Medicaid beneficiaries are using the most medically appropriate mode of transportation, including public transportation, which shall be maximized statewide, including in rural areas; provided that when determining the appropriate level of transportation, the transportation management broker shall ensure that~~

~~patients have reasonable and timely access to medically appropriate transportation services;~~

~~(F) implementing technologies to effectuate efficient transportation services, such as GPS, to improve match to mode of transportation;~~

~~(G) establishing fees to reimburse enrolled Medicaid transportation providers;~~

~~(H) adjudicating and paying claims submitted by enrolled Medicaid transportation providers;~~

~~(I) reporting on performance encompassing all aspects of the transportation program, including but not limited to Medicaid beneficiary complaints including the length of time to make a compliant, wait times related to the receipt of services by a recipient, and tracking medical justifications to modes of transportation provided;~~

~~(J) collaborating with Medicaid beneficiaries and consumer groups to identify and resolve issues to increase consumer satisfaction;~~

~~(K) auditing cancellation data on a quarterly basis to ensure accuracy;~~

~~(L) coordinating medical benefits and transportation with Medicaid managed care organizations, including development of value based payments for transportation services; and~~

~~(M) such contracts shall include penalties for incorrect denials, unresolved complaint rates, unfulfilled trips, and any other criteria determined by the commissioner and specified in the competitive bidding process.~~

~~(iii) A transportation management broker with which the commissioner contracts shall file with the commissioner a bond issued by an insurer authorized to write fidelity and surety insurance in this state, in an amount and form to be determined by the commissioner. The purpose of the surety bond shall be to provide the sole source of recourse to providers of Medicaid transportation services, other than the transportation management broker, that cannot receive payment for services properly provided if the transportation management broker becomes insolvent. To the extent permitted by law, the surety bond shall provide that any funds that remain after such provider liabilities are satisfied shall be paid to that state.~~

~~(iv) A transportation management broker with which the commissioner contracts shall provide to Medicaid enrolled providers annually a conspicuous written disclosure that states the following: "The New York State Department of Health has contracted with this transportation management broker to arrange non-emergency transportation for Medicaid beneficiaries who need access to medical care and services and is paying the transportation management broker a per member per month capitated fee or a combination of capitation and fixed cost reimbursement. This transportation management broker is not licensed by the New York State Department of Financial Services as an insurer and is not subject to its supervision as an insurer. This transportation management broker is not protected by New York security funds and there will not be any right to recover against the department of health, department of financial services, or this state in the event of the transportation management broker's insolvency.~~

~~(v) To the extent practicable, the competitive bidding and contracting process maybe completed by April first, two thousand twenty-one; provided, however, such contract may be effective at some date after April first, two thousand twenty-one, if the process takes longer to complete.~~

~~(vi) Responsibility for transportation services provided or arranged for enrollees of managed long term care plans issued certificates of authority under section forty-four hundred three-f of the public health law, not including a program designated as a Program of All-Inclusive Care for the Elderly (PACE) as authorized by Federal Public law 1053-33, subtitle I of title IV of the Balanced Budget Act of 1997, and, at the commissioner's discretion, other plans that integrate benefits for dually eligible Medicare and Medicaid beneficiaries based on a demonstration by the plan that inclusion of transportation within the benefit package will result in cost efficiencies and quality improvement, shall be transferred to a transportation management broker that has a contract with the commissioner in accordance with this paragraph. Providers of adult day health care may elect to, but shall not be required to, use the services of the transportation management broker.~~]

§ 2. Paragraph (a) of subdivision 6 of section 365-h of the social services law, as added by section 4 of part LL of chapter 56 of the laws of 2020, is amended to read as follows:

(a) The commissioner of health shall require transportation providers enrolled in the Medicaid program and specified by the commissioner pursuant to regulation, to report the costs incurred in providing transportation services to Medicaid beneficiaries pursuant to this section[~~; provided, however, this requirement shall only apply if there is no transportation management broker contract authorized in subdivision four of this section~~]. The commissioner shall specify the frequency and format of such reports and determine the type and amount of information required to be submitted, including supporting documentation, provided that such reports shall be no more frequent than quarterly. The commissioner shall give all transportation providers no less than ninety calendar days' notice before such reports are due.

§ 3. This act shall take effect immediately; provided, however that the amendments to subdivisions 4 and 6 of section 365-h of the social services law made by sections one and two of this act shall not affect the expiration and reversion of such section pursuant to subdivision (a) of section 40 of part B of chapter 109 of the laws of 2010, as amended.