
HOUSE COMMITTEE AMENDMENTS

2019 Regular Session

Substitute for Original House Bill No. 129 by Representative Carmody as proposed by the House Committee on Health and Welfare

This document reflects the content of a substitute bill but is not in a bill form; page numbers in this document DO NOT correspond to page numbers in the substitute bill itself.

To enact R.S. 46:450.2.1, 460.51(15) through (17), and Subpart E of Part XIII of Chapter 3 of Title 46 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 46:460.101 through 460.104, relative to the medical assistance program of this state known commonly as Medicaid; to provide for duties of the secretary of the Louisiana Department of Health in administering the Medicaid program; to provide for regulation of providers of nonemergency transportation services for Medicaid enrollees; to require that such providers meet certain qualifications; to authorize nonmedical transportation services in the Medicaid program and provide for regulation of such services; to provide for administration of the Medicaid managed care program; to provide for duties of Medicaid managed care organizations with respect to nonemergency medical and nonmedical transportation; to provide definitions; to require promulgation of administrative rules; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 46:450.2.1, 460.51(15) through (17), and Subpart E of Part XIII of Chapter 3 of Title 46 of the Louisiana Revised Statutes of 1950, comprised of R.S. 46:460.101 through 460.104, are hereby enacted to read as follows:

§450.2.1. Medicaid nonmedical transportation services

A. For purposes of this Section, the following terms have the meaning ascribed to them in this Subsection:

(1) "Department" means the Louisiana Department of Health.

(2) "Managed care organization" has the meaning ascribed in R.S. 46:460.51.

(3) "Nonmedical transportation service" means transportation of a Medicaid recipient enrolled in a managed care plan, other than a recipient whose medical or physical condition contraindicates the use of transportation services, to and from a medically necessary, nonemergency covered healthcare service that is scheduled not more than forty-eight hours before the transportation occurs. The term shall include transportation related to all of the following:

(a) Discharge from a healthcare facility.

(b) Receipt of urgent care.

(c) Obtaining any time-sensitive covered healthcare service.

(d) Any transportation to or from a medically necessary, nonemergency covered healthcare service that the department considers appropriate to be provided by a transportation vendor, as determined by rule or policy of the department.

(4) "Transportation network company" means a corporation, partnership, sole proprietorship, or other entity that, for compensation, enables a passenger to prearrange with a driver, exclusively through the entity's digital network, a digitally prearranged ride. The term does not include an entity that provides any of the following:

(a) Street-hail taxicab services.

(b) Limousine or other car services arranged by a method other than through a digital network.

(c) Shared expense carpool or vanpool arrangements.

(d) A type of ride service for which either of the following conditions apply:

(i) The fee received by the driver does not exceed the driver's costs of providing the ride.

(ii) The driver receives a fee that exceeds the driver's costs associated with providing the ride but makes not more than three round-trips per day between the driver's or passenger's place of employment and the driver's or passenger's home.

(5) "Transportation vendor" means an entity, including a transportation network company, that contracts with a managed care organization to provide nonmedical transportation services.

B. Each transportation vendor shall maintain, at minimum, the types and levels of insurance coverage required by the department for providers of nonemergency medical transportation services.

C. The secretary of the department shall promulgate rules in accordance with the Administrative Procedure Act regarding the manner in which nonmedical transportation services may be arranged and provided. At minimum, the rules shall provide for all of the following:

(1) A requirement that each managed care organization create a process to verify that a passenger is eligible to receive nonmedical transportation services.

(2) A requirement that each managed care organization create a process to ensure that nonmedical transportation services are provided only to and from covered healthcare services.

(3) A requirement that each transportation vendor, before permitting a motor vehicle operator to provide nonmedical transportation services, confirm all of the following:

(a) That the operator is at least twenty-five years of age.

(b) That the operator maintains a valid class "D" or commercial driver's license issued by this state or an equivalent driver's license issued by another state of the United States or the District of Columbia.

(c) That the operator possesses proof of registration and automobile financial responsibility for each motor vehicle to be used to provide nonmedical transportation services.

(d) That the operator has completed all training requirements for nonmedical transportation providers established by the department in rule.

(4) A requirement that each transportation vendor, before permitting a motor vehicle operator to provide nonmedical transportation services, conduct, or cause to be conducted, all of the following:

(a) A criminal history check that complies with the standards and specifications provided in R.S. 40:1203.1 et seq.

(b) A check for any record of the person in the national sex offender public website maintained by the United States Department of Justice or a successor agency.

(5) A requirement that each transportation vendor confirm that any vehicle to be used to provide nonmedical transportation services meets the applicable requirements of Chapter 7 of Title 32 of the Louisiana Revised Statutes of 1950.

(6) A requirement that each transportation vendor obtain and review the operator's driving record.

D. The rules of the department regarding nonmedical transportation services shall prohibit a motor vehicle operator from providing such services if the operator meets any of the following conditions:

(1) He has been convicted in the three-year period preceding the issue date of the driving record obtained pursuant to Paragraph (B)(6) of this Section of any of the following:

(a) More than three offenses classified by the Department of Public Safety and Corrections as moving violations.

(b) One or more of the following offenses:

(i) Resisting an officer under R.S. 14:108 or flight from an officer under R.S. 14:108.1.

(ii) Reckless operation of a vehicle under R.S. 14:99.

(iii) Driving without a valid driver's license under R.S. 32:52 or 402(B).

(iv) Driving with a suspended driver's license under R.S. 32:415.

(2) He has been convicted in the preceding seven-year period of any of the following:

(a) Operating a vehicle while intoxicated under R.S. 14:98 et seq.

(b) Use of a motor vehicle to commit a felony.

(c) A felony crime involving property damage.

(d) Fraud.

(e) Theft.

(f) A crime of violence, including any assault.

(g) An act of terrorism.

(3) He is found to be registered in the national sex offender public website maintained by the United States Department of Justice or a successor agency.

(4) He has not satisfied the training requirements for nonmedical transportation providers established by the department.

E. The department shall not require a motor vehicle operator to enroll as a Medicaid provider in order to provide nonmedical transportation services or a managed care organization to credential a motor vehicle operator to provide nonmedical transportation services if the motor vehicle operator is an employee or contractor of a transportation vendor.

F. Notwithstanding any other law to the contrary, a motor vehicle operator who is part of a transportation network company's network and who satisfies the requirements provided in this Section and in the rules of the department is qualified to provide nonmedical transportation services.

G. The department shall not utilize any ambulance, emergency medical response vehicle, or EMS practitioner as defined in R.S. 40:1131 to provide nonmedical transportation services.

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§460.51. Definitions

As used in this Part, the following terms have the meaning ascribed in this Section unless the context clearly indicates otherwise:

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(15) "Nonmedical transportation service" has the meaning ascribed in R.S. 46:450.2.1(A).

(16) "Transportation broker" means any entity, including but not limited to any local or regional private transportation provider and any regional transit entity as defined in R.S. 48:1501, deemed to be qualified by the secretary of the department to provide or arrange for the provision of transportation services in accordance with Subpart E of this Part.

(17) "Transportation network company" has the meaning ascribed in R.S. 46:450.2.1(A).

(18) "Transportation vendor" has the meaning ascribed in R.S. 46:450.2.1(A).

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SUBPART E. TRANSPORTATION PROGRAM

§460.101. Nonemergency medical transportation

Each managed care organization is hereby authorized to contract with one or more transportation vendors, including transportation network companies, for the provision of nonemergency medical transportation services.

§460.102. Nonmedical transportation services; requirements of Medicaid managed care organizations

A. Each managed care organization that contracts with the department to provide healthcare services to recipients shall arrange for the provision of nonmedical transportation services that conform with the requirements of R.S. 46:450.2.1. A managed care organization may contract with a transportation vendor or other third party to arrange for the provision of nonmedical transportation services. If a managed care organization contracts with a third party that is not a transportation vendor to arrange for the provision of nonmedical transportation services, the third party shall contract with a transportation vendor to deliver the nonmedical transportation services.

B. A managed care organization that contracts with a transportation vendor or other third party to arrange for the provision of nonmedical transportation services shall ensure the effective sharing and integration of service coordination, service

authorization, and utilization management data between the managed care organization and the transportation vendor or third party.

C. A managed care organization shall not require either of the following:

(1) A motor vehicle operator to enroll as a Medicaid provider in order to provide nonmedical transportation services.

(2) The credentialing of a motor vehicle operator to provide nonmedical transportation services.

§460.103. Transportation brokers; contracts authorized

A. Subject to the conditions provided in Subsection B of this Section, each managed care organization is hereby authorized to subcontract for nonmedical transportation services, nonemergency medical transportation services, or both types of services on a regional basis through contracts with one or more transportation brokers.

B. A managed care organization may contract with a transportation broker to coordinate nonmedical transportation services, nonemergency medical transportation services, or both types of services on a regional basis if the broker meets all of the following conditions and qualifications:

(1) The broker operates under a capitated rate system.

(2) The broker assumes financial responsibility under a full-risk model.

(3) The broker operates a call center.

(4) The broker uses fixed routes when available and appropriate.

(5) The broker agrees to provide data to the department if the department determines that the data is required to receive federal matching funds.

§460.104. Rulemaking

The department shall promulgate all rules in accordance with the Administrative Procedure Act as are necessary to implement the provisions of this Subpart.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB Draft

2019 Regular Session

Abstract: Authorizes certain providers to furnish nonemergency and nonmedical transportation services to La. Medicaid program enrollees.

Medicaid Nonmedical Transportation Services

Proposed law provides the following definitions for purposes of proposed law relative to Medicaid nonmedical transportation services:

- (1) "Nonmedical transportation service" means transportation of a Medicaid recipient enrolled in a managed care plan, other than a recipient whose medical or physical condition contraindicates the use of transportation services, to and from a medically necessary, nonemergency covered healthcare service that is scheduled not more than 48 hours before the transportation occurs, including transportation related to all of the following:
 - (a) Discharge from a healthcare facility.
 - (b) Receipt of urgent care.
 - (c) Obtaining any time-sensitive covered healthcare service.
 - (d) Any transportation to or from a medically necessary, nonemergency covered healthcare service deemed appropriate to be provided by a transportation vendor, as determined by state Medicaid policy.
- (2) "Transportation network company" means a corporation, partnership, sole proprietorship, or other entity that, for compensation, enables a passenger to prearrange with a driver, exclusively through the entity's digital network, a digitally prearranged ride; however, the term does not include an entity that provides any of the following:
 - (a) Street-hail taxicab services.
 - (b) Limousine or other car services arranged by a method other than through a digital network.
 - (c) Shared expense carpool or vanpool arrangements.
 - (d) A type of ride service for which either of the following conditions apply:
 - (i) The fee received by the driver does not exceed the driver's costs of providing the ride.
 - (ii) The driver receives a fee that exceeds the driver's costs associated with providing the ride but makes not more than three round-trips per day between the driver's or passenger's place of employment and the driver's or passenger's home.

- (3) "Transportation vendor" means an entity, including a transportation network company, that contracts with a Medicaid managed care organization to provide nonmedical transportation services.

Proposed law requires transportation vendors providing nonmedical transportation services to maintain, at minimum, the types and levels of insurance coverage required by the La. Department of Health (LDH) for providers of nonemergency medical transportation services

Proposed law requires LDH to promulgate administrative rules regarding the manner in which nonmedical transportation services may be arranged and provided. Stipulates that, at minimum, the rules shall provide for all of the following:

- (1) A requirement that each of the state's Medicaid managed care organizations create a process to verify that a passenger is eligible to receive nonmedical transportation services.
- (2) A requirement that each of the state's Medicaid managed care organizations create a process to ensure that nonmedical transportation services are provided only to and from covered healthcare services.
- (3) A requirement that each transportation vendor, before permitting a motor vehicle operator to provide nonmedical transportation services, confirm all of the following:
 - (a) That the operator is at least 25 years of age.
 - (b) That the operator maintains a valid La. class "D" or commercial driver's license or an equivalent driver's license issued by another U.S. state or the District of Columbia.
 - (c) That the operator possesses proof of registration and automobile financial responsibility for each motor vehicle to be used to provide nonmedical transportation services.
 - (d) That the operator has completed all training requirements for nonmedical transportation providers established by LDH in rule.
- (4) A requirement that each transportation vendor, before permitting a motor vehicle operator to provide nonmedical transportation services, conduct, or cause to be conducted, a criminal history check for the operator and a determination of whether the operator is registered in the national sex offender public website.
- (5) A requirement that each transportation vendor confirm that any vehicle to be used to provide nonmedical transportation services meets the applicable requirements of present law relative to vehicle registration.
- (6) A requirement that each transportation vendor obtain and review the operator's driving record.

Proposed law prohibits a motor vehicle operator from providing nonmedical transportation services if the operator meets any of the following conditions:

- (1) He has been convicted in the preceding three-year period of any of the following:
 - (a) More than three offenses classified by the Dept. of Public Safety and Corrections as moving violations.
 - (b) One or more of the following offenses: Resisting an officer under R.S. 14:108 or flight from an officer under R.S. 14:108.1, reckless operation of a

vehicle, driving without a valid driver's license, or driving with a suspended driver's license.

- (2) He has been convicted in the preceding seven-year period of any of the following:
 - (a) Operating a vehicle while intoxicated.
 - (b) Use of a motor vehicle to commit a felony.
 - (c) A felony crime involving property damage.
 - (d) Fraud.
 - (e) Theft.
 - (f) A crime of violence, including any assault.
 - (g) An act of terrorism.
- (3) He is found to be registered in the national sex offender public website.

Proposed law prohibits LDH from requiring a motor vehicle operator to enroll as a Medicaid provider in order to provide nonmedical transportation services and prohibits LDH from requiring Medicaid managed care organizations to credential a motor vehicle operator to provide those services if the operator is an employee or contractor of a transportation vendor.

Proposed law provides that notwithstanding any provision of present law to the contrary, a motor vehicle operator who is part of a transportation network company's network and who satisfies the requirements provided in proposed law and in LDH administrative rules is qualified to provide nonmedical transportation services.

Proposed law prohibits LDH from utilizing any ambulance, emergency medical response vehicle, or EMS practitioner as defined in present law to provide nonmedical transportation.

Medicaid Managed Care Transportation Program

Present law provides relative to the operation of major aspects of the state Medicaid program through a system known as managed care in which health benefits and services are delivered through contracted arrangements between the state and managed care organizations that accept a fixed per-member per-month payment for those services.

Proposed law retains present law and adds thereto provisions creating a Medicaid managed care transportation program.

Proposed law adds the following definitions to present law relative to Medicaid managed care:

- (1) "Nonmedical transportation service" means transportation of a Medicaid recipient enrolled in a managed care plan, other than a recipient whose medical or physical condition contraindicates the use of transportation services, to and from a medically necessary, nonemergency covered healthcare service that is scheduled not more than 48 hours before the transportation occurs, including transportation related to all of the following:
 - (a) Discharge from a healthcare facility.
 - (b) Receipt of urgent care.
 - (c) Obtaining any time-sensitive covered healthcare service.

- (d) Any transportation to or from a medically necessary, nonemergency covered healthcare service deemed appropriate to be provided by a transportation vendor, as determined by state Medicaid policy.
- (2) "Transportation broker" means any entity, including but not limited to any local or regional private transportation provider and any regional transit entity as defined in present law, deemed to be qualified by the secretary of the department to provide or arrange for the provision of transportation services in accordance with proposed law.
- (3) "Transportation network company" means a corporation, partnership, sole proprietorship, or other entity that, for compensation, enables a passenger to prearrange with a driver, exclusively through the entity's digital network, a digitally prearranged ride; however, the term does not include an entity that provides any of the following:
 - (a) Street-hail taxicab services.
 - (b) Limousine or other car services arranged by a method other than through a digital network.
 - (c) Shared expense carpool or vanpool arrangements.
 - (d) A type of ride service for which either of the following conditions apply:
 - (i) The fee received by the driver does not exceed the driver's costs of providing the ride.
 - (ii) The driver receives a fee that exceeds the driver's costs associated with providing the ride but makes not more than three round-trips per day between the driver's or passenger's place of employment and the driver's or passenger's home.
- (3) "Transportation vendor" means an entity, including a transportation network company, that contracts with a Medicaid managed care organization to provide nonmedical transportation services.

Proposed law authorizes Medicaid managed care organizations to contract with one or more transportation vendors, including transportation network companies, for the provision of nonemergency medical transportation services.

Proposed law requires Medicaid managed care organizations to arrange for the provision of nonmedical transportation services that conform with the requirements of proposed law. Authorizes managed care organizations to contract with transportation vendors or other third parties to arrange for the provision of nonmedical transportation services. Provides that if a managed care organization contracts with a third party that is not a transportation vendor to arrange for the provision of nonmedical transportation services, the third party shall contract with a transportation vendor to deliver the nonmedical transportation services.

Proposed law requires Medicaid managed care organizations that contract with transportation vendors or other third parties to arrange for the provision of nonmedical transportation services to ensure the effective sharing and integration of service coordination, service authorization, and utilization management data between the managed care organization and the transportation vendor or third party.

Proposed law provides that a managed care organization shall not require either of the following:

- (1) A motor vehicle operator to enroll as a Medicaid provider in order to provide nonmedical transportation services.

- (2) The credentialing of a motor vehicle operator to provide nonmedical transportation services.

Proposed law authorizes managed care organizations to contract with transportation brokers to coordinate nonmedical transportation services, nonemergency medical transportation services, or both types of services on a regional basis if the brokers meet all of the following conditions and qualifications:

- (1) Operate under a capitated rate system.
- (2) Assume financial responsibility under a full-risk model.
- (3) Operate a call center.
- (4) Use fixed routes when available and appropriate.
- (5) Agree to provide data to the department if the department determines that the data is required to receive federal matching funds.

(Adds R.S. 46:450.2.1, 460.51(15)-(17), and 460.101-460.104)