

Janet T. Mills
Governor

Jeanne M. Lambrew, Ph.D.
Commissioner



Maine Department of Health and Human Services
Commissioner's Office
Office of MaineCare Services
Office of Aging and Disability Services
Augusta, Maine 04330

February 10, 2020

Senator Gratwick, Chair
Representative Hymanson, Chair
Members, Joint Standing Committee on Health and Human Services
100 State House Station
Augusta, ME 04333-0100

Re: LD 1142 – *Resolve, To Expand Transportation Services for Seniors Who Are MaineCare Members*

Senator Gratwick, Rep Hymanson, and Members of the Joint Standing Committee on Health and Human Services:

This letter is in response to the Committee's request re: LD 1142, *Resolve, To Expand Transportation Services for Seniors Who Are MaineCare Members*.

The LD sought to require the Department of Health and Human Services (the Department) to provide transportation services to individuals receiving Home and Community Benefits for the Elderly and Adults with Disabilities under Chapter II, Section 19 of the *MaineCare Benefits Manual* (10-144 C.M.R. Ch. 101), Home and Community Benefits (HCB) for the Elderly and for Adults with Disabilities, if those services are in the person's plan of care, "in addition to any currently permissible medical transportation, when the individual has no other means of transport." MaineCare administers the Section 19 benefit through a federal 1915(c) Home and Community-Based Waiver. LD 1142 also would have required the Department to develop a plan to provide non-emergency transportation (NET) to other elderly individuals who do not have access to transportation to services that meet their basic needs.

The Committee decided to carry over LD 1142 due to apparent conflicts between MaineCare rules and the practicalities of the brokerage transportation system. The Committee asked the Department to offer a report with a plan for resolving this conflict and for determining how members receiving HCB services through a waiver could receive transportation using the NET program for "non-medical services" required in plans of care.

Overview of Section 19 Waiver Services and Transportation

Per the *MaineCare Benefits Manual*, HCB benefits are meant to supplement, rather than replace, natural supports. This means that a person's plan of care could include a combination of MaineCare covered services and unpaid services, such as a friend or family member transporting a waiver member to a non-MaineCare covered activity in the community. For all waivers, the provision of services is subject to available funding for the program (individual cost limitations as set forth in the *MaineCare Benefits Manual* and aggregate cost neutrality assurances required by 42 C.F.R. §441.302).

Under Section 19, MaineCare’s practice under the NET brokerage system has been to provide members with transportation to MaineCare covered services that are in their plans of care and that, on their own, are billable services under MaineCare. Plans of care may include personal support services (PSS), which could include time spent on Instrumental Activities of Daily Living (IADL), such as grocery shopping. Since these IADL are not, on their own, billable services under MaineCare, MaineCare has not provided transportation to these types of activities under the NET brokerage system. The reimbursement rate for PSS providers does not include any component intended to cover transportation costs, and, as such, PSS providers generally do not provide transportation for these activities.

Non-Emergency Transportation Program Overview

As laid out in Chapter III, Section 113 of the *MaineCare Benefits Manual*, MaineCare’s NET program provides transportation for eligible MaineCare members to and from non-emergency MaineCare-covered services, many of which are non-medical in nature. The following criteria must apply for MaineCare to cover a NET trip to a MaineCare covered service:

- No other means of transportation is available AND
- Transportation is not otherwise included in a provider’s rate for a service OR
- Provider vehicles are proven to be out of commission or unavailable (for providers whose rate includes transportation)

The Department reimburses transportation brokers on a per member per month (“capitated”) basis, regardless of the number, type, or distance of trips provided. Transportation brokers establish their own rates for transportation providers, in alignment with MaineCare requirements regarding minimum rates. SFY19 NET expenditures were \$60,817,448 (state and federal dollars combined).

Limitations to Implementation of an Expansion of Section 19 Waiver Transportation Services Reimbursable Through NET

There are several key reasons why it would be difficult to implement the requirements set forth in LD 1142 through the NET program.

1. Availability of funding. The Office of MaineCare Services (OMS) has administered a NET program for many years. At no time, either under the Fee-for-Service program that operated prior to 2013, or under the brokerage model that has been in place since 2013, has the program been funded to enable the provision of transportation to activities that are not, on their own, billable MaineCare covered services.

2. Costs of expanding NET to provide transportation to all services specified under a Section 19 plan of care cannot be immediately projected. The Centers for Medicare and Medicaid Services (CMS) requires state Medicaid agencies to procure the services of an independent actuary to establish rates to compensate brokers for transportation costs under the NET program. Beginning in 2013, OMS’s independent actuary established capitated rates for the NET brokers based on historical data on trips to MaineCare covered services from the preceding Fee-for-Service transportation program. There is no historical trip data for transportation to activities intended to meet the full scope of a plan of care, outside of MaineCare’s traditional covered services; thus, the independent actuary has no Maine-specific data on the frequency or length for these kinds of trips

upon which to establish rates for brokers to ensure transportation coverage for these kinds of services. Our high-level estimate at this time is that initial rate development would take six months. More information about costs and data required to establish rates is described in the following section.

3. Rule changes and waiver amendments would be necessary. The Department would need to update several sections of the *MaineCare Benefits Manual* and the state's approved 1915(c) waiver to incorporate new covered services and rates. This could require increasing existing service caps of \$65,000 per member per year annually, which would require an additional funding request from the Legislature and could have downstream effects on the waiver's budget neutrality assurances. Such a change would require further discussion regarding the development and implementation of authorization criteria and oversight to ensure members do not exceed service caps.

4. System changes would be necessary. To capture information on the frequency, destinations, and miles traveled for an increased scope of transportation services, NET encounter claim fields would need to be added to OMS's claims processing system. This data would be critical to establish appropriate rates for transportation to these activities going forward. Our high-level estimate at this time is that system changes would take six months. Costs are estimated in the following section.

Options for Future Implementation

There are a variety of factors that must be considered should the NET program expand the scope of current transportation services.

Labor Shortage

NET brokers are experiencing a significant labor shortage across the state, which has already begun to affect service delivery in the current program. Adding more demand for trips would exacerbate this problem and could have the unintended effect of additionally reducing driver availability for transportation to services such as doctor visits, day programs, etc.

Costs

Known costs include:

- The independent actuary for MaineCare's NET program has estimated a cost of \$200,000 annually for the first two years to research and establish new capitated rates. Thereafter, the administrative costs for required actuarial services would come down to about \$50,000 annually.
- System changes for NET encounter claims are estimated at \$500,000 (one-time cost).

The actuarial services and NET staffing costs would receive a 50% federal match. System change costs would receive a 75% federal match.

Unknown costs and policy implications include:

- Increase in capitated rates for brokers to cover transportation to a new set of services, to be determined by an actuary. Current federal match is 64.52%, leaving the required state match at 35.48%.

- Additional staff time to handle the administrative management of the increased, currently unknown, volume of NET rides. One additional staff person would have an estimated salary and fringe benefit cost of \$52,000 annually.

We have been in communication with our independent actuary to better understand how they might establish new capitated rates. They would undertake the following:

- Review Maine NET data for Section 19 waiver members to determine how many utilize transportation. Waiver members' current plans of care could be another source of information for demand.
- Review their own internal as well as national health data to indicate frequency of certain trips types that have not traditionally been covered under NET, such as trips to grocery and retail stores.
- Review other states' Medicaid program data.

Other required information includes the modes of transportation and types of trips allowed, and any financial cap on services. A financial cap could be determined in part by looking to other states' experiences.

The independent actuary would work with the Department to develop a risk-sharing arrangement to cap profits or losses experienced by the brokers for additional transportation services. These types of risk-sharing arrangements are common when new services with unpredictable utilization are implemented under capitated programs.

Implementation Outside of NET

The Department has begun exploring other approaches to providing additional transportation services, including a review of other states' programs that could act, in Maine, as a complement to the existing NET program. One example of note is New York Medicaid's provision of an annual \$2,000 cost cap per individual for non-medical transportation needs covered within an individual's plan of care. This enables certain eligible individuals to make choices and prioritize a set budget to meet their non-medical transportation needs, for example, purchasing bus and taxi services, as needed, within the cap limit. More research into the policy, financial, and operational considerations would be needed to understand whether and how this type of program could be implemented in Maine.

Other Waiver Sections

The letter received by the Department following the carryover of LD 1142 also mentioned transportation for other waiver sections. Under Sections 18, 20, 21, and 29 of the *MaineCare Benefits Manual*, part of the established HCB waiver provider reimbursement rate for many services includes transportation. This is often called "in-program transportation," to distinguish from NET's provision of transportation to and from the services, and it is available if the member requires staff support for the activity. An example can be found in Chapter II, Section 21.05-13 of the *MaineCare Benefits Manual* for the Home Support - Quarter Hour service. As part of that service, it is expected that the waiver provider will take a member into the community to destinations like a grocery store or the bank. Assumptions for these types of transportation costs were included in past rate studies and built into the final reimbursement rates for the waiver providers. If a waiver provider's rate for a covered service includes transportation, it will be noted under the relevant section of the *MaineCare Benefits Manual*.

MaineCare prohibits duplicative reimbursement through Chapter I, Section 1 of the *MaineCare Benefits Manual*. As such, the NET program is not able to provide transportation services for members whose HCB waiver providers already receive reimbursement for those same transportation services. Therefore, expanding transportation to these waiver members through NET would mean that the portion of the HCB waiver provider rate that currently accounts for the same transportation services would need to be removed, resulting in a reduced rate for HCB waiver providers. The implications of any increased scope of services for NET noted above would also apply. Should transportation remain the responsibility of HCB waiver providers for services that include transportation within their covered scope, the Department could re-assess that portion of the accompanying rate to determine if it is adequate for providers to appropriately meet waiver members' transportation needs.

DHHS Transportation Workgroup and Program Evaluation

In June 2019, the Department organized a workgroup of senior staff from the Office of MaineCare Services, Office of Child and Family Services, Office of Substance Abuse and Mental Health Services, Office of Aging and Disability Services, and Division of Contract Management to evaluate and align the Department's transportation programs. The workgroup also plans to conduct an independent evaluation of DHHS transportation services to inform additional improvements to quality and access, including an assessment of how transportation is provided to waiver members. The Department will release a request for proposals to procure a consultant to perform the evaluation.

Investment in Public Transportation

As a comparison to the information presented earlier in this letter, the SFY19 Department of Transportation (DOT) budget for public transit, exclusive of capital, passenger rail, and the Maine State Ferry Service, was \$12,147,845 (state and federal combined). In SFY19, MaineCare NET spent five (5) times more on MaineCare transportation than the State of Maine is spending on all other comparable public transit.

As noted above, the NET program constitutes greater public spending on transportation than that spent by DOT. Additional investment into DOT's public transportation programs, including programs accessible to older Mainers, could also help address the Committee's concerns about lack of available transportation.

DHHS is collaborating with DOT and other Departments on the new Age-Friendly State Steering Committee, which has identified transportation as a priority domain on the workplan it is developing through the summer and fall of 2020. The Department is available to answer additional questions about the Age-Friendly State Steering Committee should the Committee request further information.

DHHS and DOT are also working together to consider a ride-sharing pilot to increase access to more affordable transportation services for MaineCare members and the general public. The pilot would look to combine, in a single trip, riders going to both MaineCare and non-MaineCare covered services, with a fiscal structure and the accompanying documentation that would be necessary to comply with federal regulations to ensure that Medicaid dollars are not used to subsidize non-Medicaid services. Currently these rides must be separate, which increases the

number of trips needed to and from similar destinations. The feasibility of this pilot is dependent on the availability of funding and the identification and implementation of a payment and tracking structure acceptable to CMS. We will gladly keep the Committee apprised of any developments.

In summary, under Section 19, MaineCare's practice under the NET brokerage system has been to provide members with transportation to MaineCare covered services that are in their plans of care and that, on their own, are billable services under MaineCare. Several funding, rule-making, and implementation constraints limit MaineCare's ability to extend the NET program to provide transportation to all services in a Section 19 member's plan of care. As a first step, the Department would need to engage an independent actuary to determine appropriate rates to compensate brokers for the additional trips and to estimate the fiscal impact. As a result, the Department believes it is most appropriate to continue to explore potential alternatives to the current NET brokerage system to meet the community-based, non-medical transportation needs of waiver members as well as to look for new ways to improve the quality of and access to transportation for all Mainers.

We would be happy to make ourselves available to the committee to discuss further or to answer any questions.

Sincerely,



Michelle Probert, Director
Office of MaineCare Services



Paul Saucier, Director
Office of Aging and Disability Services