

PEOPLE CENTERED TRANSPORTATION COALITION

September 9, 2019

Medical Services Board
303 East 17th Avenue
Denver, CO 80203

[RE: MSB 19-04-19-A, Revision to the Medical Assistance Benefits Rule Concerning Non-Emergent Medical Transportation, Section 8.014.](#)

I am writing to you as the coordinator of the People Centered Transportation Coalition (PCTC), a convening of Colorado based organizations around this inclusive shared goal:

The Non-Emergent Medical Transportation (NEMT) benefit in Colorado is developed and implemented to ensure equitable, accountable, and people-centered access to care.

We are writing to you out of a concern that the above referenced draft NEMT rule revision does not provide an adequate framework for the Medical Services Board to exercise its responsibility to adopt rules that govern the programs of the Colorado Department of Health Care Policy & Financing (HCPF) concerning NEMT. It is through the oversight of that governance, rather than through the implementation of a contract, that the broad range of impacted stakeholders in the NEMT ecosystem can be assured of the State's commitment to this shared goal of *equitable, accountable, and people-centered access to care.*

Our request of the Medical Services Board is that it delay further consideration of the adoption of this rule revision until our concerns are addressed through additions to this rule package.

The PCTC has had an ongoing and productive set of interactions with HCPF concerning NEMT. We are pleased that many of our recommendations were reflected in the Request for Proposals issued by HCPF for a new Non-Emergent Medical Transport Broker, and were reflected in the subsequent contract with the new broker, IntelliRide. However, in the drafting of this rule revision, despite the good will from all involved, HCPF has missed an important opportunity to create a framework that supports this shared goal and that could make the Colorado NEMT benefit a national model.

HCPF's Statement of Basis and Purpose for the rule revision is adequate for what it proposes, but inadequate for what it omits. It focuses on member responsibilities, but omits member rights (such as Broker compliance with Title VI Limited English Proficiency requirements). It focuses on provider eligibility and responsibility, but omits provider opportunity (such as a transparent system for access to the economic opportunity of becoming a transportation provider) as well as accountability and transparency (such as externally administered member surveys and data validation). In the Regulatory Analysis for the rule revision, HCPF claims that

"All of the updates being made to the rule are meant to add clarity and predictability for both providers and clients." The PCTC believes that because of the omissions in this rule revision, providers and clients will not receive the full clarity and predictability – both accountability and transparency – that they should expect from the implementation of a public benefit such as NEMT.

To be precise, while we have many large and small recommendations to improve this rule revision, our primary concerns focus on details for the definition and implementation of:

- Transportation Community Board
- Adequate network of providers
- Quality control measures (surveys, data reports, member complaints)

We believe that these concerns need to be addressed in the rule, rather than in the contract, for the simple reason that State Rule allows for a much higher level of accountability and enforcement than a vendor contract. We want to emphasize that the PCTC is not coming to the rule revision table at the 11th hour with these concerns. We have sent many letters to HCPF over the course of the past two years concerning various improvements in the NEMT benefit. Some of the points we previously made include the following, quoting from those letters:

- "There is a need to provide a comprehensive and consistent set of definitions that control all aspects of the design and delivery of the NEMT benefit. There needs to be broad stakeholder agreement on these definitions. Some of these definitions already exist in requirements and guidance from the Centers for Medicare & Medicaid Services, while others are at the discretion of states to develop. We emphasize that an effective and efficient NEMT benefit depends on the shared development of and adherence to these definitions."
- "The RFP represents an opportunity to develop an Independent Board comprised of recipients of NEMT services, health care providers, and transportation service providers, which would: oversee periodic quantitative and qualitative outcome data and independent surveys; oversee an appeals and review process related to recipients of NEMT services, health care providers, and transportation service providers; and oversee the dissemination of evidence-based practices and reports concerning the NEMT benefit in other states and contexts."
- "In order to meet the needs of all NEMT patients, HCPF needs to update or develop its Limited English Proficiency (LEP) policies in compliance with Title VI of the Civil Rights Act of 1964, and the Title VI regulations, prohibiting discrimination based on national origin, and Executive Order 13166 issued in 2000. There are several examples in other Departments in Colorado government of how LEP policies are used to provide equitable access to benefits."
- "HCPF should consider separating NEMT roles, so that one entity is contracted solely to coordinate the provision of rides, and another entity is contracted solely to maintain

(through licensing, certification, training, and inspections) an adequate and diverse network of provider. Any future contract should ensure patients are given a choice of well-trained and culturally competent transportation providers, with clear avenues for filing complaints, and avoiding repeat offenders.”

In a letter to HCPF from September 2018, and again through in-person comments at a Medical Services Board meeting in July 2019 with written follow-up, PCTC members offered recommendations for definitions and provisions in the NEMT rule that we believe would strengthen the NEMT benefit towards the achievement of our shared goal stated at the top of this letter. Attached is the September 2018 letter.

Here is a specific example of why rule is better than contract for addressing our concerns and achieving our shared goal. Below is a screenshot from IntelliRide’s website, which we know is in development at this early stage of their contract. They are proposing to implement an Advisory Council, which appears to be their interpretation of their contractual obligation to develop a Transportation Community Board, which is of the highest priority to the PCTC. Per IntelliRide’s interpretation, the purpose of their Council is simply to gather quarterly advice. However, the Transportation Community Board as proposed by PCTC and in the RFP would have an ongoing role to represent the concerns of NEMT members, transportation providers, and healthcare providers to both IntelliRide and HCPF. If the Council or Board remains only in the contract, then only HCPF and IntelliRide can define and monitor its functions. However, if it is controlled by rule, then a much broader set of stakeholders, especially the Medical Services Board, will have a means for promoting transparency and accountability.



Transportation

Non-medical transportation



Ancillary services and out-of-state non-emergency medical transportation services



Get involved in our advisory council



Improving the member experience is one of IntelliRide’s primary goals. Every quarter, we host local meetings with our advisory council of Health First Colorado members, transportation providers, medical providers and others that can help us pinpoint ways to make travel safer, streamlined and more convenient. Attend the next meeting in your local area or review minutes from the past meeting here.

The PCTC appreciates the many improvements that HCPF has made and continues to make in the NEMT benefit and in the contract for the Non-Emergent Medical Transportation Broker. However, because State rules are so vital for providing a long-term framework for the accountability to achieve shared goals, we urge the Medical Services Board to delay further consideration of the adoption of this rule revision until our concerns are addressed through additions to this rule package. Thank you.

Sincerely,

A handwritten signature in black ink that reads "Paul Stein". The signature is written in a cursive, slightly slanted style.

Paul Stein
Coordinator
People Centered Transportation Coalition