

## 8.494 NON-MEDICAL TRANSPORTATION

### 8.494.1 DEFINITIONS

Non-Medical Transportation (NMT) services means transportation which enables eligible ~~clients~~ participants to gain physical access to non-medical community services and supports, as required by the care plan to prevent institutionalization.

Non-Medical Transportation Provider (provider) means a provider agency that has met all ~~of the~~ standards and requirements as specified in ~~subsection~~ Section 8.494.40 of this regulation.

~~Medicaid Client Transport (MCT) Permit means a permit that is issued to a Non-Medical Transportation provider by the Public Utilities Commission (PUC).~~

### 8.494.20 INCLUSIONS

.21 Non-Medical Transportation services shall include, but not be limited to, transportation between the ~~client's~~ participant's home and non-medical services or supports such as Adult Day Centers, shopping, activities that encourage community integration, therapeutic swimming, counseling sessions not covered by State Plan, and other services as required by the care plan to prevent institutionalization.

### 8.494.30 EXCLUSIONS

.31 Non-Medical Transportation services shall not be used to substitute for medical transportation, as defined in which is subject to reimbursement under 10 CCR 2505-10 sSections 8.014.1.680 through 8.691.

.32 Non-Medical Transportation services shall only be used after the case manager has determined that free transportation is not available to the participant~~client~~.

### 8.494.40 PROVIDER STANDARDS FOR NON-MEDICAL TRANSPORTATION SERVICES

.41 ~~Transportation pP~~ Providers shall conform to all general standards and procedures set forth within Department regulations ~~10 CCR 2505-10 sSections~~ 8.494 and 8.487.

.42 Providers must maintain liability insurance with the following automobile liability minimum limits:

A. Bodily injury (BI) \$300/\$600K per person/per accident; and

B. Property damage \$50,000.

C. Drivers that utilize their personal vehicle on behalf of a provider agency to provide NMT must maintain the following minimum automobile insurance limits in addition to the insurance maintained by the provider agency:

1. Bodily injury (BI) \$25/\$50K per person/per accident; and

2. Property damage \$15,000.

.43 Providers shall ensure that each driver rendering NMT meets the following requirements:

A. Drivers must be 18 years of age or older to render services;

- B. Possess a valid Colorado driver's license;
- C. Provide a copy of their current Colorado motor driving vehicle record, with the previous seven years of driving history; and
- D. Complete a Colorado or National-based criminal history record check.

.44 Drivers shall be disqualified from serving as drivers for any program participants for any of the following:

- A. A conviction of substance abuse occurring within the seven (7) years preceding the date the criminal history record check is completed;
- B. A conviction in the State of Colorado, at any time, of any Class 1 or 2 felony under Title 18, C.R.S.;
- C. A conviction in the State of Colorado, within the seven (7) years preceding the date the criminal history record check is completed, of a crime of violence, as defined in C.R.S. § 18-1.3-406(2);
- D. A conviction in the State of Colorado, within the four (4) years preceding the date the criminal history record check is completed, of any Class 4 felony under Articles 2, 3, 3.5, 4, 5, 6, 6.5, 8, 9, 12, or 15 of Title 18, C.R.S.;
- E. A conviction of an offense in any other state that is comparable to any offense listed in subparagraphs (f)(II)(A) through (D) within the same time periods as listed in subparagraphs (f)(II)(A) through (D) of Rules Regulating Transportation by Motor Vehicle, 4 C.C.R. 723-6; -§ 6114;
- F. A conviction in the State of Colorado, at any time, of a felony or misdemeanor unlawful sexual offense against a child, as defined in § 18-3-411, C.R.S., or of a comparable offense in any other state or in the United States at any time;
- G. A conviction in Colorado within the two (2) years preceding the date the criminal history record check is completed of driving under the influence, as defined in § 42-4-1301(1)(f), C.R.S.; driving with excessive alcoholic content, as described in §42-4-1301(1)(g), C.R.S.;
- H. A conviction within the two (2) years preceding the date the criminal history record check is completed of an offense comparable to those included in subparagraph (f)(III)(B), 4 C.C.R. 723-6; § 6114 in any other state or in the United States; and

For purposes of 4 C.C.R. 723-6; § 6114(f)(IV), a deferred judgment and sentence pursuant to § 18-1.3-102, C.R.S., shall be deemed to be a conviction during the period of the deferred judgment and sentence.

.454 Vehicles used during the provision of NMT must be safe and in good working order. To ensure the safety and proper functioning of the vehicles, vehicles must pass a vehicle safety inspection prior to it being used to render services.

- A. Safety inspections shall include the inspection of items as described in Rules Regulating Transportation by Motor Vehicle, 4 C.C.R. 723-6; § 6104.
- B. Vehicles must be inspected on a schedule commensurate with their age:
  - 1. Vehicles manufactured within the last five (5) years: no inspection.

- 2. Vehicles manufactured within the last six (6) to ten (10) years: inspected every 24 months.
- 3. Vehicles manufactured eleven (11) years or longer: inspected annually.
- 4. Vehicles for wheelchair transportation: inspected annually, regardless of the manufacture date of vehicle.
- C. The vehicle inspector must be trained to conduct the inspection and be employed by an automotive repair company authorized to do business in Colorado.
- .46 Transportation providers who maintain a certificate or permit through the Public Utilities Commission (PUC) are not required to meet the above requirements. PUC certificate and permit holders shall submit a copy of the certification to the Department for verification of provider credentials.

with the following exceptions:

- ~~A. Existing Non-Medical Transportation providers have until January 1<sup>st</sup>, 2018 to fully comply with section 8.494 regarding the new Medicaid Provider and MCT Permit applications.~~
- ~~.42 Transportation providers shall ensure that all drivers possess a valid Colorado driver's license, are be free of physical or mental impairment that would adversely affect driving performance, and have not had two or more convictions or chargeable accidents within the past two years.~~
- ~~.43 Transportation providers shall ensure that all vehicles and related auxiliary equipment shall meet all applicable federal, state, and local safety inspection and maintenance requirements, and transportation providers shall be in compliance with commercial liabilityliability insurance requirements and PUC financial responsibility requirements, as set forth in section 40-10.1-107, C.R.S.~~
- ~~.44 Provider and Driver Qualifications:
  - ~~A. Each Provider must have and maintain a valid MCT Permit from the PUC, as required by section 40-10.1-302, C.R.S.; and~~
  - ~~B. Each Provider must maintain safe and functioning vehicles, free of deficiencies, and in compliance with PUC safety rules as required by 4 C.C.R. 723-6, § 6100-6199; and~~
  - ~~C. Each Provider shall ensure that all drivers, prior to providing NMT services, have been qualified based upon the results of the statutorily required criminal history record check as conducted via the PUC, as outlined in Section 40-10.1-110, C.R.S.~~~~

#### **8.494.50 LIMITATIONS AND REIMBURSEMENT**

- .51 Reimbursement for non-medical transportation shall be the lower of billed charges or the prior authorized unit cost at a rate not to exceed the cost of providing medical transportation services.
- .52 A provider's submitted charges shall not exceed those normally charged to the general public, other public or private organizations, or non-subsidized rates negotiated with other governmental entities.
- .53 Provider charges shall not accrue when the recipient is not physically present in the vehicle.

- .54 Providers shall not bill for services before they are an approved Medicaid provider and may bill only for those NMT services performed by a qualified driver utilizing a qualified vehicle~~that has been qualified based upon the results of the statutorily required criminal history record check.~~
- .55 Excluding transportation to HCBS Adult Day facilities, a participante~~lient~~ may not receive more than the equivalent of two (2) round trip services per week, or 104 round trip services per annual certification period utilizing NMT, unless otherwise authorized by the Department.
- .56 A bus pass or other public conveyance may be used only when it is more cost effective than, or comparable to, the applicable service type and duration. Costs cannot exceed the total Wheelchair Van, Mileage Band 1 allowable per service plan. The most current HCBS Rate Schedule can be found on the Department website.

## 8.611 TRANSPORTATION

### A. Definitions

1. Non-Medical Transportation (NMT) services means transportation which enables eligible participants to gain physical access to non-medical community services and supports, as required by the care plan to prevent institutionalization.
2. Non-Medical Transportation Provider (provider) means a provider agency that has met all standards and requirements as specified in Section 8.611.
3. Transportation acquisition services refers to the purchase or provision of transportation for participants receiving day program services under comprehensive services which enables them to gain access to programs and other community services and resources required by their Individualized Plan/Plan of Care. Funding for transportation activities incidental to the Residential Program are included in the Residential rate.

~~Community centered boards and program approved service agencies providing transportation to persons receiving services in vehicles owned and operated by the community centered board or program approved service agency shall develop and implement written policies and procedures which shall be in accordance with Department policies and procedures and which shall include, but not be limited to:~~

- ~~1. Insurance coverage;~~
- ~~2. Safety equipment;~~
- ~~3. Vehicle condition and maintenance;~~
- ~~4. Emergency procedures;~~
- ~~5. Personnel qualifications;~~
- ~~6. Use of aides;~~
- ~~7. Volunteers; and,~~
- ~~8. Recordkeeping.~~

~~B. Community centered boards and program approved service agencies policies and procedures shall also address the provision of transportation to individuals in vehicles not owned or operated by the community centered board or program approved service agency. These policies and procedures shall include, at a minimum section 8.611.A.1 through 8 and other procedures which may be needed for safety. Agencies shall ensure that all drivers are appropriately qualified and that drivers and vehicles meet all legal requirements.~~

~~C. Transportation services must be provided under contract/written agreement with the Department, the community centered board or program approved service agency. Each agency shall maintain a transportation reporting system in a manner and form specified by the Department.~~

~~D. Transportation acquisition services refers to the purchase or provision of transportation for individuals receiving day program under comprehensive services which enables them to gain access to programs and other community services and resources required by their Individualized Plan/Plan of Care. Funding for transportation activities incidental to the Residential Program are included in the Residential rate.~~

~~E. B. Exclusions~~

- ~~1. Non-Medical Transportation services shall not be used to substitute for medical transportation, as defined in Section 8.014.~~
- ~~2. Non-Medical Transportation services shall only be used after the case manager has determined that free or no-cost transportation is not available to the participant. Prior to the use of funds for transportation acquisition services, the Community Centered Board, case management agency or program approved service agency shall investigate the feasibility of the use of public transportation options. If public transportation options are found to be inadequate or inappropriate, this shall be documented.~~

~~C. Provider Standards for Non-Medical Transportation Services~~

- ~~1. Providers shall conform to all general standards and procedures set forth in Department regulations at Section 8.611.~~

2. Providers must maintain liability insurance with the following automobile liability limits:

a. Bodily injury (BI) \$300/\$600K per person/per accident; and

b. Property damage \$50,000.

c. Drivers that utilize their personal vehicle on behalf of a provider agency to provide NMT must maintain insurance that meets the following minimum automobile insurance requirements in addition to the insurance maintained by the provider agency :

i. Bodily injury (BI) \$25/\$50K per person/per accident; and

ii. Property damage \$15,000.

3. Providers shall ensure that each driver rendering NMT ~~must~~ meets the following requirements:

a. Drivers must be 18 years of age or older to render services;

b. Possess a valid Colorado driver's license;

c. Provide a copy of their current Colorado motor driving vehicle record, with the previous seven years of driving history; and

d. Complete a Colorado or National-based criminal history record check.

4. Drivers shall be disqualified from driving for any of the following:

a. A conviction of substance abuse occurring within the seven (7) years preceding the date the criminal history record check is completed;

b. A conviction in the State of Colorado, at any time, of any Class 1 or 2 felony under Title 18, C.R.S.;

c. A conviction in the State of Colorado, within the seven (7) years preceding the date the criminal history record check is completed, of a crime of violence, as defined in C.R.S. § 18-1.3-406(2);

d. A conviction in the State of Colorado, within the four (4) years preceding the date the criminal history record check is completed, of any Class 4 felony under Articles 2, 3, 3.5, 4, 5, 6, 6.5, 8, 9, 12, or 15 of Title 18, C.R.S.;

e. A conviction of an offense in any other state that is comparable to any offense listed in subparagraphs (f)(II)(A) through (D), when conviction for that offense occurs within the same time periods as listed in subparagraphs (f)(II)(A) through (D) of 4 C.C.R. 723-6, § -6114;

f. A ~~C~~conviction in the State of Colorado, at any time, of a felony or misdemeanor unlawful sexual offense against a child, as defined in § 18-3-411, C.R.S., or of a comparable offense in any other state or in the United States at any time;

g. A conviction in Colorado within the two (2) years preceding the date the criminal history record check is completed of driving under the influence, as defined in §

42-4-1301(1)(f), C.R.S.; driving with excessive alcoholic content, as described in §42-4-1301(1)(g), C.R.S.;

- h. A conviction within the two (2) years preceding the date the criminal history record check is completed of an offense comparable to those included in subparagraph (f)(III)(B) in any other state or in the United States; and

For purposes of 4 C.C.R. 723-6 § -6114(f)(IV), a deferred judgment and sentence pursuant to § 18-1.3-102, C.R.S., shall be deemed to be a conviction during the period of the deferred judgment and sentence.

- 54. Vehicles used during the provision of NMT must be safe and in good working order. To ensure the safety and proper functioning of the vehicles, vehicles must pass a vehicle safety inspection prior to it being used to render services.

- a. Safety inspections shall include the inspection of items as outlined in Rules Regulating Transportation by Motor Vehicle, 4 C.C.R. 723-6; §6104.

- b. Vehicles must be inspected on the following schedule:

- i. Vehicles manufactured within the last five (5 years): no inspection.

- ii. Vehicles manufactured within the last six (6) to ten (10) years: every 24 months.

- iii. Vehicles manufactured eleven (11) years or later: annually.

- iv. Vehicles for wheelchair transportation: annually, regardless of the manufacture date of vehicle.

- c. The vehicle inspector must be trained to conduct the inspection and be employed by an automotive repair company authorized to do business in Colorado.

- 5. Transportation providers who maintain a certificate or permit through the Public Utilities Commission (PUC) are not required to meet the above requirements. PUC certificate and permit holders shall submit a copy of the certification to the Department for verification of provider credentials.