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Marcia McDonough
Department of Social Services
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Consumer Advocates' Comments in Response to RFI Regarding NEMT Services

Dear Ms. McDonough:

We are very appreciative that the Department's March 24, 2016 RFI related to non-emergency medical transportation (NEMT) broadly invited comment from "interested stakeholders." The following comments are submitted by a coalition of advocates who for years have been carefully monitoring the current dysfunction in NEMT services, and who take this opportunity to make suggestions for inclusion of specific provisions in the upcoming RFP intended to help address these serious issues.

We respond initially to specific questions raised in the RFI and then go on to include other suggestions that are all designed to improve performance on behalf of Medicaid enrollees. These recommendations also are ultimately to the benefit of Connecticut's taxpayers, since the failure of the NEMT system to get enrollees to requisite medical appointments results in medical problems going unchecked and in medical providers refusing to participate in the Medicaid program because patients routinely fail to appear at appointments, appear very late or require the provider's office to stay open late waiting for their long-delayed ride home.

Utilization Management

The RFI asks "how medical necessity is determined for the mode of transportation." We know that the current contractor does this almost entirely through a computer algorithm which does not involve human decision-making. This has caused significant access problems, for example, where individuals are told to take public transportation when it is not medically appropriate to do so, and then skip their appointments as a result.

This kind of automated decision-making also violates C.G.S. § 17b-259b(a)(5), which requires that medical decisions all be based on individualized assessments. The RFP therefore should require human decision-making regarding all medical necessity determinations, while accepting all such determinations made by treating providers and medical facilities on questions of required level of transportation, the urgency of a medical appointment and the need, where applicable, to avoid ride-sharing. Our suggestions regarding this issue are addressed further below.

Quality Management

This has been a significant area of failure by the current contractor, and the current contract allows few tools to address this. The current contractor has also engaged in systematic under- reporting of complaints, as uncovered through the audit by Mercer, Inc. that was commissioned by your agency. Even after acknowledging this failure, the current contractor has hid the ball with regard to the means for registering complaints. Our suggestions for addressing this problem definitively under the next contract are set forth below.

Data Analysis and Reporting

We fully endorse the Department's suggestion to include Provider Report Cards, as well as a dashboard, in the RFP, both to track performance by medical transportation providers and the contractor itself, and to identify where sanctions have been issued against the contractor, for ready review by Medicaid enrollees, their providers and advocates, and oversight bodies. Our suggestions along these lines, along with others, are included below.

At Risk v. Not at Risk Contracting

You also ask for input as to whether the Department should continue with a non-risk contract. Our view is definitely that, notwithstanding the significant problems with the current NEMT contractor, the Department wisely made the choice to contract on a non-risk basis with an ASO whereby the contractor is not at financial risk for the actual transportation services, as opposed to administrative costs. Connecticut Medicaid has a long, painful history of risk-based contracting, and it took us many years to extract ourselves from the expensive MCO risk contracts. Since the changeover in January of 2012, Connecticut has done very well with non-risk statewide contractors, with CHNCT, Value Options and BeneCare all generally performing admirably and saving significant sums for the taxpayers.

We recognize that contracting on a risk or capitated basis has the administrative advantages of a relatively reliable outlay each month, and may appear to be capable of cost savings. But our long experience with risk-based contracting in Medicaid suggests that the latter is an illusion- as denials of care result in more costly outlays in other line items- and that the small advantage of the former is just not worth it. It also would deprive the Department of the ability to directly set NEMT policy. For example, when the Department sought to settle a lawsuit about dental access and wished to increase dental provider rates accordingly, it found that it could not reliably and efficiently do this through risk-based contracting and thus carved dental services out of those contracts (before the risk-based MCO contracts were terminated entirely).

The non-risk ASO model is a model that works in other areas and can and will work with NEMT. Although that has not been the case with LogistiCare in our state, all indications are that the problem is with the specific contractor and the inadequacies of the existing contract, **not** the model itself. Indeed, LogistiCare's performance in delivering NEMT has been poor even where the payment for transportation services does not come out of its pocket; it presumably would be even worse if it did, as under a risk-based contract.

Other Suggestions:

In addition to requirements in the current NEMT contract, the revised contract should contain at least these requirements:

1. Wait Times for Livery Transportation to and from Medical Appointments

(a) Livery rides must arrive within fifteen minutes of the time for a pre-scheduled pick up for a medical appointment and within forty-five minutes after receipt of a call for a return trip from the medical appointment, and compliance with these requirements must be determined by the use of "real time" data streams to document rides, including a requirement that the contractor use GPS to ensure timeliness of pick-ups as well as reliable data.
(b) The contractor must ensure that its transportation providers wait at least ten minutes after the scheduled pick up times and that the transportation provider has attempted to call the recipient at the last known telephone number before declaring the enrollee to be an enrollee "no show."
(c) The contractor must report to the Commissioner by the tenth day of every month, for the previous month, absolute numbers based on contemporaneous electronic inputs of drivers: (1) the total number of scheduled livery rides; (2) the number of rides with pick up waits in excess of the fifteen or forty-five minute standards, (3) the number of scheduled rides where transportation never appeared, and (4) the number of rides that were provided in a timely manner.
(d) If 5% or more of riders approved for services in a given month experience wait times of more than fifteen minutes for pick up or forty-five minutes for the return trip, a sanction of $500 will be imposed on the contractor for each individual late arrival violation during that month.
(e) If 1% or more of riders approved for services in a given month experience total failure of the transportation service to arrive, a sanction of $500 will be imposed on the contractor for each individual no show violation during that month.

2. Determination of Level of Service

(a) The required level and mode of transportation for each enrollee requesting transportation must be individually assessed by the contractor, consistent with the obligation to provide the least-costly appropriate form of transportation which is medically indicated, and thus must be done by experienced human reviewers in all cases (computer algorithms may not be used for this purpose).
(b) The Contractor shall employ trained medical personnel to participate in making decisions about medical necessity. These individuals can be physicians, RNs, LPNs, PAs, etc. The staffing of these medical professionals shall be one staff person to every 1,000 recipients that seek NEMT services per month. The Contractor shall also have at least two medical personnel on staff who have expertise in mental and behavioral health.
(c) All requests for transportation outside of the local area because of lack of availability of a closer provider must also be determined by human reviewers.

(d) Any oral or written directive or request from a treating medical provider or medical facility regarding the needed level or mode of service must be followed in all cases. This includes, but is not limited to, a provider's or medical facility's directive or request concerning the required mode of transportation (livery versus public transportation), the avoidance of multi-loading of patients (including more than one enrollee/family in a given livery service), and the time frame for needing the medical services (including less than 48 hours, the amount of advance notice otherwise required).

(e) The contractor must report to the Commissioner by the tenth day of every month for the previous month (1) the total number of livery rides requested; (2) the number of level of service assessments performed; (3) the number of riders denied livery service (in favor of public transportation), (4) the number of riders denied livery service (in favor of public transportation) where the treating provider requested or supported this request; (5) the number of individuals requesting, directly or through a provider, livery transportation in less than 48 hours, (6) the number of patients denied a request for livery transportation because they requested transportation less than 48 hours in advance; (7) the number of individuals denied transportation because they requested transportation less than 48 hours in advance whose providers requested or supported the request for transportation less than 48 hours in advance, (8) the number of individuals requesting a ride free of multi-loading, (9) the number of individuals denied a requested ride free of multi-loading, (10) the number of individuals denied a requested ride free of multi-loading whose providers requested or supported the request; and (11) the number of individuals denied transportation to a particular provider premised on the availability of a closer provider.

(f) If 1% or more of individuals requesting livery transportation in a given month do not have an individualized assessment of the required level or mode of transportation performed, a sanction of $500 per individual who does not receive such an assessment during that month will be imposed on the contractor.

(g) If 1% or more of individuals requesting livery transportation in a given month and supported in their request by an oral or written statement by the treating provider are denied requested livery transportation as being unnecessary, a sanction of $500 per individual who does not receive such services during the month despite such provider support will be imposed on the contractor.

(h) If 1% or more of individuals requesting livery transportation with less than 48 hours notice in a given month and supported in this urgent request by an oral or written statement by the treating provider are denied these services, a sanction of $500 per individual who does not receive such services during the month despite such provider support will be imposed on the contractor.

3. <u>Recording of and Acting on Complaints</u>

(a) All complaints regarding non-emergency medical transportation service from any source, received in any manner, including by mail, fax, telephone, electronically or in person, must be recorded.

(b) The contractor must prominently post on all of its websites for Connecticut Medicaid providers or enrollees clear instructions for the filing of complaints and the complaint form to be used for written complaints, as well as information about the option of filing a complaint directly with the Department and the means for doing so.

(c) All existing employees of the contractor must be trained annually on the requirements for recording complaints, and all new employees must be trained on these requirements within ten days of starting employment. The training must include the obligation to inform enrollees during all interactions, except those in which the enrollee expresses complete satisfaction with the interaction and the services provided, that they have a right to file a complaint with either the contractor or the Department through any means, including at the time of the interaction.
(d) The contractor must provide documentation to the Commissioner of all such employee trainings, including a listing of all employees who were trained and the date they were trained, within 30 days of the completion of the training.
(e) The contractor must report to the Commissioner, by the tenth day of every month for the previous month the total numbers of complaints received, and numbers of complaints received in each of several categories, including, but not limited to: (1) late arrival of pick-up for transportation services; (2) no show of transportation services; (3) late arrival of return transportation services; (4) denials of transportation services where the contractor says the person did not call at least 48 hours in advance for livery services; (5) denials where the contractor refused to provide a ride to a medical appointment with less than 48 hours notice when the provider or medical facility said this was urgently needed; (6) denials where the individual requested livery service instead of public transportation and a provider or facility requested or supported such request; (7) call center inaccessibility; (8) failure of the contractor to issue a written notice of action when requested services were denied, partially denied, terminated or reduced; and (9) failure of the contractor to accept a complaint, and an accounting of how each complaint was addressed.
(f) A sanction of $1,000 will be imposed upon the contractor for each complaint confirmed by the Commissioner to have been attempted in any manner and not recorded.
(g) A sanction of $500 will be imposed upon the contractor for each recorded complaint as to which there is no indication of any attempt to address it.

4. Notices of Action

(a) The contractor must provide mailed Notices of Action for all denials, partial denials, reductions, terminations or suspensions of service, including, but not limited to, denials of requested mode of transportation, denials of livery transportation for failure to provide 48 hours notice, failure to transport all members of a family for whom transportation was requested, failure to grant a request for transportation free of multi-loading, and failure to transport to a particular provider requested.
(b) If services have already been provided at a particular level or mode and the contractor intends to no longer provide services at that level or mode, a notice advising of the reduction or termination shall be issued at least ten days in advance of the effective date of the reduction or termination.
(c) All existing employees of the contractor will be trained annually on the requirements for issuance of Notices of Action, and all new employees will be trained on these requirements within ten days of starting employment.

(d) The contractor must provide documentation to the Department of all such employee trainings, including a listing of all employees who were trained and the date they were trained, within 30 days of the completion of the training.
(e) The contractor will report to the Commissioner by the tenth of every month for the previous month the total number of Notices of Action issued broken down by denials, partial denials, terminations, reductions and suspensions, and in each of the categories set forth in section (4)(a).
(f) A sanction of $1,000 will be imposed upon the contractor for each case in which it is confirmed by the Commissioner that a notice of action was not issued by the contractor when it was required to be so issued.

5. Call Center Performance

(a) The contractor will ensure that all calls will be picked up in four rings, that such call will be answered by a live person (not an automated response system) in not more than one minute, and that the maximum amount of time for a caller to be kept on the telephone while call center representatives resolve an issue is twenty minutes. If a call cannot be resolved within twenty minutes, then a return call must be made within 24 hours (exclusive of intervening weekends and holidays).
(b) The contractor must report to the Commissioner by the tenth of every month for the previous month the total number of calls, the percentage of calls that were answered in four rings, the percentage of calls not so answered, the percentage of calls that were answered by a live call center representative within one minute, the percentage of calls not answered within one minute, the percentage of calls not resolved in twenty minutes, and of those calls the number of calls where return calls were made within 24 hours (exclusive of weekends and holidays).
(c) If 5% or more of the total calls in a given month are not answered in four rings, or if 10% or more of calls are not answered by a live person within one minute, sanctions of $10,000 for that month shall be imposed on the contractor.
(d) If 1% or more of the total calls in a given month result in a caller being on the telephone more than twenty minutes, sanctions of $10,000 for that month shall be imposed on the contractor.
(e) If 1% or more of the total calls in a given month as to which the contractor advises it will call back the caller result in a caller being called back more than 24 hours later, exclusive of weekends and holidays, sanctions of $10,000 for that month will be imposed on the contractor.

6. Reminders to Medicaid Enrollees

(a) The contractor must be required to contact the enrollee the day before any transportation-related medical appointment to remind him or her of the time of that appointment and the time for pick-up to get to that appointment. The means of communication should be by text, e-mail or telephone, depending upon the stated preference of the enrollee, which should be solicited at least annually.
(b) The reminders must also include information about the specific location for pick-up (e.g, side of the building), where applicable.

7. Report Cards and Dashboard

(a) Report cards should be produced monthly and published on line, on both the contractor's website and the department's website, both for the contractor and for the individual medical transportation providers with which it contracts.
(b) The reports should include detailed information about timeliness and no-show rates for both individual providers and the NEMT system as a whole, as well as timeliness of response rates for the contractor's call center.
(c) Upon request, all report cards should be promptly provided in hard copy without charge to any enrollees seeking them.
(d) The availability of the report cards and the citation for the website to view them should be stated in mailings to enrollees at least annually.

8. Quality Assurance Committee

(a) An independent quality assurance committee will advise the contractor and the Department on performance issues and suggested quality improvements and strategies. Members shall be Medicaid enrollees, advocates for enrollees, health care providers, and livery company representatives. Representatives of the contractor and the Department will be *ex officio* members with no authority to restrict participation on the committee by members, except that the Department may restrict the total numbers of participants to be manageable so long as any such restrictions ensure that at least 40% of the members are Medicaid enrollees or advocates for enrollees.
(b) The Department will lead all meetings, maintain the membership list, take all minutes, and set the meeting agendas based on recommendations of committee members, who shall be invited to submit agenda topics in advance of each meeting.
(c) All meetings shall be held at least bi-monthly, shall be located in the Legislative Office Building, the Department's headquarters or another public location with public access and which is accessible to wheelchair users, and shall be open to the public and conducted consistent with the Connecticut Freedom of Information Act.

9. Mandatory Reporting

(a) All reports required to be provided to the Commissioner must simultaneously be provided to the two legislative committees of cognizance regarding human services and appropriations, the Quality Assurance Committee and the two oversight subcommittees of the Medical Assistance Program Oversight Council and the Behavioral Health Partnership Oversight Council concerned with coordination of care and consumer access, except that the reports to the legislative committees may be provided in summary form every six months.
(b) If the contractor shall fail to timely provide to the Commissioner, to the legislative committees or to the oversight committees any report which is required, a sanction in the amount of $5,000 for each such violation shall be imposed on the contractor.

10. Performance Bonus

(a) In any quarter for which one or more monetary sanctions are imposed on the contractor, the contractor shall receive no performance bonus or holdback which would otherwise be payable for that quarter.
(b) The contract should include a performance holdback based on member and provider satisfaction ratings.
(c) The other criteria used to determine whether to pay this holdback must be specific and based on hard data which shall be readily available to the public.
(d) Avoidance of monetary sanctions should not be a sufficient basis to receive payment of the holdback or all of the holdback.

Thank you for reviewing all of our suggestions. If you have any questions, please contact either Sheldon Toubman, at 203-946-4811, ext. 1148, stoubman@nhlegal.org, or Bonnie Roswig, at (860) 545-8581, broswig@connecticutchildrens.org

Sincerely,

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