



Paul R. LePage, Governor

Mary C. Mayhew, Commissioner

Department of Health and Human Services
MaineCare Services
11 State House Station
Augusta, Maine 04333-0011
Tel.: (207) 287-2674; Fax: (207) 287-2675
TTY Users: Dial 711 (Maine Relay)

DATE: May 7, 2013
TO: Interested Parties
FROM: Stefanie Nadeau, Director, MaineCare Services
SUBJECT: Proposed Rule: MaineCare Benefits Manual (MBM), Chapter II, Section 113,
Title: Non-emergency Transportation (NET) Services

On June 6, 2012, the Centers for Medicare and Medicaid Services (CMS) approved a 1915(b) waiver to provide Medicaid Non-emergency Transportation (NET) using a regional risk-based Prepaid Ambulatory Health Plan (PAHP). It expires on June 30, 2013, and the Department is engaged in discussions with CMS to extend the transportation waiver. The CMS approval provided that two provisions of Title XIX of the Social Security Act are waived: (1) Section 1902(a)(4)(single source provider); and (2) Section 1902(a)(23)(Freedom of Choice).

In developing its waiver application, from late 2010 through 2012, the Department conducted several stakeholder meetings regarding MaineCare transportation. The Department met with the Maine Transportation Association multiple times, presented information to the MaineCare Advisory Committee at monthly meetings throughout the process, consulted with the federally recognized tribes, and conducted multiple stakeholder meetings pertaining to the RFP. This included meeting with advocacy groups such as Speak Up for Us, the local transportation companies and also internal stakeholders in the Maine Department of Transportation.

The Department issued an RFP for this transportation waiver and is concluding contracts with several entities, known as "Brokers," that will provide MaineCare transportation services regionally, throughout the state. The Department will reimburse the Brokers on a per member/per month fee. The Brokers will be responsible for establishing a network of Transporters to deliver the transportation services to MaineCare members who live in their assigned region.

This rule proposes to repeal, in its entirety, the current Section 113 (Transportation Services), ch. II and III, and replace it with the proposed rule.

The new Brokerage system and proposed rule changes will have no adverse impact on small businesses, counties or municipalities, except those businesses and providers that currently provide NET services and were not awarded a Brokerage NET contract.

Rules and related rulemaking documents may be reviewed at, or printed from, the MaineCare Services website at <http://www.maine.gov/dhhs/oms/rules/index.shtml> or for a fee, interested parties may request a paper copy of rules by calling (207) 287-9368. For those who are deaf or hard of hearing and have a TTY machine, the TTY number is 711.

A concise summary of the proposed rule is provided in the Notice of Agency Rule-making Proposal which can be found at <http://www.maine.gov/sos/cec/rules/notices.html>.

This notice also provides information regarding the rule-making process. Please address all comments to the agency contact person identified in the Notice of Agency Rule-making Proposal.

Notice of Agency Rule-making Proposal

AGENCY: Department of Health and Human Services, Office of MaineCare Services

CHAPTER NUMBER AND TITLE: MaineCare Benefits Manual, 10-144 Ch. 101, Chapters II, Section 113, Title: Non-emergency NET Transportation Services

PROPOSED RULE NUMBER:

CONCISE SUMMARY: On June 6, 2012, the Centers for Medicare and Medicaid (CMS) approved a 1915(b) waiver to provide Medicaid non-emergency medical transportation using a regional risk-based prepaid ambulatory health plan (PAHPS). The waiver ends on June 30, 2013, and the Department is engaged in discussions with CMS to extend the transportation waiver. The CMS approval provided that two provisions of Title XIX of the Social Security Act are waived: (1) Section 1902(a)(4)(single source provider); and (2) Section 1902(a)(23)(Freedom of Choice). MaineCare members eligible to receive non-emergency transportation services under this waiver include members who receive home and community-based services (HCBS) waiver programs.

In developing its waiver application, from late 2010 through 2012, the Department had conducted several meetings regarding MaineCare transportation with stakeholders in various forums. The Department met with the Maine Transportation Association multiple times, presented information to the MaineCare Advisory Committee at monthly meetings throughout the process, consulted with the Federally Recognized Tribes, as well as conducting multiple stakeholder meetings pertaining to the RFP. These meetings included meeting with advocacy groups such as Speak Up for Us, with the local transportation companies and also internal stakeholders in the Maine Department of Transportation.

The Department issued an RFP for this transportation waiver services, and is concluding contracts with several entities, who are known as “Brokers”, and who will provide MaineCare transportation services regionally, throughout the state. The Department will reimburse the Brokers on a per member/per month fee. The Brokers will be responsible for establishing a network of Drivers to deliver the transportation services to MaineCare members who live in their assigned region.

This rule proposes to repeal in its entirety the current Section 113 (Transportation Services), ch. II and III, and replaces it with the proposed rule.

Legal Authority: 22 M.R.S.A. § 3173

See <http://www.maine.gov/dhhs/oms/rules/index.shtml> for rules and related rulemaking documents.

PUBLIC HEARING:

Date: June 4, 2013
Time: 11:30 a.m. to 3 p.m.
Location: Conference Room # 110
19 Union Street
Augusta, ME 04330

The Department requests that any interested party requiring special arrangements to attend the hearing contact the agency person listed above before May 30, 2013.

DEADLINE FOR COMMENTS: Comments must be received by midnight June 14, 2013.

AGENCY CONTACT PERSON: Michael J. Dostie, Comprehensive Health Planner II
AGENCY NAME: MaineCare Services
ADDRESS: 242 State Street
11 State House Station
Augusta, Maine 04333-0011

TELEPHONE: 207-287-6124 FAX: (207) 287-9369
TTY: 711 (Deaf or Hard of Hearing)

IMPACT ON MUNICIPALITIES OR COUNTIES (if any): The Department does not anticipate that this rulemaking will have any adverse impact on municipalities or counties or result in adverse economic impacts on small businesses.

CONTACT PERSON FOR SMALL BUSINESS INFORMATION (if different):
N/A

STATUTORY AUTHORITY FOR THIS RULE: 22 M.R.S.A. § 3173

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED (if different):

***TABLE OF CONTENTS**

	<u>PAGE</u>
INTRODUCTION.....	1
113.01 DEFINITIONS	1
113.01-1 Attendant	1
113.01-2 Broker.....	1
113.01-3 Department	1
113.01-4 Escort.....	1
113.01-5 Late.....	1
113.01-6 MaineCare Covered Services	1
113.01-7 On Time.....	1
113.01-8 Personal Assistant	2
113.01-9 Public Transit	2
113.01-10 Public Fixed-Route Transit	2
113.01-11 Rural.....	2
113.01-12 Standing Orders.....	2
113.01-13 Transportation Attendant.....	2
113.01-14 Transporters.....	2
113.01-15 Urban.....	2
113.01-16 Urgent Trip.....	2
113.01-17 Wheelchair Accessible	2
113.02 NON-EMERGENCY TRANSPORTATION REGIONS	3
113.03 ELIGIBILITY FOR SERVICES.....	4
113.04 COVERED TRANSPORTATION SERVICES.....	5
113.05 NON-COVERED SERVICES	6
113.06 POLICIES AND PROCEDURES	7
113.06-A Arrangement for non-emergency transportation	7
113.06-B Determination of mode of transportation	7
113.06-C Verification of Member Eligibility.....	7
113.06-D Nearest Appropriate Health Care or Waiver Service Provider.....	8
113.06 E Transporting MaineCare Members With Non-MaineCare Passengers	9
113.06-F Notice of Member Rights.....	9
113.06-G Authorization and Verification of NET services.....	9
113.06-H Monitoring and Enforcement of Driver and Attendant Requirements	11
113.06-I Telephone Call Centers	12
113.07 PERFORMANCE STANDARDS.....	12

SECTION 113 **NON-EMERGENCY TRANSPORTATION (NET) SERVICES** 07/01

	<u>PAGE</u>
<u>113.08 REGIONAL NET ADVISORY COORDINATION COMMITTEE</u>	12
<u>113.09 DENIAL OF SERVICES AND MEMBER APPEAL RIGHTS</u>	13
<u>113.11 REIMBURSEMENT</u>	15
<u>113.12 REPORTING INSTRUCTIONS.....</u>	15
 <u>APPENDIX # 1 REIMBURSEMENT RATES FOR LODGING, MEALS, AND PRIVATELY OWNED VEHICLE MILEAGE</u>	

INTRODUCTION

Non-emergency Transportation (NET) Services provides transportation to MaineCare covered services for eligible MaineCare members when no other means of transportation is available to them. The State is divided into eight regions for the purposes of providing this transportation. Broker(s) have contracts with the State to provide NET services in one or more regions.

The NET Benefit is provided under a Centers for Medicare and Medicaid Services (CMS) 1915(b) waiver, which expressly waives the Medicaid freedom of choice provision.

113.01 DEFINITIONS

- 113.01-1 Attendant: an employee of an agency Transporter or Broker, approved and reimbursed by the Broker, who assists the driver and accompanies a Member or group of Members during transport in order to ensure the safe operation of the vehicle and the safety of the Members.
- 113.01-2 Broker: any person or business with whom the Department has contracted to manage and provide necessary non-emergency transportation services for eligible Members.
- 113.01-3 Department: means the Maine Department of Health and Human Services.
- 113.01-4 Escort: a family Member, friend, volunteer or facility employee who accompanies a Member for the entire trip and stays with the Member at the destination. The Broker is not responsible for providing escorts. An escort must be of an age of legal majority recognized under Maine law.
- 113.01-5 Late: more than 15 minutes after the scheduled pick-up time from a residence, more than 5 minutes after the scheduled drop-off time for an appointment/ MaineCare covered service, or more than 30 minutes after the scheduled pick-up time from an appointment/MaineCare covered service.
- 113.01-6 MaineCare Covered Services: services covered and reimbursed through MaineCare as provided in the MaineCare Benefits Manual.
- 113.01-7 On Time: from thirty (30) minutes before until fifteen (15) minutes after the scheduled pick-up time from a residence, thirty (30) minutes before until five (5) minutes after the scheduled drop-off time at an appointment/MaineCare covered service; until thirty (30) minutes after the scheduled pick-up time from an appointment/MaineCare covered service. For an unscheduled pick-up (e.g., will call after a medical appointment), “on time” is within two (2) hours of the time the Broker is notified that the Member is ready to be picked up in a rural area, and within (1) hour of the call to a Broker in an urban area.

* Unless approved by CMS, this service terminates June 30, 2013.

113.01 DEFINITIONS (cont)

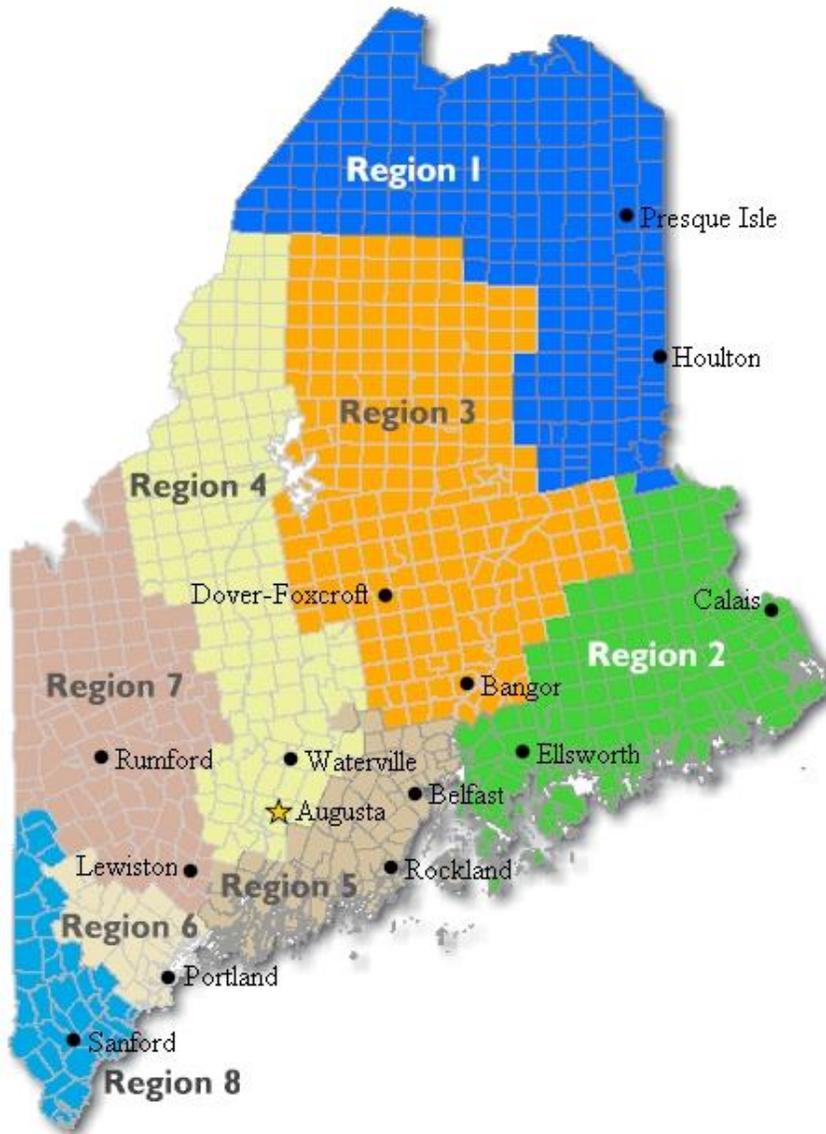
- 113.01-8 Personal Assistant: a person who is designated by a Member to assist with one or more daily life functions, including helping the Member use transportation services. A fare is not charged for the personal assistant to ride with the Member.
- 113.01-9 Public Transit or Public Transportation: transportation available to be used by the general public. May include fixed route, semi-fixed route, or on demand services.
- 113.01-10 Public Fixed-Route Transit: transportation by means of a public transit vehicle that follows an advertised route on an advertised schedule and does not generally deviate from the route or the schedule. Passengers are picked up at designated stops. Occasional deviation may occur in compliance with the Americans with Disabilities Act.
- 113.01-11 Rural: zip codes categorized as codes 3-10 using the United States Department of Agriculture (USDA) Economic Research Service (ERS) Rural Urban Commuting Area (RUCA) codes.
- 113.01-12 Standing Orders: recurring or repetitive trips that occur one (1) or more days a week with the same pick-up point, destination and return.
- 113.01-13 Transportation Attendant: see Attendant.
- 113.01-14 Transporters: any entity, organization or individual that provides transportation services reimbursable under the NET program. This includes Agency Transporters, fixed route transportation, commercial taxis, volunteers, and friends and family.
- 113.01-15 Urban: zip codes categorized as codes 1 and 2 using the USDA Economic Research Service RUCA Codes.
- 113.01-16 Urgent Trip: an unscheduled and irregular situation in which there is no immediate threat to life or limb but the Member must be seen on the day of the request and treatment cannot be delayed until the next day (e.g. follow-up); appointments scheduled less than 5 days after the last appointment; unexpected pre-operative appointments; hospital discharges; appointments for new medical conditions or tests when the Member must be seen; and dialysis). The Broker may verify these appointments with Transporters.
- 113.01-17 Wheelchair Accessible Vehicles: motorized vehicle equipped specifically with certified wheelchair lifts or other equipment designed to allow persons in wheelchairs or other mobility devices to safely enter a vehicle and secure their wheelchair or device for transportation, in accordance with national safety standards.

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113.02 NON-EMERGENCY TRANSPORTATION REGIONS

Non-emergency transportation services are overseen by Brokers on a regional basis. The Broker is responsible for arranging all NET services for Members that reside in their assigned region(s). Broker is not allowed to coordinate transportation for Members who reside outside their region unless a Member resides out of state for medical reasons. The following map details the regional boundaries.

* Unless approved by CMS, this service terminates June 30, 2013.



113.03 ELIGIBILITY FOR SERVICES

Members who meet the financial, residency and eligibility criteria found in the MaineCare Eligibility Manual qualify for Non-Emergency Transportation (NET) Services. Some Members may have restrictions on the type and amount of services they are eligible to receive. It is the responsibility of the Broker to verify a Member’s eligibility for MaineCare services, as described in the MaineCare Benefits Manual (MBM), Chapter I. General Administrative Policies and

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113.03 ELIGIBILITY FOR SERVICES (cont)

Procedures prior to providing services. All members who receive services under waivers are eligible to receive services under Section 113.

Refusal to cooperate and provide requested documents by the Member may be cause for the denial of services. Members must have no other means to reach the covered service, therefore requiring the Department's transportation services.

113.04 COVERED TRANSPORTATION SERVICES

Covered Transportation services include:

- A. Non-emergency transportation to covered MaineCare services. The Broker must ensure the availability of wheelchair-accessible vehicles. The Broker may utilize wheelchair van companies, taxis, other agency vehicles, or family, friends or volunteers with vehicles that meet wheelchair accessibility standards and the individual Member's mobility needs.
- B. Transportation to a pharmacy to obtain medication is a covered service, when it is in conjunction (and on the same day) as transportation to a non-pharmacy medical service.
- C. In addition to the provision and reimbursement of transportation, the Broker must cover and reimburse Related Travel Expenses, if prior authorized in writing, as necessary to ensure Member access to MaineCare covered services that are other than routine medical services. These expenses may include overnight lodging and meal expenses, which are paid at the current State rates. See appendix 1 (Reimbursement Rates for Lodging, Meals, and Privately Owned Vehicle Mileage).
- D. Minor Traveling with Adult Members: There may be times when an adult Member requests to allow a minor to accompany him or her to an appointment, not as an escort, but because the Member does not have alternate childcare available. If there is room or an available seat, the Broker will allow a child or children to be transported with the adult Member who requires the MaineCare service.
- E. Inpatient minors: A parent, foster parent or guardian is eligible to be transported to visit his or her MaineCare or Member minor child who is an inpatient of a hospital, whether or not the parent is MaineCare eligible him or herself. These trips are limited to the child's period of hospitalization. Transportation of individuals who are not MaineCare Members should be reported under the minor child's MaineCare eligibility number. Transportation to visit an inpatient adult MaineCare Member is not covered.
- F. Escort and Attendant Services: The Broker must allow, without charge to the escort or Member, one (1) escort to accompany a Member or group of Members who are

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113.04 COVERED TRANSPORTATION SERVICES (cont)

residents of a nursing home, blind, deaf, have an intellectual disability, are less than 2 years of age, or as otherwise determined by MaineCare staff require an escort to a covered service. The Broker is not responsible for arranging or compensating an escort for services rendered except, upon request, for the cost of public transportation. The Broker must send tokens, vouchers or passes to Members and escorts, when necessary to enable the escort to travel with the Member.

For Members up through age fifteen (15) years, a consent form signed by a parent, caretaker, or guardian will be required for a child to be transported without an escort, unless access to the service is without parental consent as specified by the State (i.e., for family planning and/or mental health treatment). For children 16 years of age and older, no consent form will be required.

The Broker must arrange with the Transporter for the provision of one (1) attendant during transport when, in the judgment of the Broker, considering all known factors or as required by the licensed healthcare provider, it is necessary to have an adult aide on a trip to assure the safety of all passengers. The attendant remains with the vehicle after the Member has left the vehicle at its destination.

113.05 NON-COVERED SERVICES

Non-emergency Transportation (NET) services do not include:

- Transportation services which are covered in the MaineCare Benefits Manual, Section 5 (Ambulance Services);
- Transportation for individuals residing in Nursing Facilities (NFs) and for individuals residing in Intermediate Care Facilities for the Mentally Retarded (ICF-MR) and Intermediate Care Facilities for individuals with Intellectual Disabilities or Pervasive Developmental Disorders (ICF-IIDs) unless there is a written request from the facility that it is unable to supply the transportation for good cause and the transportation is necessary for medically necessary medical service;
- Transportation for separate trips to obtain medication.

113.06 POLICIES AND PROCEDURES

A. Assignment of Members to Brokers

The Department will notify Members by written notice of the Name, Address, Phone number, and other contact information regarding the Broker that has been assigned to them.

* Unless approved by CMS, this service terminates June 30, 2013.

113.06 POLICIES AND PROCEDURES (cont)

B. The Broker may arrange for non-emergency transportation by:

1. Negotiating service agreements with qualified Transporter;
2. Entering into service agreements with federally funded and/or fixed route transit;
3. Providing tokens, vouchers or passes to Members, and to medically necessary escorts when requested, to cover the fare for federally funded, established public, or private transit service which is available when the Member has the capacity to use such service;
4. Providing mileage reimbursement to Members, family and/or friends to transport MaineCare Members;
5. Entering into service agreements with commercial taxi services to supplement its ambulatory services;
6. Use of Commercial taxis; and
7. Other methods, including utilizing family, friends, and volunteers, if permitted by federal and state law.

C. In all cases, the Broker determines the mode of transportation used that meets the Member's health needs.

D. Verification of Member Eligibility

The Broker will be responsible for receiving and processing requests for NET services from MaineCare Members who reside in its assigned region(s). Any Members who must reside out of state due to medical reasons will be assigned to the Broker in the region closest to their physical addresses. The Broker is responsible for verifying Member MaineCare eligibility. The Broker may use one (1) of two (2) options available to verify Member eligibility:

1. Access this information via the MaineCare web portal.
2. Use automated telephone verification.
3. Additionally, if necessary, the Broker may contact a Transporter services agent to verify eligibility. The Broker must ensure that it can verify eligibility at all times.

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113.06 POLICIES AND PROCEDURES (cont)

Members have varying levels of eligibility for services. In some cases the Broker may need to determine the type of eligibility a Member has (Full MaineCare benefit, HCBS waiver, etc.) to verify that the requested trip is to an authorized service for that Member.

E. Nearest Appropriate HealthCare or Waiver Service Provider

NET is generally limited to healthcare providers who are geographically proximate to the Member. It is neither efficient nor economical to transport a Member a lengthy distance to a healthcare provider when there are qualified and appropriate providers located closer to the Member. A healthcare provider will be considered a nearest provider if the distance between the Member's residence and the provider location is less than or equal to:

1. Non-Pharmacy Urban: 30 Miles
2. Non-Pharmacy Rural: 50 Miles
3. Pharmacy, Urban: 15 Miles
4. Pharmacy, Rural: 30 Miles

For non-urgent care, Members must call or contact the Broker at least two (2) days in advance of their appointment to receive transportation services.

For an urgent trip or for other good cause, there is no waiting period (See 113.08 (D), Denial of Services for further information on what constitutes "good cause").

There are times when a Member will be entitled to transportation beyond these mileage limits. Arrangements for NET beyond these limits will be made if any of the following conditions exist:

1. The Member does not have access to an appropriate provider within the mileage limit;
2. The Member's assigned PCCM provider has referred him or her to a specific Transporter whose location is beyond the mileage limit;
3. A specific healthcare provider or other entity is designated in a Member's plan of care for HCBS waiver services;
4. The Member requests NET to a Transporter with whom he or she has had an ongoing relationship for at least 1 year and a change of provider would be

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113.06 POLICIES AND PROCEDURES (cont)

5. detrimental to the Member's care. Such determination is made by the Member's healthcare provider.

These mileage limits may be extended if necessary; but in no case may they be reduced.

F. Transporting MaineCare Members With Non-MaineCare Passengers

MaineCare Members may ride with other, non MaineCare individuals in the same trip. On shared trips, the Broker must ensure that the MaineCare approved passengers' per unit reimbursement is equal to or less than the per unit reimbursement provided to a non-MaineCare member. This does not apply to fixed route transit systems, which have standard fare and pass rates for different populations.

G. Authorization and Verification of NET Services

1. The Broker will assess the Member's eligibility for transportation services. This assessment will include ensuring:
- a. That the transportation is to and/or from a MaineCare covered service. This may include transportation to non-medical services as indicated on an approved plan of care for HCBS waiver Members;
 - b. That the Member has no other appropriate means of transportation available. Members are considered to have no other appropriate means of transportation if they are unable to safely rely on themselves, a household Member, friend, public transit or other means to access MaineCare-covered services, without undue financial hardship and/or substantial interference with family or friends' work or other obligations; and
 - c. That the transportation is to and/or from the nearest appropriate provider of care or meets one of the exceptions listed in section 113.08(B) above; and

2. Validity of Information

The Broker will verify a random minimum of ten (10) percent sample of all trips scheduled. This verification will be distributed proportionally by transportation type (agency vehicle, friend and family, etc.) and Member target populations. Verification will entail contacting the medical or Home and Community Based Service (HCBS) waiver service provider to determine that the appointment was scheduled and kept for a MaineCare-covered service.

* Unless approved by CMS, this service terminates June 30, 2013.

113.06 POLICIES AND PROCEDURES (cont)

Except for these required verifications, the Broker will accept as valid the information provided verbally by the Member, or person speaking on behalf of the Member when determining or predetermining the need for NET services, unless they have cause to doubt the validity of said information.

If the Broker has cause to doubt the validity of the information provided by or on behalf of the Member, in accordance with an approved Fraud & Abuse Compliance Plan, the Broker may require documentation to confirm the information in accordance with an approved Fraud & Abuse Compliance Plan.

If the Member refuses to cooperate in determining status of MaineCare eligibility; or refuses to provide the documentation requested to determine need for NET services, the Member can be denied services.

3. Residence in NET Service Region

The Broker is responsible for assuring that NET services are provided to MaineCare Members who require medical or HCBS waiver services reside within the Broker's region and have no other means of accessing those services. The Broker is not responsible for arranging MaineCare NET services for MaineCare Members who reside outside the region for which the Broker holds a valid contract unless the Member resides out of state for medical reasons. In that case the Member will be assigned to the Broker in the region closest to his or her physical address or residence. The Broker will arrange travel to and from medically necessary services in other regions when the eligible MaineCare Member who is being transported resides within the Broker's region.

4. When HCBS waiver Members or their authorized representatives request transportation to HCBS waiver services, the Broker must verify that the Member is authorized to receive transportation under the HCBS waiver, and that the HCBS waiver service to which the Member is requesting transportation is a MaineCare -covered service.

- a. For Members with Intellectual Disabilities and Autism Spectrum Disorders receiving Home and Community or Support Benefits under Sections 21 or 29 of the MaineCare Benefits Manual, the Broker will contact the Member's assigned case manager to confirm that the service or activity to which the Member is requesting transportation is a covered HCBS waiver service under the Member's plan of care.

* Unless approved by CMS, this service terminates June 30, 2013.

113.06 POLICIES AND PROCEDURES (cont)

- b. For elderly Members and those with physical disabilities, the Broker will contact the designated Service Coordination Agency to confirm that the service or activity to which the Member is requesting transportation is a covered HCBS service under the Member's plan of care. See MaineCare Benefits Manual, Chapter II, Section 19.
- c. For Waiver Services for Children with Intellectual Disabilities or Pervasive Developmental Disorders MBM Section 32, the Broker will contact the Member's assigned case manager to confirm that the service or activity to which the Member is requesting transportation is a covered HCBS waiver service under the Member's plan of care.
- d. Additional waiver services may be initiated by the Department during the course of the contract. The Broker will be given specific instructions for verifying eligibility and covered services at the time the waiver is initiated.

H. Monitoring and Enforcement of Driver and Attendant Requirements

The Broker will have written oversight procedures for ensuring that any Transporters utilized meet all driver and vehicle attendant requirements as stated in the contract. The Broker is not responsible for enforcing these requirements for drivers of public fixed route transit or commercial taxis used on an basis operating outside of a service agreement with the Broker as stated in contract with the Department.

The Broker may establish additional qualifications, which will be approved by the Department prior to implementation.

The Broker must have procedures in place to verify and document that Transporters meet the requirements as stated in contract with the Department.

I. Telephone Call Centers

Call centers must be established and maintained in each of the regions for Members to conveniently access and schedule NET rides to MaineCare covered services and to contact a Broker regarding potential problems, complaints, and questions as necessary. Detailed information regarding call center services, hours of operation, telephone numbers, questions and complaints can be obtained by contacting the Broker in the region or regions it serves.

* Unless approved by CMS, this service terminates June 30, 2013.

113.07 PERFORMANCE STANDARDS REPORTING REQUIREMENTS

The Broker will be required to meet all performance standards reporting requirement as defined in the contracts between the providers and DHHS.

In the event that a trip pickup will not be made on time, the Broker must contact the member to inform him or her. Making such contact does not negate the pickup being considered late.

Brokers are required to wait no less than 10 minutes beyond the scheduled pickup time if the member is not at his or her residence (or other pickup location) prior to service.

The Broker must submit monthly reports detailing performance in a format that is agreed upon by the Department.

113.08 REGIONAL NET ADVISORY COORDINATION COMMITTEE ADVISORY COORDINATION COMMITTEE

- A. The Broker will establish and convene a Regional Advisory NET Coordination Committee that meets quarterly to review and discuss Broker performance, coordination with local transportation, tribes, and health and human service resources, and other community concerns. The Committee is advisory only, and its role is limited to sharing concerns or suggestions on the implementation and operation of Non-emergency NET transportation with the Brokers and with the Department.
- B. The Department reserves the right to require representation of specific stakeholders groups.
- C. The Broker will notify the Department of scheduled meetings and provide minutes and action items from the meetings to the Department. The Department may attend any scheduled meetings.

113.09 DENIAL OF SERVICES AND MEMBER APPEAL RIGHTS

A. Denial of Services

- 1. The Broker may deny a trip or immediately discontinue a trip for any Member who:
 - a. Is found to be ineligible for NET services on the basis of the information provided and available to the Broker;
 - b. Is not ready to board NET transport ten (10) minutes after the scheduled pick up time; or

* Unless approved by CMS, this service terminates June 30, 2013.

113.09 DENIAL OF SERVICES AND MEMBER APPEAL RIGHTS (cont)

- c. Fails to request a NET 48 hours in advance of appointment without good cause. For purposes of this section, “good cause” is created by factors such as:
 - i. Urgent care;
 - ii. Post-surgical and/or medical follow-up care specified by a healthcare provider to occur in fewer than 48 hours;
 - iii. Imminent availability of an appointment with a specialist when the next available appointment would require a delay of two weeks or more; or
 - iv. The result of administrative or technical delay caused by the Broker and requiring that an appointment be rescheduled.
2. A Broker may not deny or refuse to arrange NET services due to Member behavior. The Broker may at its discretion use a less cost effective mode of transportation if it determines it is necessary based on a Member’s conduct. This alternate transportation must still be medically appropriate.
3. Brokers will not discriminate against Members based upon political affiliation, religion, race, color, gender, physical handicap, age, or national origin, or membership in any class protected under federal or state law.

B. Notice of Denial of Services

The Notice of Member Rights must include:

1. The Member’s right to choose to file an Appeal with the Broker, or the
2. Member’s right to appeal directly to the Department in accordance with the MaineCare Benefits Manual, Chapter I, Section 1. Appeals must be filed within 60 days of the denial of service. The Notice must specify that if the Member chooses to file an appeal with the Broker, the Member must sign a written waiver that they understand that their right to receive a final decision after a Department administrative hearing, within 90 days of filing an appeal is waived. However, at any point during the Broker appeal process, the Member may choose to file an appeal with the Department, and on the date the Member does so, the 90 day time period begins.

* Unless approved by CMS, this service terminates June 30, 2013.

113.09 DENIAL OF SERVICES AND MEMBER APPEAL RIGHTS (cont)

3. The Member's right to obtain legal assistance for the Fair Hearing and a list of those organizations that may be able to provide free legal assistance to the Member;
4. The Member's right to bring representation to assist the Member with the Fair Hearing, and
5. The Member's right to bring witnesses to confront and cross examine any witnesses that are adverse to the Member at the Fair Hearing;
6. The process the Member must follow in order to exercise these rights;
7. The circumstances under which the Member's has a right to continuation of NET services and how to request that benefits be continued, and the time frame for the request;
8. Notice shall also inform Member that if benefits are continued but the Broker's action is sustained by DHHS Fair Hearing decision, the Broker may not institute procedures to recover from the Member the cost of NET services furnished.

C. Appeals Process

The Broker must establish an informal review process. A member has two options to appeal an adverse action by the Broker:

1. Participate in the Broker's internal informal review process or
2. File an appeal with the Department as described in the MaineCare Benefits Manual Chapter I, Section 1.22.

If the member chooses to file an appeal with the Department then the Chapter I, Section 1 timelines apply. If the member chooses to file an appeal with the Broker, the Broker must get a written waiver of the federal Medicaid appeal process, signed by the Member, expressly stating that the Member waives their right to receive a final decision after a Department administrative hearing, within 90 days of filing an appeal.

Members maintain their right to request an appeal with the Department regardless of the member's decision to go through the Broker's internal review process, or the outcome of Broker's internal review process. A Member who chooses to appeal to the Department after having first chosen the Broker appeal process, must file their appeal

* Unless approved by CMS, this service terminates June 30, 2013.

113.09 DENIAL OF SERVICES AND MEMBER APPEAL RIGHTS (cont)

request with the Department, pursuant to Chapter I, Section 1, within 60 days of the Broker decision.

The Broker will attend and defend its decisions at all Department appeal hearings, whether in person or by telephone, as deemed necessary by the Department Office of Administrative Hearings.

The Department maintains final decision making authority regarding the disposition of any Member appeal. The Broker agrees to accept such decisions as binding and may not appeal them.

113.10 FRAUD AND ABUSE

- A. The Provider shall have internal controls, policies and procedures in place designed to prevent, detect, and report known or suspected instances of fraud and abuse. Such policies and procedures must be in accordance with Federal regulations described in 42 CFR Parts 455 and 456.
- B. The Provider shall not allow the use of Medicaid-funded transportation for any purpose other than as stated in this policy, or in violation of any State, Federal law..
- C. Fraud and Abuse Compliance Plan
 - 1. The Broker shall submit a written Fraud and Abuse compliance plan to the Department annually for review and approval. The plan shall detail how the Provider will prevent, identify and report suspected fraud and abuse by members, by network Transporters, by subcontractors and by the Provider. The plan must be submitted annually and must discuss the monitoring tools and controls the Provider will use to protect against theft, embezzlement, fraudulent marketing practices, or other types of fraud and program abuse. The plan must additionally describe the type and frequency of training provided to prepare staff to detect fraud. All fraudulent activities or other program abuses shall be handled subject to the laws and regulations of the state and federal law and regulation.

113.11 REIMBURSEMENT

The Broker is paid pursuant to the contract with the Department. Transporters are paid by the Broker.

113.12 REPORTING INSTRUCTIONS

The submission of encounter data is required.

* Unless approved by CMS, this service terminates June 30, 2013.

113.12 REPORTING INSTRUCTIONS (cont)

The Broker shall submit “clean” American National Standards Institute (ANSI) ASC X 12N standard 837P claims encounter transactions as if submitting claims for payments, which document all NET services provided the previous month. The claims must comply with the current billing standards and must have at least the following information:

Documentation must include:

1. Date of service;
2. Transporter name ;
3. Time driver/vehicle leaves base station to begin transporting members;
4. Pickup location (origination);
5. Drop-off location (destination);
6. Return time to base station;
7. Authorized signature of Transporter (on file)
8. Mileage

When appropriate to the service provided, Brokers shall report the current Healthcare Common Procedure Coding System (HCPCS) modifiers.

Examples:

<u>Modifier</u>	<u>Description</u>
<u>D</u>	<u>Diagnostic or therapeutic site other than "P" or "H" when these are used in origin codes</u>
<u>E</u>	<u>Residential, domiciliary, custodial facility (other than 1819 facility)</u>
<u>G</u>	<u>Hospital-based ESRD facility</u>
<u>H</u>	<u>Hospital</u>
<u>I</u>	<u>Site of transfer (examples: airport or helicopter pad) between modes of ambulance transport</u>
<u>J</u>	<u>Free standing ESRD facility</u>
<u>N</u>	<u>Skilled nursing facility (SNF)</u>
<u>P</u>	<u>Physician's office</u>
<u>R</u>	<u>Residence</u>
<u>S</u>	<u>Scene or accident or acute event</u>
<u>X</u>	<u>Intermediate stop at physician's office on way to hospital (destination code only). Please note that Modifier C can only be used as a destination code in the second position of a modifier.</u>

* Unless approved by CMS, this service terminates June 30, 2013.

10-144 Ch. 101
 MAINECARE BENEFITS MANUAL
 CHAPTER II

10-144 CH. 101

SECTION 113

NON-EMERGENCY TRANSPORTATION (NET) SERVICES

00/00/13

<u>NET ENCOUNTER CODES</u>	<u>DESCRIPTION</u>	<u>UNIT OF SERVICE</u>
	<u>FULL SERVICE PROVIDER CODES</u>	
<u>T2003</u>	<u>NONEMERGENCY TRANSPORTATION; ENCOUNTER/TRIP</u> <u>[PROVIDER BASE RATE (ONE WAY TRIP)]</u>	<u>PER ONE-WAY TRIP</u>
<u>S0215</u>	<u>NONEMERGENCY TRANSPORTATION; MILEAGE, PER MILE</u> <u>[PROVIDER (AGENCY) CONTROLLED VEHICLE]</u>	<u>PASSENGER MILE</u>
<u>S0215 Mod TK</u>	<u>NONEMERGENCY TRANSPORTATION; MILEAGE, PER MILE</u> <u>[SHARED RIDE ON A PROVIDER (AGENCY) CONTROLLED VEHICLE]</u>	<u>PER MILE</u>
<u>A0090</u>	<u>NONEMERGENCY TRANSPORTATION, PER MILE-VEHICLE PROVIDED BY INDIVIDUAL</u> <u>(FAMILY MEMBER, SELF, NEIGHBOR) WITH VESTED INTEREST</u> <u>[FAMILY VEHICLE – NON-EMERGENCY TRANSPORTATION PER MILE]</u>	<u>PER MILE</u>
<u>SO215-U1</u> <u>REVENUE</u> <u>CODE 590</u>	<u>NONEMERGENCY TRANSPORTATION MILEAGE (Section 19, Home and Community Based</u> <u>Benefits for the elderly and for Adults with Disabilities waiver) rev code for home health services per</u> <u>mile)</u>	<u>PER MILE</u>
<u>A0080</u>	<u>NONEMERGENCY TRANSPORTATION, PER MILE-VEHICLE PROVIDED BY VOLUNTEER</u> <u>(INDIVIDUAL OR ORGANIZATION), WITH NO VESTED INTEREST</u> <u>[VOLUNTEER VEHICLE – NON-EMERGENCY TRANSPORTATION PER MILE]</u>	<u>PER MILE</u>

* Unless approved by CMS, this service terminates June 30, 2013.

10-144 Ch. 101
 MAINECARE BENEFITS MANUAL
 CHAPTER II

10-144 CH. 101

SECTION 113

NON-EMERGENCY TRANSPORTATION (NET) SERVICES

00/00/13

<u>NET ENCOUNTER CODES</u>	<u>DESCRIPTION</u>	<u>UNIT OF SERVICE</u>
<u>A0080</u>	<u>NONEMERGENCY TRANSPORTATION, PER MILE-VEHICLE PROVIDED BY VOLUNTEER (INDIVIDUAL OR ORGANIZATION), WITH NO VESTED INTEREST [VOLUNTEER VEHICLE – NON-EMERGENCY TRANSPORTATION PER MILE]</u>	<u>PER MILE</u>
<u>S0215-U1</u>	<u>NONEMERGENCY TRANSPORTATION, MILEAGE PER MILE (Section 19, Home and Community Based Benefits for the Elderly and for Adults with Disabilities waiver)</u>	<u>PER MILE</u>
<u>A0110</u>	<u>NONEMERGENCY TRANSPORTATION AND BUS, INTRA- OR INTERSTATE CARRIER (COMMON CARRIER LOCAL FIXED-ROUTE BUS OR LOCAL FERRY)]</u>	<u>ACTUAL ONE-WAY FARE</u>
<u>A0110</u>	<u>NONEMERGENCY TRANSPORTATION AND BUS, INTRA- OR INTERSTATE CARRIER [COMMON CARRIER-OTHER THAN A LOCAL FIXED ROUTE BUS, LOCAL FERRY, OR TAXI]</u>	<u>ACTUAL ONE-WAY FARE</u>
<u>A0100</u>	<u>NON-EMERGENCY TRANSPORTATION- TAXI (SECTION 19, HOME AND COMMUNITY BASED BENEFITS FOR THE ELDERLY AND FOR ADULTS WITH DISABILITIES)</u>	<u>ACTUAL ONE WAY FARE</u>
<u>A0160</u>	<u>NONEMERGENCY TRANSPORTATION: PER MILE-CASEWORKER OR SOCIAL WORKER [STATE (EMPLOYEE) RATE – NON-EMERGENCY TRANSPORTATION PER MILE]</u>	<u>PER MILE</u>
<u>T2001</u>	<u>NONEMERGENCY TRANSPORTATION; PATIENT ATTENDANT/ESCORT [ATTENDANT ON COMMON CARRIER OTHER THAN A TAXI]</u>	<u>ACTUAL FARE</u>

* Unless approved by CMS, this service terminates June 30, 2013.

10-144 Ch. 101
 MAINECARE BENEFITS MANUAL
 CHAPTER II

10-144 CH. 101

SECTION 113**NON-EMERGENCY TRANSPORTATION (NET) SERVICES**00/00/13

<u>NET ENCOUNTER CODES</u>	<u>DESCRIPTION</u>	<u>UNIT OF SERVICE</u>
<u>A0170</u>	<u>TRANSPORTATION ANCILLARY – PARKING FEES, TOLLS, OTHER [Family and Volunteer drivers may use this code.]</u>	<u>ACTUAL FARE</u>
<u>A0180</u>	<u>NON-EMERGENCY TRANSPORTATION – ANCILLARY – LODGING – RECIPIENT (P.A. REQUIRED)</u>	<u>ACTUAL FARE</u>
<u>T2002</u>	<u>NONEMERGENCY TRANSPORTATION; PER DIEM [PROVIDER BASE RATE FOR SEVEN DAY CLINICS]</u>	<u>PER DAY</u>
<u>A0190</u>	<u>NON-EMERGENCY TRANSPORTATION – ANCILLARY – MEALS – RECIPIENT (P.A. REQUIRED)</u>	<u>ACTUAL FARE</u>
<u>A0200</u>	<u>NON-EMERGENCY TRANSPORTATION – ANCILLARY – LODGING – ESCORT (P.A. REQUIRED)</u>	<u>ACTUAL FARE</u>
<u>A0210</u>	<u>NON-EMERGENCY TRANSPORTATION – ANCILLARY – MEALS – ESCORT (P.A. REQUIRED)</u>	<u>ACTUAL FARE</u>
<u>SEVEN DAY CLINIC SERVICES</u>		
<u>T2003-U3</u>	<u>TRANSPORTATION (SECTION 21, INTELLECTUAL DISABILITES OR AUTISTIC DISORDERS WAIVER)</u>	<u>PER MILE</u>
<u>T2003-HA</u>	<u>TRANSPORTATION (Section 32 Waiver Services for Children with Intellectual Disabilities or Pervasive Developmental Disorders)</u>	

* Unless approved by CMS, this service terminates June 30, 2013.

10-144 Ch. 101
 MAINECARE BENEFITS MANUAL
 CHAPTER II

10-144 CH. 101

SECTION 113

NON-EMERGENCY TRANSPORTATION (NET) SERVICES

00/00/13

<u>NET ENCOUNTER CODES</u>	<u>DESCRIPTION</u>	<u>UNIT OF SERVICE</u>
<u>T2003-U4</u>	<u>TRANSPORTATION (Section 29, Support Benefits for Adults with Intellectual Disabilities or Autistic Disorder waiver)</u>	<u>PER MILE</u>
<u>T2003-U8</u>	<u>TRANSPORTATION (Section 20k Home and Community Benefits (HCB) for Adults with disabilities waiver)</u>	<u>PER MILE</u>
	<u>WHEELCHAIR VAN PROVIDERS</u>	
<u>A0130</u>	<u>NON-EMERGENCY TRANSPORTATION – WHEELCHAIR VAN [DOOR-THROUGH-DOOR (BASE RATE)]</u>	<u>PER TRIP</u>
<u>S0209</u>	<u>WHEELCHAIR VAN, MILEAGE, PER MILE [DOOR-THROUGH-DOOR]</u>	<u>PASSENGER MILE</u>

* Unless approved by CMS, this service terminates June 30, 2013.

APPENDIX I

Reimbursement Rates for Lodging, Meals, and Privately Owned Vehicle Mileage

Rates as of January 1, 2013

NOTES

Maximum Allowable Lodging Rates (see notes for tax treatment)

Non High-Cost Locations (In State and Out-of-State)

- Maximum rate = \$77.00 / night plus tax
- Exception to maximum rate = \$184.50 / day {(77 + 46) x 150% }
- **High-Cost Locations.** For rates for individual high cost locations in the Continental USA, refer to the U.S. General Services Administration website at: www.gsa.gov.
- **Seasonal Lodging Rates.** For out of state locations, refer to the U.S. General Services Administration website at: www.gsa.gov. For seasonal rate information for Washington state locations, refer to the state Per Diem Rates map on OFM's Travel Resources website at: <http://www.ofm.wa.gov/resources/travel.asp>.

The reference for the maximum lodging rates is on the U.S. General Services Administration website at: www.gsa.gov. Select U.S. Per Diem Rates by Location (Continental USA) to view rates for the contiguous 48 states (amounts shown **are before adding applicable state and local taxes to the reimbursement rates**) or Foreign Per Diem Rates (taxes included) to view rates for Alaska, Hawaii, and U.S. possessions.

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Meal Rates (including taxes and tips and incidental expenses)

<u>Non High-Cost Locations</u>	<u>High-Cost Locations</u>			
Breakfast \$11.00	\$13.00	\$14.00	\$15.00	\$18.00
Lunch \$14.00	\$15.00	\$17.00	\$18.00	\$21.00
Dinner \$21.00	\$23.00	\$25.00	\$28.00	\$32.00
Totals \$46.00	\$51.00	\$56.00	\$61.00	\$71.00

To determine which high cost meal rate applies for a specific high cost location in the Continental USA, refer to the U.S. General Services Administration website at: www.gsa.gov. (Meal rates will be referred to as subsistence rates.) When calculating the meal breakdown for high cost meal locations in the Continental USA or Foreign Locations not listed in the table to the left, use the percentages in Subsection 10.40.10.c.

Non High-Cost Per Diem Rate

- Daily rate = \$123.00 / day = Non high-cost lodging rate (\$77) + Non high-cost meals rate (\$46)
- Hourly rate = \$123.00 / 24 hours = \$5.13 per hour

Certain types of boards and commissions use both daily and hourly rates (Section 10.70). Also, the hourly rate is used when an employee is authorized to use a privately owned travel trailer or camper (Subsection 10.30.70).

Privately Owned Vehicle (POV) Mileage Rate = \$0.565/ mile

Source: [IRS Revenue Procedure 2012-72](#).

Privately Owned Aircraft Mileage Rate = \$1.07 / nautical mile

Source: [Federal Register Vol. 70, No. 23 Feb. 4, 2005](#). Nautical mile information can be found on several websites including: www.airnav.com/airports/

Privately Owned Motorcycle Mileage Rate = \$0.305 / mile

Source: [Federal Register Vol. 70, No. 23 Feb. 4, 2005](#).

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