MTAC Medical Transportation Access Coalition

January 16, 2018

Seema Verma, Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
200 Independence Avenue SW
Washington, DC 20201

Re: Comments to Proposed Rule, "Medicare Program; Contract Year 2019 Policy and Technical changes to the Medicare Advantage, Medicare Cost Plan, Medicare Fee-for-Service, the Medicare Prescription Drug Benefit Programs, and the PACE Program" (CMS-4182-P)

Dear Administrator Verma:

We thank CMS for the opportunity to provide comments regarding the proposed rule titled, "Medicare Program; Contract Year 2019 Policy and Technical changes to the Medicare Advantage, Medicare Cost Plan, Medicare Fee-for-Service, the Medicare Prescription Drug Benefit Programs, and the PACE Program," referred to in this letter as the "CY19 Proposed Rule."

First, we would also like to take the opportunity to introduce the coalition to CMS. In the spring of last year, the three leading brokers of NEMT services came together to form Medical Transportation Access Coalition (MTAC) to educate federal and state policymakers and other stakeholders about the benefits of non-emergency medical transportation and the need for policies that support continued access to transportation services. Combined, the founders of MTAC help manage and deliver NEMT services in almost every state in the nation, and across several different health insurance markets and programs. MTAC wants to make this experience and perspective available to elected officials and other policymakers, particularly as debate about the future of the nation's healthcare system continues. Since MTAC's formation, approximately eight national organizations whose members or constituents rely upon NEMT services have joined the coalition support our policy goals.

As founders and allied members of MTAC, we offer comments on the following topics in the CY19 Proposed Rule.

1. Flexibility in Medicare Advantage Uniformity Requirements
2. Training Required of First-tier, Downstream and Related Entities

Flexibility in Medicare Advantage Uniformity Requirements

The Centers for Medicare and Medicaid Services (CMS) has long required Medicare Advantage organizations (MAOs) to offer uniform benefits in its Medicare Advantage plans, consistent with regulatory guidance 42 C.F.R. §422.100(d). This policy is rooted in an admirable desire to protect

Medicare beneficiaries by preventing MAOs from offering complicated contingent benefits that might cause confusion and, in a worst case scenario, be discriminatory in nature.

However, the increasing sophistication and success of care management programs in Medicare Advantage and other health insurance markets, as well as the growth of Special Needs Plans and the success of CMS's Value-Based Insurance Design Model, indicates that CMS now believes that the care management advantages of health status or disease-specific benefits outweighs the one-size-fits-all benefits rule that CMS has, up to now, required.

MTAC fully supports CMS's proposal to remove barriers for health status-related and disease-specific benefits. As our organizations serve people with chronic diseases, every day we see firsthand how low cost transportation services improves adherence with physician orders and clinical guidelines. Indeed, studies suggest that low-cost NEMT save the health system money by driving down the number of ER visits, hospitalizations, and medical complications, as well as lengthening the amount of time that aging beneficiaries can live independently. To cite just one example of the value of NEMT, a Florida State University study concluded there would be a return of $11.08 per every $1.00 invested in the state's medical transportation program if just one percent of the trips resulted in the prevention of a visit to the emergency room.

According to the national actuarial firm, Oliver Wyman, only 14% of Medicare Advantage plans currently offer a NEMT benefit. However, more than two-thirds of Special Needs Plans (which tailor benefits for particularly sick and vulnerable beneficiaries) offer NEMT. This strongly suggests that more MAOs will choose to offer NEMT and other care-management supportive supplemental benefits if CMS loosens the uniform benefit rule to permit health status-related and disease-specific benefits.

We are also encouraged by CMS further re-interpreting the uniform benefit requirements to permit variable benefits by geographic segment (i.e., county). For example, we know that people are more likely miss physician appointments in so-called "transportation deserts" than in other areas. Medicare Advantage beneficiaries will benefit when MAOs gain the ability to offer transportation benefits in particularly-stressed geographies where a medical transportation is needed.

MTAC believes CMS's proposals as discussed in draft regulation under the titles "Flexibility in the Medicare Advantage Uniformity Requirement" and "Segment Benefit Flexibility" will improve health outcomes in the Medicare Advantage program by permitting MAOs to offer tailored, non-discriminatory supplemental benefits. We therefore fully support CMS's proposal.

FDR Training

The CY19 Proposed Rule appears to rescind the regulatory requirement that First-tier, Downstream and Related Entities (FDRs) complete general compliance and fraud, waste and abuse (FWA) trainings, as CMS proposes to delete all references to FDRs in the rule text at 42 C.F.R. §422.503(b)(4)(vi)(C)(1) which addresses effective training and education requirements. Instead, CMS proposes to give discretion to a MAO's decision about whether and how to incorporate specific training and auditing requirements for FDRs into the MAO's compliance program.

We support CMS's proposal and encourage CMS to give MAOs and their FDRs the maximum flexibility to design appropriate measures to ensure that FDRs can help an MAO achieve an effective compliance

program. Currently, the general compliance training (which all MAOs must use) and FWA training modules are duplicative and not designed to meet the unique circumstances of medical transportation brokers and the transportation providers with which they contract.

Further, comprehensive NEMT-specific training requirements are already a standard industry practice for transportation brokers. For example, prior to operating any trips as a network provider of the MTAC founding members—regardless of whether that trip is for a Medicaid, MA, or privately-insured patient—the driver must have completed training courses such as First Aid/CPR, defensive driving, CMS FWA, HIPAA, and cultural sensitivity/special needs training.

Lastly, to the extent CMS provides subregulatory guidance detailing further any minimum standards, we encourage CMS to give MAOs the opportunity to work with their FDRs to develop trainings that are tailored and appropriate to their specific needs and compliance risks, rather than adopt a "one-size-fits-all" approach.

We appreciate your consideration of this letter. For more information about MTAC or to discuss our views, please visit our website www.mtaccoalition.org or contact us via Nick Manetto, nick.manetto@FaegreBD.com or 202-312-7499.

Sincerely,

Nick Manetto, Principal
Faegre Baker Daniels Consulting, on behalf of Medicare Transportation Access Coalition