



October 26, 2018

Daniel R. Levinson  
Inspector General  
U.S. Department of Health and Human Services  
Room 5513, Cohen Building  
330 Independence Avenue SW  
Washington, DC 20201

Re: Request for Information Regarding the Anti-Kickback Statute and Beneficiary Inducements Civil Monetary Penalty (CMP), **OIG-0803-N**

Dear Mr. Levinson:

The Medical Transportation Access Coalition (MTAC) ([www.mtaccoalition.org](http://www.mtaccoalition.org)) was formed last year to educate federal and state policymakers and other stakeholders about the benefits of medical transportation and the need for policies that support continued access to these services. The coalition's founding and allied members include a diverse set of transportation brokers and providers, managed care organizations and trade associations, and patient advocacy groups. MTAC writes in response to the Office of the Inspector General's request for information (RFI) published August 27, 2018, seeking comments in response to the questions presented in the RFI.

Through this letter, we wish to applaud the OIG's efforts to modify or establish safe harbors in the interest of removing barriers to care and facilitating more coordination within the nation's health care system. Specifically, we wish to underscore the importance of retaining the existing free or discounted local transportation safe harbor in ensuring that Medicare and Medicaid beneficiaries with transportation barriers have access to non-emergency medical transportation (NEMT).

NEMT is a critical component of the care continuum for beneficiaries, particularly those with chronic conditions. This is demonstrated by a recent study MTAC commissioned which found a significant return-on-investment in the provision of NEMT to Medicaid beneficiaries. The ROI was demonstrated in the form of reduced hospitalizations and other adverse health events, that could otherwise lead to poor health outcomes and additional spending for government

programs.<sup>1</sup> In addition, the study reported several secondary findings from a survey of 977 Medicaid beneficiaries who use NEMT to make their appointments for one of three conditions (substance use disorder, chronic kidney disease, diabetic wounds). On average, patients across all three treatment categories above reported that they would miss approximately 70% of their appointments without NEMT. Further, approximately two-thirds (66.6%) reported having no other form of personal or public transportation that they could use to attend appointments as an alternative to NEMT. The vast majority of patients surveyed (92.7%) reported their health would be “much worse” (85.3%) or “slightly worse” (7.4%) without access to NEMT.<sup>2</sup>

While federal regulations require states to provide NEMT as part of the standard Medicaid benefit package, evidence shows that difficulty attending appointments without NEMT is experienced not just by Medicaid beneficiaries, but also Medicare and Medicare Advantage beneficiaries. A recent member survey conducted by Dialysis Patient Citizens found that overall, one in seven (15%) dialysis patients had difficulty attending their appointments. Those with Medicare (16%) or Medicare Advantage (20%) are more likely than those with private insurance to indicate this, a statistically significant difference.

MTAC is encouraged by recent steps the Administration has taken to allow Medicare Advantage organizations to transparently offer tailored, nondiscriminatory supplemental benefits like NEMT to beneficiaries with specific diseases or conditions in specific service areas.<sup>3</sup> MTAC believes that beneficiaries enrolled in Original Medicare should also be similarly afforded NEMT as their health care needs and means dictate to stay adherent to treatment.

As such, we make the following suggestion for OIG to consider as you potentially propose modifications to the existing transportation safe harbor: *for consistency with legislative changes with respect to Medicare Advantage in the Bipartisan Budget Act of 2018, allow the transportation of federal health program beneficiaries for purposes other than to obtain medically necessary items or services, if the purpose for the trip has a reasonable expectation of improving or maintaining the health or overall function of a beneficiary with a chronic condition.*

We recommend working closely with CMS on similar guidance with respect to implementing Section 50322 of the Bipartisan Budget Act of 2018 which permits similar supplemental benefits in the Medicare Advantage beginning in plan year 2020. As health care providers increasingly tackle the social determinants of health that influence a beneficiary’s ability to maintain an independent, healthy, and fulfilling life, this safe harbor’s expansion is ripe and can be appropriately managed through existing parameters under the rule.

We appreciate your consideration of this letter.

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<sup>1</sup> More information about the study is found on MTAC’s website: <https://mtaccoalition.org/study-reveals-non-emergency-medical-transportation-nemt-is-extremely-cost-effective-and-life-saving-to-medicare-program/>

<sup>2</sup> The survey report is available at: <https://mtaccoalition.org/wp-content/uploads/2018/08/Survey-Report.pdf>.

<sup>3</sup> 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 MA Special Needs Plans (which may tailor benefits for particularly sick and vulnerable beneficiaries) offer NEMT.

Sincerely,

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