

## Fact Sheet: The Consolidated Appropriations Act of 2021 Codifying Medicaid Non-Emergency Medical Transportation

### Background

The Consolidated Appropriations Act of 2021, signed into law on December 27, 2020, codifies the long-standing regulatory requirement for states to provide Medicaid non-emergency medical transportation (NEMT) benefits. The provision, effective upon enactment, is based on a previously MTAC-supported bill, H.R. 3935, the Protecting Patients Transportation to Care Act introduced by lead sponsors Congressman Buddy Carter (R-GA) and Congressman Tony Cardenas (D-CA), along with original co-sponsors Congressman Sanford Bishop (D-GA) and Congressman Tom Graves (R-GA).

### Summary

The provision codifies, in law, current regulations governing the Medicaid NEMT benefit and adds several sections establishing new program integrity requirements and activities. In addition, the appropriations section of the Act reiterates report language from fiscal year 2020 LHHs appropriations.

**Benefit Codification:** The provision inserts text into Section 1901(a)(4) replacing the administrative requirement with a mandatory benefit requiring state Medicaid agencies to “ensure necessary transportation for beneficiaries under the State plan to and from providers” (including for the Medicaid expansion population and other beneficiaries in “benchmark” plans). In addition, states must provide a description of the methods for ensuring such transportation in the State plan in order to receive Federal matching funds for NEMT services.

**GAO Study Language:** The law requires the Government Accountability Office (GAO) to conduct a 50-state plus D.C. study of Medicaid NEMT by December 2022. The study must identify safeguards to prevent NEMT fraud and abuse, identify the range of such safeguards used by NEMT brokers, and identify types of fraud and abuse in NEMT and future trends.

**CMS Stakeholder Meetings and Guidance Review:** By June 2022, CMS must convene a series of stakeholder meetings to obtain input from appropriate stakeholders about leading practices for improving program integrity of NEMT services. By December 2022, CMS must assess existing guidance to states and update such guidance “as necessary.”

**NEMT Provider and Driver Requirements:** Transportation providers (including transportation network companies) and individual drivers must not be excluded from participating in any federal health care program (e.g., Medicare, Medicaid). Each individual driver must have a valid driver’s license, and the provider must have a process in place to address any violation of state drug laws as well as a process to disclose to the state Medicaid program the driving history of each individual driver employed by the provider. A grace

period is generally provided for any state legislative changes needed to conform with these requirements.

**T-MSIS:** By December 2021, CMS must analyze and submit to Congress a report on the nation-wide data set under the Transformed Medicaid Statistical Information System (T-MSIS) and make any recommendations relating to NEMT coverage based on the analysis.

**Brokerage Program Consultation:** Should a state implement a NEMT brokerage program, this provision allows a state Medicaid agency to consult with relevant stakeholders including patients, medical providers, MCOs, NEMT brokers, and transportation providers.

**MACPAC Study Report Language:** Finally, appropriations report language continues to direct CMS to take no rulemaking action on NEMT until MACPAC completes its mandated report, which is expected in 2021.