Division of Medical Assistance Programs
Medicaid Policy and Planning Section

Medical Transportation Services Administrative Rulebook

Chapter 410, Division 136

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410-136-3000 New Rule Responsibility for Providing Non-emergent Medical Transportation

(1) The Authority shall provide non-emergent medical transportation (NEMT) for eligible clients who receive their OHP covered medical services on a fee-for-service basis or are members enrolled in prepaid health plans (PHP) or coordinated care organizations (CCO). The Authority shall cease providing this service to CCO enrollees when CCOs provide the service to their enrollees pursuant to sections (2) and (3) of this rule.

(2) From July 1, 2013 to October 1, 2013, the Authority may allow some CCOs to pilot providing NEMT services for their enrollees.

(3) All CCOs shall provide NEMT services for their enrollees either on October 1, 2013, or January 1, 2014. When a CCO begins providing this service, the Authority shall provide NEMT services in the CCO's service area only to clients not enrolled in a CCO for health care services.

(4) The requirements in OAR 410-136-3020 – OAR 410-136-3360 apply to NEMT services for which the Authority is responsible pursuant to this rule.

(5) A brokerage may request that the Authority delay responsibility for reimbursement to clients pursuant to OAR 410-136-3240, Client Reimbursed Mileage, Meals and Lodging, until a CCO in the brokerage's service area assumes NEMT services for the CCO's enrollees (either October 2013 or January 1, 2014).. The delay of the brokerage's responsibility also includes reimbursing clients in the fee-for-service delivery system.

(6) OAR 410-136-3040,Vehicle Equipment and Subcontractor Standards, and OAR 410-136-3120, Secured Transports, do not apply to ambulance providers, ambulance vehicles or ambulance personnel that are licensed and regulated by ORS Chapter 682 and OAR chapter 333, divisions 250, 255, 260 and 265, whether providing ambulance or stretcher transports.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065

410-136-3020 New Rule General Requirements for NEMT

(1) The Authority may enroll governmental transportation brokerages (local units of government) or other entities to arrange rides and pay subcontractors for NEMT services. The Authority may limit the enrollment with brokerages to units of local government.

(2) For purposes of the rules (OAR 410-136-3020 through OAR 410-136-3360), “subcontractor” means the individual or entity with which the brokerage subcontracts or employs to drive the client to and from OHP covered medical services.

(3) The brokerage shall:

(a) Prior authorize and pay subcontractors for the least costly but most appropriate mode of transport for the client’s medical needs to and from an OHP covered medical service. The most appropriate and least costly ride may include requiring the client to share the ride with other clients;

(b) Verify that the client is obtaining OHP covered medical services in the client’s local area. “Local area” means an area within the accepted community standard and includes the client’s metropolitan area, city or town of residence;

(c) Verify the client’s OHP eligibility and that the client’s benefit package includes NEMT services. The brokerage shall verify this through electronic eligibility information;

(d) Assess the client’s access to other means of transportation, such as driving their own car or getting a ride from a family member or neighbor;

(e) Verify the client’s attendance for continuing requests for rides if the medical provider could not affirm an appointment for a previous ride;

(f) Schedule a ride with an alternate subcontractor if the subcontractor originally assigned is unable to provide the ride; and

(g) Assign rides based on an evaluation of several factors, including but not limited to:

(A) Cost;

(B) The client’s need for appropriate equipment and transportation;

(C) Any factors related to a subcontractor’s capabilities, availability and past performance; and

(D) Any factors related to the brokerage’s need to maintain sufficient service capacity to meet client needs.

(4) Pursuant to OAR 410-120-1210, Medical Assistance Benefit Packages and Delivery System, clients receiving the following benefit packages are not eligible for NEMT:

(a) OHP Standard;

(b) Citizen Alien Waived Emergency Medical; and

(c) Qualified Medicare Beneficiary (QMB) only.

(5) The brokerage shall maintain records of the reasons for authorizing a ride:

(a) That is not cost effective or not based on the factors specified in section (3);

(b) With more than two attendants for an ambulance or stretcher car; or

(c) With more than one attendant for a wheelchair van.

(6) The brokerage shall provide a ride to a client to fill prescription medication only in the following situation:

(a) The client needs to stop on the way home to fill or pick up prescribed medication related to the medical service for which the brokerage provided the ride;

(b) It is medically necessary to fill or pick up the medication immediately; and

(c) The pharmacy is located on the return route or is the closest pharmacy to the return route.

(7) The brokerage may provide a ride to a client to fill prescribed medication under the following situations:

(a) The brokerage asks the client if the prescription service is available through the Authority's contracted postal prescription service, and the client responds that it is not available through that source;

(b) The client has an urgent need to fill or pick up prescribed medication because the postal prescription service mailed the wrong medication, or the client has an unexpected problem caused by the medication; or

(c) The client is transient or without regular access to a mailbox. In this situation, the brokerage may evaluate the need on a case-by-case basis.

(8) The brokerage shall provide rides outside the brokerage's service area, as described in Table 136-3380, under the following circumstances:

(a) The client is receiving an OHP covered medical service that is not available in the service or local area but is available in another area of the state;

(b) The client is receiving a covered service in California, Idaho or Washington where the service location is no more than 75 miles from the Oregon border; or

(c) No local medical provider or facility will provide OHP covered medical services for the client.

(9) Brokerages may coordinate to provide a return ride to a client who receives medical services outside the client's local area.

(10) Brokerages shall retroactively authorize and pay for NEMT services that have already occurred only when the brokerage could not prior authorize the service because the brokerage was closed and the request for authorization is within 30 days of the date of service. The brokerage also must confirm that one of the following circumstances supported the ride:

(a) The eligible client needed urgent medical care;

(b) The eligible client required secured transport pursuant to OAR 410-136-3120, Secured Transports; or

(c) The client was in a hospital, and the hospital discharged or transferred the client.

(11) Notwithstanding section (10), a brokerage shall retroactively authorize NEMT services for ambulance transports when:

(a) An ambulance provider responds to an emergency call, but the client’s medical condition does not warrant an emergency transport;

(b) The ambulance provider transports the client as a NEMT service; and

(c) The ambulance provider requests retroactive authorization within 30 days of the NEMT service.

(12) Brokerages shall not authorize or pay for rides outside their service areas based only on client preference or convenience.

(13) Brokerages shall provide toll-free call centers for clients to request rides. The following pertain to the brokerage’s call center and scheduling of rides:

(a) The call center shall operate at a minimum Monday through Friday from 9:00 am to 5:00 pm, but the brokerage may close the call center on New Year’s Day, Memorial Day, July 4, Labor Day, Thanksgiving and Christmas. The Authority may approve, in

writing, additional days of closure if the brokerage requests the closure at least thirty days in advance.

(b) Brokerages shall make all reasonable efforts for clients to have access to available NEMT services 24 hours a day. When the call center is closed, the brokerages shall provide a recording or answering service to refer the client directly to a subcontractor. If no subcontractor is available, the brokerage must provide clients with recorded information about service hours and how to reach emergency services by calling 911;

(c) The brokerage shall allow a client to schedule rides at least 30 days in advance of the medical service; and

(d) The brokerage shall allow a client to request multiple ride requests at one time.

(e) The brokerage shall develop procedures and make reasonable efforts to arrange a ride requested on the day of the medical service when the medical service is:

(A) For an urgent medical condition; and

(B) Due to the urgency of the medical condition, the client scheduled an immediate medical appointment.

(14) The brokerage is not responsible for providing emergency medical transportation services. However, brokerages shall have procedures for referring clients requesting emergency medical transportation services to the appropriate emergency transportation resources and procedures for subcontractors per OAR 410-136-3040, Vehicle Equipment and Subcontractor Standards.

(15) The Authority shall collaborate with brokerages to develop and conduct a statewide client satisfaction survey at least once every two years. The Authority may contract with one or more brokerages to conduct the survey. The Authority shall use the results of the survey to identify and address potential operational deficiencies and to identify and share successes in the NEMT program.

(16) Brokerages shall establish regional advisory groups consisting of representatives from the Authority, DHS, Area Agencies on Aging, consumers. representatives of client advocacy groups from within the service or local area, brokerage subcontractors and providers of NEMT ambulance services. The role of the group includes, but is not limited to:

(a) Assisting in monitoring and evaluating the NEMT program; and

(b) Recommending potential policy or procedure changes and program improvements to brokerages and the Authority and assisting in prioritizing those changes and improvements.

(17) Brokerages shall have the discretion to use or not use DHS-approved volunteers. DHS shall provide brokerages with a list of approved and trained volunteers. DHS shall supervise the volunteers and assumes all liability for each volunteer as provided by law.

(18) Brokerages or their subcontractors shall not bill eligible clients for any transports to and from OHP covered medical services or any transports where the Authority denied reimbursement.

(19) On a minimum of five percent of the ride requests, brokerages shall contact medical providers to verify appointments and that the appointments are for OHP covered medical services.

(20) Brokerages may purchase tickets for common carrier transportation, such as inter- or intra-city bus, train or commercial airline when deemed cost effective and safe for the client.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065

410-136-3040 New Rule Vehicle Equipment and Subcontractor Standards

(1) Brokerages shall require subcontractors to maintain their vehicles for the comfort and safety of the clients. The vehicles shall meet the following requirements:

(a) The interior of the vehicle shall be clean;

(b) The subcontractor shall not smoke or permit smoking in the vehicle at any time; and

(c) The subcontractor shall comply with appropriate local, state, and federal transportation safety standards regarding passenger safety and comfort. The vehicle shall include, but is not limited to, the following safety equipment:

(A) Safety belts for all passengers if the vehicle is legally required to provide safety belts;

(B) A first aid kit;

(C) A fire extinguisher;

(D) Roadside reflective or warning devices;

(E) A flashlight;

(F) Tire traction devices when appropriate;

(G) Disposable gloves; and

(H) All equipment necessary to transport clients using wheelchairs or stretchers if the subcontractor uses the vehicle for these modes of transport.

(2) The subcontractor shall follow a preventative maintenance schedule that incorporates at least all of the maintenance recommended by the vehicle manufacturer. The vehicle must be in good operating condition and shall include, but is not limited to:

(a) Side and rear view mirrors;

(b) A horn; and

(c) Working turn signals, headlights, taillights and windshield wipers.

(3) Brokerages shall require the subcontractors' drivers to receive training on their job duties and responsibilities, including:

(a) Understanding NEMT services in general, reporting forms, vehicle operation, requirements for fraud and abuse reporting and the geographic area in which subcontractors will provide service;

(b) Requiring the subcontractors' drivers to complete the National Safety Council Defensive Driving course or an equivalent course within six months of the date of hire and at least every three years thereafter;

(c) Requiring the subcontractors' drivers to complete Red Cross-approved First Aid, Cardiopulmonary Resuscitation and blood spill procedures courses or equivalent courses within six months of the date of hire and to maintain the certification as a condition of employment;

(d) Requiring the subcontractors' drivers to complete the Passenger Service and Safety course or an equivalent course within six months of the date of hire and at least every three years thereafter;

(e) Understanding established procedures for subcontractors and the subcontractors' drivers in the event that the client needs emergency care during the ride; and

(f) If providing ground or air ambulance services, verifying that the Authority has licensed the subcontractor to operate ground or air ambulance. If the subcontractor is located in a contiguous state and regularly provides rides to OHP eligible clients, the brokerage must ensure that both the Authority and the contiguous state have licensed the subcontractor.

(4) Brokerages shall require the following when hiring a subcontractor:

(a) The subcontractor's driver must have valid driver license. The license must be the class of license, with any required endorsements, that permits the subcontractor's driver to legally operate the vehicle for which they are hired to drive per ORS chapter 807 and OAR chapter 735, division 062, or the applicable statutes of other states; and

(b) The subcontractor's drivers must pass a criminal background check in accordance with ORS 181.534 and ORS 181.537 and OAR chapter 257, division 10, or if the brokerage is a mass transit district formed under ORS chapter 267, the subcontractor's drivers must pass a criminal background check in accordance with ORS 267.237 and the mass transit district's background check policies. The brokerage may request an exception to this requirement in writing to the Authority, but only the Authority may grant the exception. Approval of the exception is dependent upon when the crime occurred, the nature of the offense, and any other circumstances to ensure that the client is not at risk of harm from the subcontractor. If approved, the Authority shall document the approval within 30 days of the request.

(5) For authorized out-of-state NEMT services in which the subcontractor solely performs work in the other state and for which the brokerage has no oversight authority,

the brokerage is not responsible for requiring that the subcontractor's vehicle and the subcontractor's standards meet the requirements set forth in this rule.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065

410-136-3060 New Rule Insurance Requirements

(1) Brokerages must obtain and maintain general and automobile liability coverage for personal injury and death in accordance with ORS 30.271, Limitations on Liability of State for Personal Injury and Death.

(2) Brokerages must obtain and maintain general and automobile liability coverage for property damage and destruction in accordance with ORS 30.273, Limitations on Liability of Public Bodies for Property Damage or Destruction.

(3) The liability coverage required by sections (1) and (2) of this rule shall include the State of Oregon, Oregon Health Authority and its divisions, officers, employees and agents as additional insureds but only as related to the brokerages' NEMT services.

(4) In lieu of purchasing liability coverage under sections (1) and (2) of this rule, the Authority may authorize a brokerage to establish and maintain a Self-Insurance Reserve Fund. The following apply to requirements of the fund:

(a) The Authority shall establish the fund at $1,000,000 through the fixed rate for rides established in OAR 410-136-3200, Reimbursement and Accounting for all Modes of Transport;

(b) The fund shall comply with OMB Circular 87;

(c) If the brokerage subsequently terminates its enrollment with the state as a Medicaid provider, the brokerage shall refund the Authority the balance of any monies in the fund within two years from the termination of its enrollment or at the conclusion of any claim or litigation related to the brokerage's NEMT services for eligible clients;

(d) Once funded, the fund shall be maintained at an amount not less than $1,000,000 through the fixed rate for rides established in OAR 410-136-3200, Reimbursement and Accounting for all Modes of Transport;

(e) The Authority shall reconcile the fund amount during the annual cost settlement process pursuant to Oar 410-136-3200, Reimbursement and Accounting for all Modes of Transport, and shall increase or decrease the fixed rate for ride to maintain the $1,000,000 fund amount; and

(f) The brokerage shall maintain a separate account for the fund.

(5) Brokerages and their subcontractors that employ workers as defined in ORS 656.027 shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126 (2). Brokerages shall require each of their subcontractors to comply with this requirement.

(6) In lieu of purchasing workers' compensation insurance coverage as required by section (5), a brokerage may self-insure for all of its subject workers. The Authority shall not fund this reserve and shall only reimburse the brokerage for costs of self-insurance in the event of a claim arising from the brokerage's NEMT services to eligible clients.

(7) Brokerages and their subcontractors shall furnish proof of liability coverage and insurance to the Authority upon request.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065

410-136-3080 New Rule Out-of-State Transportation

(1) “Out-of-state transportation” means transportation to or from any location outside Oregon, with the exception of contiguous areas up to 75 miles outside the Oregon border.

(2) The brokerage shall arrange rides and pay for out-of-state transportation, as defined in section (1) of this rule, to and from an out-of-state OHP covered medical service when:

(a) The brokerage confirms that the Authority, the Prepaid Health Plan (PHP) or CCO authorized the out-of-state OHP covered medical service per OAR 410-120-1180, Medical Assistance Benefits: Out-of-State Services; and

(b) The client is eligible for transportation services per OAR 410-136-3020, General Requirements for NEMT.

(3) Brokerages shall not arrange or pay for:

(a) A client’s return from any foreign country to any location within the United States for the client to obtain medical care because the care is not available in the foreign country;

(b) A client’s return to Oregon from another state when the client was not in the other state to obtain authorized medical services or treatments.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065

410-136-3100 New Rule Attendants for Child Transports

(1) This rule applies to NEMT for children under 12 years of age who are eligible for NEMT services to and from OHP covered medical services. The rule also applies to children and young adults with special physical or developmental needs, regardless of age, hereafter referred to as “child” or “children.”

(2) Parents or legal guardians must provide an attendant to accompany the children while traveling to and from medical appointments except when:

(a) The driver is a DHS volunteer, DHS employee or an Authority employee;

(b) The child requires secured transport per OAR 410-136-3120, Secured Transports; or

(c) An ambulance subcontractor transports the child for NEMT services, and the brokerage reimburses the ambulance subcontractor at the ambulance transport rate.

(3) Attendants are required for NEMT ambulance transports when the brokerage uses an ambulance to provide wheelchair or stretcher car or van rides.

(4) DHS shall establish and administer written guidelines for children in the department’s custody, including written guidelines for volunteer drivers. If DHS’s requirements or administrative rules differ from this rule, DHS’s requirements or administrative rules take precedence.

(5) An attendant may be the mother, father, stepmother, stepfather, grandparent or legal guardian of the child. The attendant also may be any adult the parent or legal guardian authorizes to be an attendant. An attendant also may be a brother, sister, stepbrother or stepsister of the child, as long as the attendant is at least 18 years of age, and the parent or legal guardian authorizes it.

(6) Brokerages or their subcontractors may require the child’s parent or legal guardian to provide written authorization for an attendant other than themselves to accompany the child.

(7) Brokerages or their subcontractors shall not bill additional charges for a child’s attendant.

(8) The attendant must accompany the child from the pick-up location to the destination and on the return trip. The attendant must also remain with the child during their appointment. Another person shall not accompany the attendant unless the parent or legal guardian authorizes it or unless the other person is an eligible child traveling to the same location for a medical appointment.

(9) The parent, guardian or adult caregiver for the child shall provide and install child safety seats as required by state law. The subcontractor shall not transport a child if a parent or legal guardian fails to provide a child safety seat that complies with state law.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065

410-136-3120 New Rule Secured Transports

(1) “Secured transport” means NEMT services for the involuntary transport of clients who are in danger of harming themselves or others. Secured transports are allowable when:

(a) The brokerage verified that the subcontractor has met the requirements of the secured transport protocol pursuant to OAR 309-033-0200 through OAR 309-033-0970, and, therefore, the subcontractor is able to transport the client who is in crisis or at immediate risk of harming themselves or others due to mental or emotional problems or substance abuse; and

(b) The transport is to a Medicaid enrolled facility that the Authority recognizes as being able to treat the immediate medical or behavioral health care needs of the client in crisis.

(2) One additional attendant may accompany the client at no additional charge when medically appropriate, such as to administer medications, etc. in-route, or to satisfy legal requirements, including, but not limited to when a parent, legal guardian or escort is required during transport.

(3) The brokerage shall authorize transports to and from OHP covered medical services for an eligible client when the court orders the medical service with the following exceptions:

(a) The client is in the custody of or under the legal jurisdiction of any law enforcement agency; (b) The client is an inmate of a public institution as defined in OAR 461-135-0950, Eligibility for Inmates; or

(c) The Authority has suspended the client’s OHP eligibility pursuant to ORS 414.420 or ORS 414.424.

(4) The brokerage shall assume that a client returning to their place of residence is no longer in crisis or at immediate risk of harming themselves or others, and is, therefore, able to use non-secured transportation. In the event that a secured transport is medically appropriate to return a client to their place of residence, the brokerage shall obtain written documentation, signed by the treating medical professional, stating the circumstances that required secured transport. The brokerage shall retain the documentation and a copy of the order in their record for the Authority to review.

(5) The brokerage shall not approve or pay for secured medical transport provided to a person going to or from a court hearing or to or from a commitment hearing.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065

410-136-3140 New Rule Transports of Clients Changing Hospitals or Other Facilities

(1) Brokerages shall arrange and pay for transporting an eligible client who has had a change in condition, noted in the client's DHS care plan, resulting in a need for a new service setting with a lower or higher level of care. This includes clients who are changing levels of care between their community-based care settings or between institutional and community-based settings. The client's DHS worker must request the ride.

(2) Brokerages shall not arrange or pay for:

(a) The transport or return of an inpatient client from an admitting hospital to another hospital (or facility) for diagnostic or other short-term services when the patient will return to the admitting hospital within the first 24-hours of admission. The subcontractor shall bill the admitting hospital directly for these transports;

(b)The transport of a client receiving long-term care service in their home or residing in a long-term care facility for the sole purpose of shopping for another long-term care facility, even if the client is looking for a new facility to receive a lower or higher level of care;

(c) The transport of a client moving from one type of facility to a facility of the same type, such as from an adult foster home to another adult foster home; and

(d)The transport of a client who is relocating to another state, unless the transport is to receive an OHP covered medical service pursuant to ORS 410-136-3080, Out-of-State Transportation.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065

410-136-3160 New Rule Ground and Air Ambulance Transports

(1) Transporting a client via ambulance is required when a medical facility or provider states the client's medical condition requires the presence of a health care professional during the emergency or non-emergency transport. This includes neonatal transports.

(2) For NEMT services, the brokerage shall authorize the transport.

(3) Brokerages shall provide ambulance transports with a medical technician when:

(a) A client's medical condition requires a stretcher;

(b)The length of transport would require a personal care attendant; and

(c)The client does not have an attendant who can assist with personal care during the ride.

(4) Emergency ambulance transportation is required when a client's medical condition is an emergency pursuant to OAR 410-120-0000, Acronyms and Definitions. The ambulance must transport the client to the nearest appropriate facility able to meet the client's medical needs. Brokerages do not arrange emergency transportation.

(5) The following apply to air-ambulance NEMT services:

(a) The brokerage shall approve air-ambulance NEMT only when another mode of transportation would further jeopardize or compromise the client's medical condition due to:

(A) The length of time required to transport the client by ground-ambulance;

(B) Current road conditions preclude the use of ground transportation; or

(C) Ground-ambulance is not available.

(b) Notwithstanding section (4) (a), the brokerage may grant air-ambulance transportation if it determines the transportation is cost effective. The brokerage shall document how air-ambulance is more cost effective than ground transportation.

(c) The brokerage must obtain a written recommendation from the client's medical provider indicating medical appropriateness before authorizing air-ambulance transportation.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065

410-136-3180 New Rule Reimbursement for Ground and Air Ambulance Transports

(1) The following applies to how the Authority shall reimburse providers of NEMT ground and air ambulance services that brokerages arrange for eligible clients. This applies to clients receiving services through the fee-for-service delivery system, a PHP or a CCO.

(2) Brokerages shall submit documentation to the Authority stating the brokerage authorized the transportation. The documentation also shall inform the Authority to reimburse at the Authority's base rate or another amount the brokerage specifies. Ambulance providers shall bill the Authority for payment of authorized rides.

(3) If brokerage does not specify another amount, the Authority's reimbursement shall include:

(a) The base rate established in the Authority's fee schedule posted on the OHP Web page at http://www.oregon.gov/oha/healthplan/pages/data_pubs/feeschedule/main.aspx. The base rate for NEMT ground and air ambulances includes:

(A) Any procedures or services provided, all medications, non-reusable supplies or oxygen and all direct or indirect costs. "Indirect costs" include general operating costs, personnel costs, neonatal intensive care teams employed by the ambulance subcontractor, use of reusable equipment and any other miscellaneous medical items or special handling that may be required in the course of transport;

(B) The first ten miles for ground ambulance transports; and

(C) Mileage for air ambulance transports.

(b) A modified base rate for each additional client, according to OAR 410-136-3220, Brokerage Reimbursements to Subcontractors, if applicable;

(c) Payment for an extra attendant, if applicable; and

(d) Compensation for service or care provided at the scene when the client did not require transport, if applicable.

(4) Reimbursement outlined in section (3) also applies to the Authority's reimbursements to providers of emergency ground or air ambulance services for clients who receive services through the fee-for-service delivery system.

(5) A PHP is responsible for reimbursement to providers of emergency ground or air ambulance for clients who are PHP members.

(6) A CCO is responsible for reimbursement to providers of emergency ground or air ambulance for clients who are CCO enrollees.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065

410-136-3200 New Rule Reimbursement and Accounting for all Modes of Transports

(1) The following applies to the rate the Authority pays brokerages:

(a)The Authority shall calculate and pay a brokerage a fixed rate for rides based on the following formula: Direct costs plus indirect costs divided by the number of projected monthly rides. “Direct costs” are transportation costs plus administrative costs;

(b) The Authority shall notify the brokerages of their specific ride rates; and

(c) The Authority and the brokerages shall assess any needed modifications to this rate:

(A) Quarterly;

(B) When the Authority changes any program affecting eligibility or scope; or

(C) If other factors impact the cost of delivering service.

(2) Brokerages shall account for NEMT services separate from any other services the brokerage provides.

(3) The Authority shall reimburse brokerages after they submit claims data files to the Authority, using the standardized electronic billing format prescribed by the Authority.

(4) The Authority and brokerages shall conduct an annual cost settlement to determine any overpayment or underpayment for costs the brokerage incurred for NEMT services for eligible clients. The following applies to the cost settlement process:

(a) The Authority shall request cost settlement information from the brokerages 6 months after the end of the fiscal year. The request shall include a file detailing the brokerages claims, a template for the brokerages to submit their cost settlement information and instructions for completing the template;

(b) Brokerages shall submit the requested information, certified by a Certified Public Accountant, within 90 days of receiving the Authority’s request;

(c) The Authority shall verify the reported expenses and notify the brokerages in writing of the Authority’s determination;

(d) If the Authority’s determination results in an adjustment to the cost settlement information the brokerages submitted, the brokerages may request an appeal pursuant to OAR 410-120-1560 through 410-120-1700, pertaining to provider appeals.

(5) The Authority shall pay for services the brokerage authorized and provided in good faith, including mailing transit passes to clients. The Authority shall use the rate in effect on the day of the transport or the mailing date of the transit passes. “Good faith” means:

(a) The brokerage verified client eligibility on the date of service or the date of mailing the transit passes, using the Authority’s eligibility information; or

(b)The client eligibility information was inconsistent or not available, and the brokerage used the most recent client information available immediately before the time of service or mailing of transit passes.

(6) Each brokerage may establish a working capital reserve with funds the Authority provides. The following applies to any established working capital reserve:

(a) The working capital reserve shall represent 30 days of cash expenses for normal operating purposes. The Authority may base the reserve on a time other than 30 days if circumstances warrant the change;

(b) The Authority shall calculate the reserve amount as part of the annual cost settlement for the most recent past fiscal year;

(c) The Authority shall base the reserve amount on an average of six months of operating expenses that the brokerage reports in its monthly NEMT financial reports. However, the Authority may base the reserve amount on more or less than six months of expenses when a six-month average does not reflect an accurate accounting of expenses;

(d) Brokerages shall maintain a separate account for the reserve funds; and

(e) The Authority may require the brokerage to return any funds in excess of the amount the Authority calculated, or the Authority may decrease the ride rate to reduce the reserves. If the Authority requires the brokerage to return the excess funds, the brokerage shall do so within 45 days of receipt of the Authority notification.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065

410-136-3220 New Rule Brokerage Reimbursements to Subcontractors

(1) Brokerages shall reimburse their NEMT subcontractors for the most cost-effective route from point of origin to point of destination that most benefits the client's condition.

(2) Brokerages shall establish a base rate with its subcontractors. "Base rate" for all modes of transportation except ground and air ambulance means the rate the brokerage and its subcontractors agree on for each mode of transportation.

(4) If a subcontractor uses an ambulance as a stretcher car or van, the brokerage shall reimburse the subcontractor using the base rate for stretcher cars or vans.

(5) Notwithstanding section (4), brokerages shall pay ambulance subcontractors at the ambulance rate instead of the stretcher car or van rate when the transport exceeds two hours, necessitating a health care professional to care for the client during the ride.

(6) Brokerages shall not reimburse their subcontractors for waiting for clients to get to the vehicle or for assisting clients to get in or out of a vehicle.

(7) Brokerages may reimburse their subcontractors for waiting time:

(a) In special situations, such as when the subcontractor has to wait for a client who is using the subcontractor's gurney and cannot transfer to a gurney at a medical facility; or

(b) Because of a medical issue during the ride, such as:

(A) The client is nauseous or is vomiting after dialysis or chemotherapy; or

(B) The client needs to stop to get prescription medication or medical supplies related to the medical service.

(8) Brokerages shall reimburse their subcontractors at the base rate for ambulatory vehicles if the subcontractor provides a ride to an ambulatory client in a non-ambulatory vehicle.

(9) Brokerages may authorize a subcontractor to transport a non-ambulatory client in an ambulatory vehicle if the vehicle can accommodate and transport the client and if allowed by local ordinance. The brokerage shall reimburse its subcontractor at the non-ambulatory vehicle rate.

(10) The wheelchair base rate applies to the transport of a client with a reclining wheelchair; wheelchairs do not qualify as stretchers or gurneys.

(11) The following applies to reimbursement for deceased clients:

(a) If a client dies before the subcontractor arrives at the scene, the brokerage shall not reimburse its subcontractors; or

(b) If a client dies after the transport begins but before reaching the destination, the brokerage's payment is limited to the base rate for the mode of transportation and mileage. For ambulance transports, the payment also would include costs for an extra attendant, if applicable.

(11) Brokerages may authorize shared-ride transports of two or more clients at the same time when the shared-ride transports are allowable under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Brokerages shall reimburse subcontractors:

(a) At the full base rate for the first client and one-half the base rate for each additional client when all of these clients need the same mode of transportation, such as by wheelchair van; or

(b) At the full base rate for the client with the need for the highest mode of transportation and one-half the base rate of the appropriate mode of transportation for each additional client. This applies when the additional client needs a less costly mode of transportation than the first client. For example, the first client needs an ambulance, but the additional client needs a less costly wheelchair van.

(12) When transporting two or more clients at the same time, brokerages shall pay subcontractors only from the first pickup point to the final destination under the following circumstances:

(a) The clients have a single pick up point but different destinations;

(b) The clients have different pick up points but a single destination; or

(c) The clients have different pick up points and different destinations.

(13) Brokerages shall reimburse subcontractors only for actual miles traveled, regardless of the number of clients transported.

(14) A brokerage shall not reimburse a subcontractor if:

(a) A county or city ordinance prohibits any charging for services identified in the medical transportation services administrative rules; or

(b) The subcontractor does not charge the public for such services.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065

410-136-3240 New Rule Client Reimbursed Mileage, Meals and Lodging

(1) The brokerage must prior authorize a client's mileage, meals and lodging to an OHP covered medical service in order for the client to qualify for reimbursement. If the brokerage prior authorized the travel costs, a client may request reimbursement up to 30 days after the travel.

(2) The client must return any documentation the brokerage requires before receiving reimbursement. Documentation required shall include a receipt for lodging.

(3) The brokerage may hold reimbursements under the amount of $10 until the client's reimbursement reaches $10.

(4) Brokerages shall reimburse clients for meals when a client, with or without an attendant, travels a minimum of four hours round-trip out of their local area. The travel, however, must span the following meal times:

(a) For a breakfast allowance, the travel must begin before 6 am;

(b) For a lunch allowance, the travel must span the entire period from 11:30 am through 1:30 pm; and

(c) For a dinner allowance, the travel must end after 6:30 pm.

(5) Brokerages shall reimburse for meals at the Authority's allowable rate.

(6) Brokerages shall not reimburse clients for meals that a hospital or other medical facility provides.

(7) Brokerages shall reimburse clients for lodging when:

(a) A client would otherwise be required to begin travel before 5 am in order to reach a scheduled appointment;

(b) Travel from a scheduled appointment would end after 9 pm; or

(c) The client's health care provider documents a medical need.

(8) Brokerages shall reimburse for lodging at the Authority's allowable rate or the actual cost of the lodging, whichever is less.

(9) Brokerages shall reimburse for meals or lodging for only one attendant, which may be a parent, to accompany the client if medically necessary, but only if:

(a) The client is a minor child and unable to travel without an attendant;

(b) The client's attending physician provides a signed statement indicating the reason an attendant must travel with the client;

(c) The client is mentally or physically unable to reach his or her medical appointment without assistance; or

(d) The client is or would be unable to return home without assistance after the treatment or service.

(10) The brokerage shall not reimburse for the attendant's time or services.

(11) If a client’s health care provider admits the client for inpatient care, an attendant is no longer medically necessary because the facility provides all necessary services for the client. Therefore, the attendant is no longer eligible for lodging and travel expenses. The brokerage shall reimburse for meals and lodging for the attendant’s transportation home. However, the brokerage may pay for the attendant’s meals and lodging if it is more cost effective for the attendant to remain near the client to accompany the client on the return trip as allowed by section (12).

(12) Upon the client’s release from inpatient care, if the attendant is medically necessary based on one of the conditions or circumstances listed in section (9), the brokerage shall reimburse for the attendant to return to the inpatient facility to accompany the client on the return trip. This only applies if the brokerage prior authorizes the attendant’s travel.

(13) Brokerages shall not reimburse for mileage, meals and lodging for an attendant visiting an inpatient client, unless the physician provides a signed statement of the medical need. This exclusion includes, but is not limited to, parents of minors, breastfeeding mothers and spouses.

(14) The state shall recover overpayments made to a client. Overpayments occur when the brokerage paid the client:

(a) For mileage, meals and lodging, and another resource also paid the client;

(b) Directly to travel to medical appointments, and the client did not use the money for that purpose, did not attend the appointment or shared the ride with another client whom the brokerage also directly paid;

(c) For common carrier or public transportation tickets or passes, and the client sold or otherwise transferred the tickets or passes to another person.

(15) If a person or entity other than the client or the minor client’s parent or legal guardian provides the ride, the brokerage may reimburse the person or entity that provided the ride. However, the client or the minor client’s parent or legal guardian must approve in writing of the reimbursement.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065

410-136-3260 New Rule Modifications Based on Client Circumstances

(1) Brokerages may impose reasonable modifications on NEMT services when the client:

(a) Is threatening harm to the driver or others in the vehicle;

(b) Has a health condition that creates health or safety concerns to the driver or others in the vehicle;

(c) Has other behaviors or circumstances that place the driver or others in the vehicle at risk of harm;

(d) Frequently does not show up for scheduled rides;

(e) Frequently cancels the ride on the day of the scheduled ride time;

(f) Has behaviors that cause local medical providers or facilities to refuse to provide further services without imposing modifications; or

(g) Has special needs that require special accommodations.

(2) Reasonable modifications include, but are not limited to, requiring the client to:

(a) Use a specific transportation subcontractor;

(b) Travel with an attendant;

(c) Use public transportation where available;

(d) Drive themselves or locate someone to drive them and receive mileage reimbursement; or

(e) Confirm the ride with the brokerage on the day of or the day before the scheduled ride.

(3) Before requiring any modifications, the brokerage shall talk with the client about the reason for imposing a modification, explore modifications that are appropriate to the needs of the client and that address the health and safety concerns of the brokerages. The brokerage or client may include the client's worker, PHP or CCO in the discussion. The client may include other individuals in the discussion.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065

410-136-3280 New Rule Client Rights and Confidentiality

(1) Brokerages shall treat all information gathered on the client as privileged and confidential communications. The brokerage shall apply confidentiality policies to all requests for information from outside sources. Nothing prohibits the disclosure of information in summaries, statistical reports or other forms as long as the document does not identify particular individuals and cannot lead to the identification of individuals. Brokerages and any subcontractors may share information as necessary to serve the client effectively. The brokerage shall not divulge the information without the written consent of the client, the responsible parent of a minor child or the client's legal guardian. The use or disclosure of information is limited to persons directly connected to the administration of NEMT services.

(2) Brokerages or their subcontractors shall comply with OAR 407-014-0300 through OAR 407-014-0320 pertaining to access control if the Authority grants them access to any secure computer system or information asset.

(3) The brokerage shall not deny or allow subcontractors to deny any client NEMT services based on race, color, sex, sexual orientation, religion, national origin, creed, marital status, age, health status or the presence of any sensory, mental or physical disability.

(4) Brokerages must treat clients and require subcontractors to treat clients in accordance with OAR 410-120-1855, Client Rights and Responsibilities.

(5) The brokerages shall have educational materials available for clients on its NEMT services. The Authority must first approve the materials and document the approval in writing.

(6) As required by 42 CFR 431, a brokerage shall follow OAR 410-120-1860 and OAR 410-120-1865 pertaining to contested case hearings when it denies a ride, with the following exceptions:

(a) The brokerage must immediately provide a secondary review by another employee when the initial screener denies a ride; and

(b) The brokerage must mail a notice of action to a client denied a ride within 72 hours of denying a ride.

(7) Upon the Authority's request, brokerages shall provide documentation pertaining to discovery for or investigation of contested case hearings pursuant to OAR 410-120-1360.

(8) Brokerages shall provide documentation pertaining to discovery for or investigation of contested case hearings when the client, the responsible parent of a minor child or the client's legal guardian requests the documentation. The brokerage shall provide the

documentation to the client's legal representative upon written consent from the client, the responsible parent of a minor child or the client's legal guardian.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065

410-136-3300 New Rule Reports and Documentation

(1) Brokerages shall maintain documentation of rides denied and rides provided to clients. This documentation shall include, but is not limited, to:

(a) The name of the client and the person requesting the ride on behalf of the client, if applicable;

(b) The client's OHP medical care identification number;

(c) The date and time of the request for transportation;

(d) The mode of transport authorized for the client and a justification for authorizing a mode of transport that is not reasonably understandable;

(e) The location for picking-up the client and the destination;

(f) The medical reason for the appointment;

(g) The availability of other transportation resources and the justification for authorizing a ride when the client has other resources;

(h) The subcontractor assigned to give the ride and the date and time the brokerage notified the subcontractor of the assignment;

(i) The name of the employee who approved a ride; and

(j) In the case of a denial of a ride:

(A) The name of the employee who denied a ride;

(B) The name of the employee who performed the secondary review before denying the ride;

(C) The reason for the denial and the applicable Oregon administrative rule that supports the denial;

(D) The date on the notice of action the brokerage mailed to the client;

(E) Documentation on the brokerage’s review, resolution, or disposition of the matter, if applicable, including the reason for the decision and the date of the resolution or disposition; and

(F) Notations of oral and written communications with the client.

(2) The brokerage shall retain the documentation on denials of rides for three calendar years, even if the brokerage is no longer a Medicaid enrolled provider before the end of the three years. The Authority may request this information at any time during the three year retention period.

(3) The brokerage shall maintain billing files organized by subcontractor that justify the number of transports and with cross references to actual rides and specific clients.

(4) The brokerages shall report monthly on estimated revenue and expenses that affect the balance of the working capital reserve amount. The report must contain the following costs as they pertain to providing NEMT services:

(a) Sub-totals of administrative expenses, including:

(A) Salaries and wages of the brokerage's employees;

(B) Payroll related expenses for the brokerage's employees;

(C) Other employee related expenses, such as recruitment and advertising;

(D) Computer hardware and software purchased, leased or licensed;

(E) Office supplies such as stamps, paper or printing;

(F) Non-computer related equipment purchased, leased or licensed;

(G) Telephone;

(H) Administrative support and other indirect charges;

(I) Education and training;

(J) Building expenses such as leases, rents, security, janitorial services and repairs that retain the property's operating condition but do not add to the permanent value of the property;

(K) Subcontractor identification and drug testing, such as fingerprinting and drug analysis;

(L) Legal expense not related to the Authority, such as attorney fees; fines or penalties;

(M) Indirect expenses, such as accounting, human resources, risk management or insurance;

(N) Sub-contracts for operations or temporary employees;

(O) Required driver training, if applicable;

(P) The client satisfaction survey, if applicable;

(Q) Software maintenance, if applicable; and

(R) Details of other administrative expenses not specified above.

(b) The number and costs of the following:

(A) Stretcher car rides;

(B) Wheelchair rides;

(C) Ambulatory rides;

(D) Secured transports;

(E) Bus tickets;

(F) Bus passes;

(G) NEMT ambulance transports;

(H) Reimbursements to clients; and

(I) Commercial transports.

(c) The amount of credits to subcontractors.

(d) Information on the brokerage's working capital reserve, including:

(A) The Authority-calculated working capital reserve;

(B) The estimated working capital reserve as of the beginning of the fiscal year;

(C) The estimated working capital reserve as of this report; and

(D) The difference between sub-sections (B) and (C).

(5) The financial reports must show the number of rides that volunteer drivers provide.

(6) Brokerages must submit the financial report required in Section (4) of this rule within 45 days of the end of the reporting month.

(7) Brokerages shall submit a cost allocation plan that includes anticipated expenses, certified by the brokerage's Chief Financial Officer, to the Authority no later than April 1 of each year for the upcoming fiscal year.

(8) The Authority may request, and the brokerage shall provide, other reports or information not specified in Sections (1), (3), (4) and (6) of this rule.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065

410-136-3320 New Rule Audits

(1) The Authority, the Oregon Secretary of State Audits Division, the Oregon Department of Justice and the federal government may audit the brokerage's or its subcontractor's records at least annually. The audit shall include, but is not limited to, the following areas:

(a) Financial status;

(b) Performance and quality of the service;

(c) Efficiency and effectiveness of the program's operation; and

(d) The relationship between the funds provided by the Authority and the amounts expended by brokerages or billed by subcontractors and that the use of funds is reasonable and necessary to provide quality service.

(2) The Authority, the Oregon Secretary of State Audits Division, the Oregon Department of Justice, and the federal government may review the brokerage's or subcontractor's records whenever necessary to verify delivery of service, financial and operational status, and compliance with Oregon administrative rules or to investigate unresolved questions of fact.

(3) As specified by 42 CFR 455.17, brokerages and subcontractors shall report to the Authority any suspected fraud or abuse of NEMT services. If the suspected fraud or abuse is subcontractor-related, and the brokerage or the Authority determines the subcontractor has committed fraud, the brokerage shall immediately terminate its subcontract.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065

410-136-3340 New Rule Brokerage Service Areas

(1) Brokerages enrolled with the Authority shall arrange and pay for NEMT services to all eligible clients in the counties shown in Table 136-3340.

(2) OHP clients shall use only the brokerages available in their county of residence unless they have permission from their local brokerage to use another brokerage.

(3) Nothing in this rule precludes brokerages from coordinating to provide rides to clients in another brokerage if it would be more cost effective or provide better service for the client.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065

Table 136-3340

Brokerage	Counties served
Cascades West Council of Government/Cascades West Ride Line	Benton, Linn, Lincoln
Central Oregon Intergovernmental Council/Cascades East Ride Center	Crook, Deschutes, Jefferson, Malheur, Wallowa, Union, Baker, Harney, Grant
Lane Transit District/RideSource	Lane
Mid-Columbia Council of Governments/Mid-Columbia Transportation Network	Hood River, Wasco, Sherman, Gilliam, Morrow, Wheeler, Umatilla
Rogue Valley Transit District /TransLink	Coos, Curry, Josephine, Jackson, Douglas, Klamath, Lake
Salem Area Mass Transit District/TripLink	Marion, Polk, Yamhill
Sunset Empire Transit District/Northwest Ride Center	Clatsop, Tillamook, Columbia
Tri-County Metropolitan Transportation District of Oregon/Medical Transportation Program	Multnomah, Clackamas, Washington

410-136-3360 New Rule Discontinuation of Brokerage as Enrolled Provider

(1) A brokerage may discontinue being an enrolled provider for NEMT services only with notice to the Authority. The following establishes the requirements for notice:

(a) If the reason is for the brokerage's convenience:

(i) The effective date must be at least 90 days after the brokerage sends written notice; and (ii) the effective date must be on the first calendar date of the month;

(b) The brokerage must provide 45 days advance written notice if the brokerage does not obtain funding, appropriations and other expenditure authorizations from its governing body, federal, state or other sources sufficient to permit the brokerage to satisfy its requirements pursuant to these rules (OAR 410-136-3000 through OAR 410-136-3360);

(c) Immediately upon written notice if the Oregon Legislative Assembly, the federal government or a court interprets, modifies or changes Oregon statutes or federal laws, regulations or guidelines in such a way that the brokerage immediately has no authority to satisfy the requirements of these rules.

(2) The Authority may discontinue allowing a brokerage to provide NEMT services as an enrolled provider only with notice to the brokerage. The following establishes the requirements for notice:

(a) If the reason is for the Authority's convenience:

(i) The effective date must be at least 90 days after the Authority sends written notice; and (ii) the effective date must be on the first calendar date of a month.

(b) The Authority must provide 45 days advance written notice if the Authority does not obtain funding, appropriations and other expenditure authorizations from its governing body, federal, state or other sources sufficient to meet its payment obligations pursuant to OAR 410-136-3200, Reimbursement and Accounting for all Modes of Transportation.

(c) Immediately upon written notice if the Oregon Legislative Assembly, the federal government or a court interprets, modifies or changes Oregon statutes or federal laws, regulations or guidelines in such a way that the Authority immediately has no authority to provide NEMT services pursuant to these rules.

(d) Immediately upon written notice to the brokerage if the Oregon Legislative Assembly or Emergency Board reduces the Authority's expenditure authorization, resulting in the following:

(i) The Authority cannot meet its payment obligations pursuant to OAR 410-136-3200, Reimbursement and Accounting for all Modes of Transportation; and

(ii) The effective date for the reduction in expenditure authorization is less than 45 days from the date the Legislative Assembly or Emergency Board takes the action.

(e) Immediately upon written notice to the brokerage if a law or regulation requires a brokerage to have any license or certificate, and the license or certificate is denied, revoked, suspended, not renewed or changed in such a way that brokerage no longer meets requirements to deliver NEMT services. The Authority may only exercise this right with respect to the particular service impacted by the loss of the licensure or certification.

(f) Immediately upon written notice to the brokerage, if the Authority determines the brokerage any of its subcontractors have endangered or are endangering the health or safety of a client or others.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414