



HEALTH SYSTEMS DIVISION

Kate Brown, Governor

Oregon
Health
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October 14, 2019

By Registered Mail and Email

Maggie Bennington-Davis, MD, Interim CEO and Chief Medical Officer
Health Share of Oregon
2121 SW Broadway, #200
Portland, OR 97201

**NOTICE OF NONCOMPLIANCE, AND ORDER REQUIRING CORRECTIVE
ACTION RELATING TO NON-EMERGENT MEDICAL TRANSPORTATION
(NEMT)**

Dear Dr. Bennington-Davis:

Health Share of Oregon (HSO) is party to a Health Plan Services Contract with the Oregon Health Authority (OHA) for Coordinated Care Organization (CCO) services originally effective January 1, 2014, and now expiring December 31, 2019, Contract No. 143115 (the "Contract"). OHA, as the single-state Medicaid agency for Oregon, is authorized to monitor compliance with the requirements of the Contract by Exhibit D, Section 32 of the Contract.

AGENCY AUTHORITY

Each CCO must comply with all applicable federal and state laws and regulations, state plan requirements, and contract provisions applicable to its participation in the Oregon Health Plan and in the provision of services to Medicaid members. As the single state Medicaid agency for Oregon, OHA is responsible for monitoring CCOs to ensure their compliance with these requirements and to audit and verify the accuracy and appropriateness of payment, utilization of services, medical necessity, medical appropriateness, grievances, quality of care, and access to care.

In recognition of this oversight role, OHA has broad authority under the CCO Contract, and as the single state Medicaid agency to perform audits and request information as necessary to determine the CCO's compliance with the terms of the CCO Contract, as well as compliance with applicable state and federal laws. If OHA determines a CCO is not in compliance, among other remedies, OHA may impose a sanction including requiring contractor to develop and implement a time specific plan of correction, as defined in OAR 410-141-3000 (22), for the correction of identified areas of noncompliance pursuant to Exhibit D (34)(h) of the Contract.

As set forth in Exhibit D (33) of the Contract, conditions that may result in the imposition of a Sanction under this section may include when Contractor acts or fails to act as follows:

r. Fails to comply with a term or condition of this Contract, whether by default or breach of this Contract. Imposition of a sanction for default or breach of this Contract does not limit OHA's other available remedies.

EVALUATION AND FINDING OF NONCOMPLIANCE

Finding of Facts.

Over the last year, OHA has received a consistent number of complaints and concerns related to HSO's NEMT services. OHA monitors quarterly NEMT complaint rates submitted by CCOs. HSO's average NEMT complaint rate for the first two (2) quarters of 2019 is 268% higher than the average CCO NEMT complaint rate, with 5.28 complaints per 1000 members. The average quarterly NEMT complaint rate across all CCOs in the first six (6) months of 2019 is 1.97 complaints per 1000 members. The following is a list of general complaints and concerns raised by the HSO community:

- Transportation providers failing to pick up HSO members for scheduled appointments.
- Transportation providers failing to pick up HSO members after an appointment to return home.
- Transportation providers showing up late to pick up members for scheduled appointments. This results in members missing scheduled appointments and either members or providers paying out of pocket for rides. Furthermore, after several missed appointments the provider/clinic may likely dismiss the member.
- Transportation providers cancelling rides at the last minute. This results in members missing scheduled appointments and either members or providers paying out of pocket for rides. Furthermore, after several missed appointments the provider/clinic may likely dismiss the member.
- Dropping off or attempting to pick up members at the wrong locations. Reasons for this could include: brokerage giving drivers the wrong addresses; call center entering in wrong addresses when a ride is scheduled; provider/clinic calling in the wrong address.
- Call center wait times average 45 minutes. Long wait times when contacting the call center may cause members to no longer seek care after so many attempts to schedule a ride or call to find out why their ride did not show up or is late.
- Transportation providers not getting paid by GridWorks for rides.
- Transportation providers not being credentialed and not receiving training prior to providing rides to members.
- Inappropriate vehicle and equipment being dispatched, resulting in not having the right equipment (e.g. oxygen tanks) to meet members' needs.
- Lack of grievance and complaint response or resolution by HSO or GridWorks.

On June 28, 2019, OHA sent a letter to HSO that identified issues and member complaints related to NEMT services. On the same day, OHA and HSO met to discuss how HSO was working to resolve NEMT issues with its contractor, GridWorks. OHA followed up with a second letter on July 23, 2019, requesting information related to NEMT service delivery, including a list of questions to be answered and a template with data points to be submitted. On August 14, 2019 OHA received the answers to the questions raised in the July 23rd letter along with the data requested for the months of April through June. On August 14, 2019, OHA and HSO held a second meeting with OHA Director, Patrick Allen, and Medicaid Director, Lori Coyner, to discuss these issues and HSO's progress toward resolution, OHA subsequently requested weekly reporting of driver on-time performance. On August 26, 2019, HSO

initially responded that they would be unable to produce the requested data on a weekly basis but could provide it on a monthly basis. OHA responded that it would require weekly data. HSO has sent weekly data that includes:

- On time performance
- Total ridership by mode (stretcher, wheelchair ambulatory)
- Total call volume
- Call wait times and hang ups
- Call center service level
- Number of complaints and resolutions made to GridWorks

OHA received data for August by week on September 13, 2019 and has received weekly data since. OHA and HSO have been working together to define the weekly data and reporting.

OHA has determined that increased frequency of monitoring is necessary for resolution of these NEMT concerns. Additionally, OHA continues to work with HSO to improve the NEMT data quality and establish performance targets to work toward demonstrating improvement.

Conclusions of Law.

HSO is not compliant with the Contract and state law as follows:

- (1) HSO did not provide reliable non-emergent transportation services to covered appointments that Contractor is required to provide under law or under its Contract with OHA, to a member covered under the Contract (Exhibit B, Part 2 (4)(c), OAR 410-141-3435).
- (2) Access to care has been and continues to be disrupted.

ORDER

Based on the findings outlined above, OHA finds that HSO is not in compliance with state law and with the Contract as cited above. Therefore, pursuant to OAR 410-141-3259 and Exhibit D, Sections 33 through 36 of the Contract, in order to protect the health of HSO members receiving non-emergent medical transportation OHA hereby requires HSO to:

(1) Pursuant to Exhibit D (34)(h) of the Contract, develop and implement a plan (the “Corrective Action Plan”) that is acceptable to OHA for correcting the issues set forth in this Notice and Order. The Corrective Action Plan shall:

- i. Describe actions and activities designed to correct non-compliance with NEMT specifically addressing a turn-around plan to show continual monthly improvement toward performance improvement standards (see attached NEMT standards), gathering supplementary data to identify causes and trends, produce a plan for meeting the specific needs of high risk populations such as dialysis patients and patients receiving chemotherapy and interventions that are targeted to improve outcomes in the problem and maintain compliance in areas of non-compliance as set forth in this Notice and Order;
- ii. List data that will be submitted to OHA as evidence of remediation and compliance; and,
- iii. Be submitted to OHA within 14 business days from the date of this Notice and Order at the following address:

1. CCO.MCOCODeliverableReports@dhsoha.state.or.us
2. Lori.A.Coyner@dhsoha.state.or.us

For OHA to approve the plan, the plan should outline in detail how HSO will dedicate use of a third-party contractor or internal organizational resources to remediate the issues described in this notice and provide evidence and assurance of how HSO will develop, implement and provide oversight of the plan.

(2) Submit weekly reports to OHA of all transportation services received by HSO members. These reports will be delivered each Monday by 5pm and contain data from the week prior. This includes transportation that Gridworks dispatches and transportation that large fleets dispatch. See attached for the format and data elements that will be submitted in weekly reports. A monthly summary report will be submitted five (5) working days after the end of the month and will include all data from all providers.

The first weekly report shall be submitted no later than October 21, 2019, and weekly reporting shall continue for a period of at least six (6) months and until such time as HSO is notified by OHA weekly reporting is no longer required. The reports shall be sent to the following addresses:

1. CCO.MCOCODeliverableReports@dhsoha.state.or.us
2. Lori.A.Coyner@dhsoha.state.or.us

This sanction is not considered an “intermediate sanction” for purposes of 42 CFR 438.702 and 438.710. OHA reserves the right to exercise additional remedies available to it under the Contract or as provided by law based on the violations set forth in this Notice and Order.

If HSO’s response to the requirements set forth above is deemed inadequate, or OHA determines that there are continued violations of the Contract or violation of the Corrective Action Plan and there is substantial risk to members’ health, OHA may impose additional sanctions pursuant to Exhibit D, Sections 33 through 36, up to and including termination of the Contract.

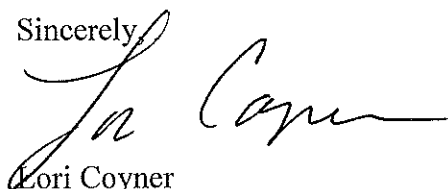
APPEAL RIGHTS

If HSO believes it has not violated the provisions set forth as stated above and has information relevant to its compliance that it believes OHA should consider and wishes to appeal this Notice of Noncompliance and Order, HSO has the right to file a request for Administrative Review with the Director of OHA in writing within 30 days of issuance of this notice pursuant to Exhibit D(35) and OAR 410-141-3259 (7). The request for Administrative Review shall be sent to:

Patrick Allen
Director
Oregon Health Authority
500 Summer St. NE, E-20
Salem, OR 97301
Patrick.Allen@dhsoha.state.or.us

Dated this 14th day of October 2019.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lori Coyner".

Lori Coyner
Medicaid Director
Health Systems Division
Oregon Health Authority


CC: Rachel Arnold, JD, MHP, Contracting Director
Patrick Allen, OHA Director
Dawn Jagger, OHA Chief of Staff
Margie Stanton, Health Systems Division Director
Cheryl Henning, CCO Contract Administrator

ATTACHMENT: NEMT Transportation Standards

Driver Metrics	Definitions	Standards
*On-time performance	On time performance is measured as the percentage of trips that are picked up within a range of plus or minus 15 minutes of the agreed pickup time. The agreed pickup time is defined as the time given for Member pickup in the trip manifest.	90 percent all rides will be picked up within the on time performance window.
*Provider No-Shows	A Provider no-show is a verifiable complaint from a Member, caregiver, facility staff, or other person involved in scheduling a Members' ride stating that the transportation Provider failed to arrive for the ride. A ride that is plus or minus 30 minutes before or after the scheduled pickup time will be considered a provider no-show.	Provider no-shows comprise less than 10 percent of all Provider trips.

**taken from HCO Transportation Services Agreement template*

Call Center Metrics	Definitions	Standards
Abandonment	Abandonment is measured as the percentage of time a member initiates a call and disconnects the call before a call center representative answers the call.	Abandoned call account for less than 10 percent of total calls received.
Wait times	Wait time is measured as the number of minutes a members' call is answered by a call center representative.	90 percent of all calls are answered in under 5 minutes

HSO NEMT Weekly Data		Month of October							
Year: October 2019	Week ending 10/4	Week ending 10/11	Week ending 10/18	Week ending 10/25	Week ending 10/4	Week ending 10/11	Week ending 10/18	Week ending 10/25	
UNDUPLICATED CLIENT COUNT, defined as total number of individuals receiving ride s					TOTAL SERVICE COUNT, defined as total number of distinct services provided				
Vehicle transport via stretcher					Vehicle transport via stretcher				
Vehicle transport via wheelchair					Vehicle transport via wheelchair				
Vehicle transport via Ambulatory					Ambulatory				
Vehicle transport via secured					Vehicle transport via secured				
Bus Tickets					Bus Tickets				
Bus Passes					Bus Passes				
Total number of transport clients (excluding reimbursements and bus tickets or passes) provided by NEMT contracted providers					Total number of transport services (excluding reimbursements and bus tickets or passes) provided by NEMT contracted providers				
TOTAL									
	Week ending 10/4	Week ending 10/11	Week ending 10/18	Week ending 10/25		Week ending 10/4	Week ending 10/11	Week ending 10/18	Week ending 10/25
SERVICE DELIVERY METRICS for vehicle transport					NEMT CALL CENTER METRICS				
					Incoming calls for period				
Driver no-show					Outgoing calls for period				
					Call volume, during regular business hours and after hours				
					Call wait times, including the average wait time				
Driver cancelations < 24 hour prior					Calls answered				
Same day rescheduled rides					Call resolution				

On time rides (as measured by pick-up time of within 20 minutes of schedule pick-up time)					Types of calls	inbound outbound abandon	inbound outbound abandon	inbound outbound abandon	
Late rides (as measured by pick-up time of more than 20 minutes after schedule pick-up time)					Percentage of call hang-ups				
Rides scheduled									
Rides provided									
TOTAL									
Number of <i>member</i> complaints made to Gridworks by type of complaint	Please see [Grievance Letter Information]				Number of complaint resolution letters sent for <i>member</i> complaints made to Gridworks*				
A.b									
A.l									
IP.a									
IP.b									
IP.c									
					* For those not replied to in writing, response and reason for no response in writing * How many of these complaints were replied to within contractual standards; for not replied to in writing within contractual standards, reasons and explanations for each				

On Time Performance

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* Still working to compile as process is manual