



## PERMANENT ADMINISTRATIVE ORDER

### DMAP 50-2023

CHAPTER 410

OREGON HEALTH AUTHORITY

HEALTH SYSTEMS DIVISION: MEDICAL ASSISTANCE PROGRAMS

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#### RULES:

410-136-3372, 410-136-3373, 410-136-3374

ADOPT: 410-136-3372

NOTICE FILED DATE: 05/09/2023

RULE SUMMARY: This is general requirements and definitions for the Emergency Medical Service Transport (EMST) Private Provider Program. This rule lists the general requirements and definitions. The EMST private provider program is a program that initiates a quality assurance fee on private ambulance providers and is matched with federal funds for reimbursement.

#### CHANGES TO RULE:

#### 410-136-3372

General Requirements for Ground Emergency Medical Transportation Emergency Medical Services Transport Private Provider Program

(1) The Ground Emergency Medical Transportation (GEMT) Emergency Medical Services Transport (EMST) private provider program makes supplemental payments to eligible GEMT EMST private providers who furnish qualifying emergency ambulance services to Oregon Health Authority (Authority) Medicaid recipients:¶

(a) The supplemental payment is for an add-on reimbursement fee to the base rates for eligible emergency medical transportation services. The supplemental payment is an add on to the base rates for eligible emergency medical transportation services, excludes Emergency Medical Services (EMS) air transports. The calculation is based on the gross receipts reported on the Centers for Medicare and Medicaid Services (CMS) approved data request template:¶

(b) The Authority makes supplemental payments only up to the amount calculated by the gross receipts. Total reimbursements from Medicaid including the supplemental payment may not exceed one hundred percent of actual costs:¶

(c) The supplemental payment shall cover GEMT EMST private providers and shall be applied in lump sum payment at least annually to eligible providers using the Healthcare Common Procedure Coding System (HCPCS) emergency transport codes. OHA will apply the supplemental payment only to GEMT EMST private provider services rendered to FFS Medicaid members by eligible GEMT EMST Private Providers on or after April 1, 2023:¶

(d) The supplemental payments shall be made at least annually:¶

(e) The base rates for GEMT EMST private providers shall not change with this amendment to Oregon's

Medicaid's State Plan that authorizes federal participation in this program.¶

(2) Definitions:¶

(a) "Authority" means the Oregon Health Authority;¶

(b) "Advanced Life Support" means special services designed to provide definitive prehospital emergency medical care, including but not limited to, cardiopulmonary resuscitation, cardiac monitoring, cardiac defibrillation, advanced airway management, intravenous therapy, administration with drugs and other medicinal preparations, and other specified techniques and procedures;¶

(c) "Basic Life Support" means emergency first aid and cardiopulmonary resuscitation procedures to maintain life without invasive techniques;¶

(d) "Eligible Emergency Medical Services Transport Private Provider" means an EMS private provider that meets all the eligibility requirements described in (Section 2e) below. A nonfederal or nonpublic entity that: ¶

(A) Employs individuals who are licensed by the Authority under ORS chapter 682 to provide emergency medical services; and ¶

(B) Contracts with a local government pursuant to a plan described in ORS 682.062.¶

(e) "Emergency Medical Services" means the act of transporting an individual by ground from any point of origin to the nearest medical facility capable of meeting the emergency medical needs of the patient, as well as the advanced, limited-advanced, and basic life support services provided to an individual by Eligible Emergency Medical Services Provider before or during the act of transportation.¶

(A) This includes to assess, treat, and stabilize the individual's medical condition; or¶

(B) Prepare and transport the individual to a medical facility.¶

(f) "Emergency Medical Services Transport" means an emergency medical services provider's evaluation of an individual experiencing a medical emergency and the transportation of the individual to the nearest medical facility capable of meeting the needs of the individual. For the purposes of this state plan, EMS air transports are excluded;¶

(g) "Emergency Medical Services Fund" is a fund established in the state treasury, separate and distinct from the General Fund. The Emergency Medical Services Fund consist of moneys collected by the Authority as a quality assurance fee;¶

(h) "Federal Financial Participation (FFP)" means the portion of medical assistance expenditures for emergency medical services that are paid or reimbursed by the Centers for Medicare and Medicaid Services in accordance with the State Plan for medical assistance. Clients under Title XIX are eligible for FFP;¶

(i) "Gross Receipts" means gross payments received as patient care revenue for emergency medical services transports, determined on a cash basis of accounting. Gross receipts do not include Medicaid Supplemental Reimbursement pursuant to Attachment 4.19-B, pages 31-39 of Oregon's Medicaid State Plan;¶

(j) "Local Government" means all cities, counties and local service districts located in this state, and all administrative subdivisions of those cities, counties and local service districts as defined in ORS 174.116;¶

(k) "Limited Advanced Life Support" means special services to provide prehospital emergency medical care limited to techniques and procedures that exceed basic life support but are less than advanced life support services;¶

(l) "Treatment in Place" means EMT services (basic, limited-advanced, and advanced life support services) provided by a Medicaid-enrolled EMS professional to an individual who is released on the scene without transportation by ambulance to a medical facility;¶

(m) "Usual Charge" means the lesser of the following unless prohibited by federal statute or regulation:¶

(A) The providers charge per unit of service for the majority of non-medical assistance users of the same service based on the preceding months charges;¶

(B) The providers lowest charge per unit of service on the same date that is advertised, quoted, or posted. The lesser of these applies regardless of the payment source or means of payment;¶

(C) Where the provider has established a written sliding fee scale based upon income for individuals and families with income equal to or less than 200 percent of the federal poverty level, the fees paid by these individuals and families are not considered in determining the usual charge. Any amounts charged to third party resources are to be considered.¶

(3) GEMT EMST Private Provider Eligibility Requirements. To be eligible for the supplemental payment, GEMT EMST private providers must meet all the following requirements:¶

(a) Be enrolled as an Oregon Health Plan Medicaid provider; ¶

(b) Provide ground emergency medical transport services to Medicaid recipients; ¶

(c) The organization is not a publicly owned or operated, and not participating in the GEMT supplemental program.¶

(4) Enhanced Reimbursement Methodology:¶

(a) A uniform supplemental payment rate per emergency transport shall be determined at least annually and shall not exceed one hundred percent (100%) of the difference between Medicaid payments otherwise made to each GEMT EMST private provider for EMS services (base rates) and the usual charge for the service; ¶

(b) Medicaid base rate to the GEMT EMST private providers for providing EMS services are derived from the ambulance FFS fee schedule established for reimbursements payable by the Medicaid program by procedure code:¶

(A) The primary source of paid claims data, managed care encounter data, and other Medicaid reimbursements is the Oregon Medicaid Management Information System (MMIS);¶

(B) The number of paid Medicaid EMS transports is derived from and supported by the MMIS reports and the data from the Data Request Report for services during the applicable 12 month period. ¶

(c) The ambulance add-on payments shall not exceed the funding collected by OHA as a quality assurance fee specified in OAR 410-136-3373 in the Emergency Medical Services Fund established in ORS 413.234.

Reimbursement may not exceed the costs for the emergency medical service transport, less the amount of reimbursement that the emergency medical services provider is eligible to receive from all public and private sources;¶

(d) Supplemental payments for each GEMT EMST private provider shall be calculated for each provider at least annually;¶

(A) By multiplying the uniform add-on rate by the provider's volume of Medicaid transports billed with Healthcare Common Procedure Coding System (HCPCS) codes A0429 BLS Emergency, A0427 ALS Emergency (Level 1); and ¶

(B) A0998 Ambulance Treatment in place and paid at least annually as determined through the Medicaid Management Information System. ¶

(e) GEMT EMST private providers not licensed within the State of Oregon shall not receive the enhanced supplemental payment. ¶

(5) Eligible GEMT EMST Private Provider Reporting Requirements:¶

(a) Submit CMS approved data request template to the Authority; ¶

(b) Provide any supporting documentation to serve as evidence supporting information on the data request template, if specifically requested by the Authority. Any supporting documentation provided to the Authority is protected and not subjected to a public records release;¶

(c) Keep, maintain, and have readily retrievable such records to fully disclose reimbursements amounts that the eligible GEMT EMST private provider is entitled to, and any other records required by CMS for seven years.¶

(6) Agency Responsibilities:¶

(a) The Authority shall submit any necessary materials to the federal government to provide assurances that all gross receipts are allowable under federal law;¶

(b) The Authority shall complete an annual audit and reconciliation process within a nine-month period.

Statutory/Other Authority: ORS 413.234

Statutes/Other Implemented: ORS 413.234

RULE SUMMARY: This is general requirements and definitions for the Emergency Medical Service Transport (EMST) Private Provider Program. This rule lists the general requirements and definitions. The EMST private provider program is a program that initiates a quality assurance fee on private ambulance providers and is matched with federal funds for reimbursement.

CHANGES TO RULE:

410-136-3373

Ground Emergency Medical Transportation - Emergency Medical Services Transport Private Provider Program - Quality Assurance Fee Requirements and Qualifications

(1) Quality Assurance Fee (QAF) assessment for the Ground Emergency Medical Transportation (GEMT) Emergency Medical Services Transport (EMST) private provider program:¶¶

(a) The amount of the QAF is assessed at least annually; ¶¶

(b) The amount of the QAF is five percent (5%) of the gross receipts for the 12-month period for the calendar year. The amount of the QAF collected in calendar year 2022 or until the Coordinated Care Organizations (CCO) portion of the program is established will be less than the 5% to only account for the Fee for Service portion of the total transports. Any projections must be based on the data reported in the data request template;¶¶

(c) The eligible GEMT EMST private provider shall file the data request template form approved by the Authority on or before the 45th day following the term in which the assessment is due.¶¶

(A) The QAF payment shall be paid at the same time required for filing the data request template form. ¶¶

(B) The GEMT EMST private provider shall provide all information required on the data request template form when due. ¶¶

(C) Failure to file or pay when due shall be a delinquency;¶¶

(d) GEMT EMST private provider shall report the data in the data request template form five business days after the date upon which the report is due. The Authority shall notify qualified providers not less than thirty days prior to the due date. After sending written notice to GEMT EMST private provider, the Authority may impose a penalty of \$100 per day against GEMTEMST private provider for every day that the report is overdue. Any funds resulting from the penalty imposed under this section shall be deposited in the General Fund to be available for general governmental purposes; and¶¶

(e) All QAFs and interest collected shall be deposited into the Emergency Medical Services Fund established.¶¶

(2) QAF Penalties, Interest, and Fees:¶¶

(a) The Authority has the right to assess interest on QAF's not paid by the due date at ten percent (10%), beginning on the day after the date the payment was due;¶¶

(b) The Authority has the right to assess a penalty equal to the interest charged under paragraph (a) of this subsection for each month for which the payment is more than sixty days overdue;¶¶

(c) The Authority shall deduct the amount of any unpaid fee, interest or penalty assessed under this section from any add on amount owed to the GEMT EMST private provider until the full amount of the fee, interest or penalty is recovered.¶¶

(A) The Authority may not make a deduction pursuant to this paragraph until after the Authority gives the GEMT EMST private provider written notification;¶¶

(B) The Authority may permit the amount owed to be deducted over a period of time that takes into account the financial condition of the GEMT EMST private provider.¶¶

(d) The Authority may waive a portion of or all interest or penalties, or both, assessed under this section if the Authority determines that the imposition of the full amount of the QAF in accordance with the due dates established under this section will impose an undue financial hardship on the GEMT EMST private provider. The waiver must be conditioned on the GEMT EMST private provider's agreement to pay the QAF on an alternative schedule developed by the Authority;¶¶

(e) In the event of a merger, acquisition or similar transaction involving the GEMTEMST private provider that has outstanding QAFs, interest or penalties due, the successor GEMT EMST private provider is responsible for paying to the Authority the full amount of outstanding QAFs, interest and penalties that are due on the effective date of the merger, acquisition or transaction.¶¶

(3) Data Request Template Form:¶¶

(a) The Authority shall approve the data request template form for an eligible GEMT EMST private provider to report the data necessary to administer the QAF, including information about the portion of funds that the GEMT EMST private provider used to increase wages and benefits for employees, and may require a certification by each

GEMT EMST private provider under penalty of perjury of the truth of the data reported under this section;¶  
(b) The Authority requires GEMT EMST private provider to report the number of emergency medical services transports it provided in each 12-month period, by insurance payer type;¶  
(c) Requires GEMT EMST private provider to report to the Authority its gross receipts for each 12-month period; and¶  
(d) Requires GEMT EMST private provider to report to the Authority the provider's costs for GEMT emergency medical service transports.  
Statutory/Other Authority: ORS 413.234  
Statutes/Other Implemented: ORS 413.234

RULE SUMMARY: This is the rule for the quality assurance fee (QAF) portion of the EMST private provider program. It describes how the QAF will be assessed and enforced.

Rule Title and Text: Text can also be submitted in a separate

CHANGES TO RULE:

410-136-3374

Ground Emergency Medical Transportation - Emergency Medical Services Transportation Private Provider Program - Coordinated Care Organizations Requirements and Payment Processing

(1) Definitions:

(a) "Coordinated Care Organization" has the meaning defined in OAR 410-141-3500;

(b) "Eligible Emergency Medical Services Provider" means an EMS provider that meets all the eligibility requirements described in (section B) below. A nonfederal or nonpublic entity that:

(A) Employs individuals who are licensed by the Oregon Health Authority under ORS chapter 682 to provide emergency medical services; and

(B) Contracts with a local government pursuant to a plan described in ORS 682.062.

(c) "Emergency Medical Services" means the act of transporting an individual by ground from any point of origin to the nearest medical facility capable of meeting the emergency medical needs of the individual, as well as provide advanced, limited-advanced, and basic life support services provided by Eligible Emergency Medical Services Provider before or during the act of transportation. This includes to assess, treat, and stabilize the individual's medical condition; or prepare and transport the individual to a medical facility;

(d) "Emergency Medical Services Transport" means an emergency medical services provider's evaluation of an individual experiencing a medical emergency and the transportation of the individual to the nearest medical facility capable of meeting the needs of the individual. For the purposes of this state plan, EMS air transports are excluded;

(e) "Managed Care Entity" has the meaning defined in OAR 410-141-3500;

(h) "Supplemental Payment" means a payment amount set by the Authority for each approved procedure code to supplement allowable costs for EMST services;

(i) "§438.6(c) Preprint" means a 42 CFR §438.6(c) Preprint approved by U.S. Department of Health and Human Services CMS for Qualified Directed Payments to GEMT Providers for GEMT Services rendered during the applicable CCO contract rating period.

(2) GEMT EMST Private Provider Eligibility Requirements. To be eligible for supplemental payments, GEMT EMST private providers shall meet the following requirements:

(a) Be enrolled as an Oregon Health Plan Medicaid provider;

(b) Provide ground emergency medical transport services to Medicaid recipients;

(c) The organization is not a publicly owned or operated, and/or not participating in the GEMT supplemental program;

(d) Be a participating provider having a contractual agreement with a CCO on the date of GEMT EMST services; and

(e) Have an agreement in place with the Oregon Health Authority (Authority) for the approved service period to allow for transfer of funds between participating GEMT EMST private provider and the Authority to supplement the allowable costs of providing qualifying emergency medical services to CCO members.

(3) Supplemental Payment Process:

(a) GEMTEMST private providers may participate in the GEMT EMST private provider program described in this rule if the GEMT EMST provider is a participating provider in accordance with OAR 410-141-3500 on the date of service during the approved service period. OHA will apply the supplemental payment only to GEMT EMST private provider services rendered to CCO Medicaid members by eligible GEMT EMST Private Providers on or after January 1, 2024;

(b) The GEMT EMST Private Provider Program is for supplemental payments made by the Authority to CCOs for GEMT EMST private providers' qualifying services when rendered by GEMT EMST private providers for the approved service period;

(c) In accordance with 42 CFR §438.6(c)(2)(i)(A), the supplemental payments are based on the federal match of the GEMT EMST private providers Quality Assurance Fee (QAF) defined in OAR 410-136-3373;

(d) The Authority shall pay any federal financial participation received from CMS, for qualifying GEMT EMST services, to the CCO;

(e) The CCO shall increase, by the same amount, the amount of reimbursement paid to the appropriate GEMT

EMST private provider;¶

(f) The non-federal share portion of the supplemental payment is contributed by GEMT EMST private providers only;¶

(g) The GEMT EMST private provider shall agree to pay a fee to reimburse the Authority for the costs of administering the program;¶

(h) The Authority may adjust the amount of add on payments based on the costs to administer the program or any penalties or interest owed.¶

(4) Reporting and Billing Processes:¶

(a) The Authority shall provide the CCO with the calculation of the federal match determined by the Data Request Template described in OAR 410-136-3373;¶

(b) Payment by the CCO to participating providers for qualifying GEMT EMST services shall be at least annually.¶

(5) Quality Measurement:¶

(a) In accordance with 42 CFR §438.6(c)(2)(i)(C), this payment arrangement must advance at least one of the goals and objectives in Oregon's Medicaid quality strategy required per 42 CFR §438.340; and the Authority shall review progress on the advancement of the state's goal(s) and objective(s) in the quality strategy identified in this section;¶

(b) GEMT EMST private providers shall submit the quality measurement data specified in the §438.6(c) Preprint.¶

(6) Authority Responsibilities:¶

(a) The Authority shall apply for program authorization through a §438.6(c) Preprint for each calendar year;¶

(b) The Authority shall make a supplemental payment only if the GEMT EMST private provider meets criteria established by the Authority for the GEMT EMST CCO supplemental payment program in accordance with applicable federal requirements approved by CMS for the applicable program year;¶

(c) The Authority shall make a supplemental payment consistent with §438.6(c) Preprint approved with CMS for qualified transports described in OAR 410-136-3372;¶

(d) Upon receipt of an acceptable funds transfer from GEMT EMST private provider, the Authority shall verify data received and draw the federal funds in an amount determined to match the state portion.

Statutory/Other Authority: ORS 413.234

Statutes/Other Implemented: ORS 413.234