

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 26-0680.01 Ken Fowler x2372

HOUSE BILL 26-1328

HOUSE SPONSORSHIP

Stewart K. and Winter T.,

SENATE SPONSORSHIP

Mullica and Kirkmeyer,

House Committees
Health & Human Services

Senate Committees

A BILL FOR AN ACT

101 CONCERNING NONEMERGENCY MEDICAL TRANSPORTATION FOR
102 MEDICAID MEMBERS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill creates the transportation community advisory board (TCAB) within the department of health care policy and financing (state department) and requires the state department to collaborate with the TCAB prior to establishing rules and processes for the safety and oversight of nonmedical transportation services and nonemergency medical transportation (NEMT) services. The bill states which rules for

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

NEMT the state department, in collaboration with the TCAB, must adopt.

The bill establishes how a transportation broker (broker) must roll out their implementation and requires the broker to provide all transportation providers (providers) with software, a communication toolkit, training, and technical assistance to facilitate NEMT services. The broker may require medicaid members (members) to book transportation services more than 2 days before their requested transportation date. The bill requires providers to accommodate member requests for preferred or alternate drivers when operationally feasible.

The bill requires the broker, and, if there is no broker, the transportation providers to verify that individuals using the transportation services are eligible members during the scheduling of transportation services. The bill prohibits the broker from operating, owning, or controlling a provider in Colorado. The bill requires providers to provide their trip assignment rules and procedures to the state department for approval and for publication on the state department's website.

The bill prohibits the state department from denying payment of services to transportation providers solely because the broker or state department determines that a member's eligibility or trip information was inaccurate. The bill requires the state department to annually audit brokers and a random group of providers and to make the audit reports publicly available.

The bill requires the state department to categorize all NEMT expenditures as medical services and make changes to the NEMT program as necessary to obtain medical services federal match rates for NEMT services. The bill also eliminates the requirement that the state department provide transportation services as an administrative cost.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 25.5-1-801, **amend**
3 the introductory portion, (1), (3), and (4); and **add** (6) and (7) as follows:

4 **25.5-1-801. Definitions.**

5 As used in this ~~section~~ PART 8, unless the context otherwise
6 requires:

7 (1) "Nonemergency medical transportation" OR "NEMT" means
8 transportation to or from medically necessary nonemergency treatment.

9 (3) "Transportation broker" means an entity ~~designated by~~
10 CONTRACTED WITH the department of health care policy and financing to

1 administer nonemergency medical transportation for medicaid members.

2 (4) "Transportation provider" means an individual or business
3 entity, other than a transportation broker OR TRANSPORTATION NETWORK
4 COMPANY AS DEFINED IN SECTION 40-10.1-602, that:

- 5 (a) Provides transportation services; or
- 6 (b) Arranges the facilitation of transportation services by an
7 individual.

8 (6) "TRANSPORTATION COMMUNITY ADVISORY BOARD" OR
9 "BOARD" MEANS THE TRANSPORTATION COMMUNITY ADVISORY BOARD
10 DESCRIBED IN SECTION 25.5-1-802 (4).

11 (7) "TRIP CAPS" MEANS NUMERICAL LIMITS ON THE NUMBER OF
12 TRIPS A TRANSPORTATION PROVIDER IS ASSIGNED AND MAY ACCEPT
13 WITHIN A SPECIFIED PERIOD OF TIME THAT ARE NOT BASED ON
14 TRANSPORTATION PROVIDER CAPACITY, PERFORMANCE, SAFETY, OR
15 COMPLIANCE CONSIDERATIONS.

16 **SECTION 2.** In Colorado Revised Statutes, **amend** 25.5-1-802
17 as follows:

18 **25.5-1-802. Medicaid transportation services - transportation**
19 **community advisory board - safety and oversight - rules.**

20 (1) The state department shall collaborate with ~~stakeholders,~~
21 ~~including, but not limited to, disability and consumer advocates, PACE~~
22 ~~providers operating pursuant to section 25.5-5-412, transportation~~
23 ~~brokers, and transportation providers,~~ THE TRANSPORTATION COMMUNITY
24 ADVISORY BOARD to establish rules and processes for the safety and
25 oversight of nonmedical transportation services and nonemergency
26 medical transportation services provided to medicaid members pursuant
27 to articles 4 to 6 of this title 25.5. ~~The rules and processes must:~~

1 (a) Ensure the safety of passengers;
2 (b) Protect passenger access to transportation services; and
3 (c) Establish driver and vehicle requirements that minimize
4 financial and administrative burdens for transportation providers, direct
5 support professionals as defined in section 25.5-6-406, long-term care
6 direct care workers, independent contractors, and employees providing
7 transportation services.

8 (2) To the extent possible, the state department shall use existing
9 oversight procedures to ensure compliance with the requirements as
10 described in subsection (1) of this section.

11 (3) If a provider of transportation services already complies with
12 transportation safety standards established by another state department
13 which meet or exceed the rules and processes established pursuant to
14 subsection (1) of this section, demonstrating such compliance to the state
15 department is sufficient to verify compliance with the requirements of this
16 section.

17 (4) THE STATE DEPARTMENT SHALL ESTABLISH THE
18 TRANSPORTATION COMMUNITY ADVISORY BOARD. THE BOARD
19 MEMBERSHIP MUST INCLUDE:

20 (a) MEDICAID MEMBERS FROM BOTH RURAL AND URBAN AREAS
21 WHO UTILIZE NEMT SERVICES;

22 (b) BEHAVIORAL HEALTH, PRIMARY CARE, AND OTHER TREATMENT
23 PROVIDERS SERVING MEDICAID MEMBERS;

24 (c) NEMT PROVIDERS REPRESENTING:

25 (I) RURAL AND URBAN SERVICE AREAS; AND

26 (II) LARGE, MEDIUM, AND SMALL PROVIDER ORGANIZATIONS;

27 (d) NEMT PROVIDERS WITH EXPERIENCE IN MANAGEMENT,

1 DISPATCH, DRIVING, AND COMPLIANCE;

2 (e) CONSUMER AND DISABILITY ADVOCATES REPRESENTING
3 POPULATIONS WITH DIVERSE MOBILITY, HEALTH, AND ACCESS NEEDS; AND

4 (f) TRANSPORTATION BROKERS OR ENTITIES RESPONSIBLE FOR
5 COORDINATING NEMT SERVICES.

6 (5) (a) TO ENSURE THAT THE COMPOSITION OF THE BOARD
7 REPRESENTS ACTIVE TRANSPORTATION PROVIDERS, FORTY PERCENT OF
8 BOARD MEMBERS MUST BE PROVIDERS WITH DIRECT NEMT OPERATIONAL
9 EXPERIENCE, INCLUDING MANAGEMENT, DISPATCH, DRIVING, OR
10 COMPLIANCE.

11 (b) THE BOARD SHALL ELECT A CHAIR FROM AMONG ITS MEMBERS.

12 (6) BOARD MEMBERS SERVE TWO-YEAR TERMS. BOARD MEMBERS
13 SERVE WITHOUT COMPENSATION AND WITHOUT REIMBURSEMENT FOR
14 EXPENSES.

15 (7) THE BOARD CHAIR AND STATE DEPARTMENT SHALL CIRCULATE
16 MEETING AGENDAS TO THE BOARD MEMBERS AT LEAST TEN DAYS IN
17 ADVANCE OF MEETINGS. THE BOARD SHALL DOCUMENT MEETING MINUTES
18 AND APPROVE MEETING MINUTES WITHIN FIFTEEN BUSINESS DAYS AFTER
19 EACH MEETING. THE BOARD MUST GIVE BOARD MEMBERS THE
20 OPPORTUNITY TO SUBMIT WRITTEN RECOMMENDATIONS OR COMMENTS TO
21 THE BOARD PRIOR TO BOARD ACTION OR ADVICE.

22 (8) THE BOARD IS AN ADVISORY BODY. THE BOARD DOES NOT
23 REPLACE OR LIMIT THE STATE DEPARTMENT'S COLLABORATION WITH
24 NEMT PROVIDERS WHEN DEVELOPING RULES, PROCESSES, OR POLICIES.

25 (9) THE BOARD SHALL PROVIDE RECOMMENDATIONS TO THE
26 DEPARTMENT ABOUT THE STATE DEPARTMENT'S RULES, PROCESSES, AND
27 POLICIES THAT GOVERN NEMT. FINAL DECISIONS REGARDING RULES,

1 PROCESSES, AND POLICIES REMAIN THE RESPONSIBILITY OF THE STATE
2 DEPARTMENT.

3 (10) THE STATE DEPARTMENT, IN COLLABORATION WITH THE
4 BOARD, SHALL ADOPT RULES THAT:

5 (a) ESTABLISH DRIVER, VEHICLE, AND TRANSPORTATION PROVIDER
6 CREDENTIALING REQUIREMENTS;

7 (b) PROHIBIT TRIP CAPS, MARKET-SHARE RESTRICTIONS, OR OTHER
8 POLICIES THAT LIMIT TRANSPORTATION PROVIDER PARTICIPATION IN THE
9 MARKET;

10 (c) REQUIRE THE STATE DEPARTMENT TO HOST MEETINGS WITH
11 THE BOARD NO LESS THAN QUARTERLY TO REVIEW PROGRAM
12 PERFORMANCE, IDENTIFY AND ADDRESS PROGRAM CHALLENGES, DISCUSS
13 PROGRESS TOWARD PROGRAM GOALS, AND IDENTIFY OPPORTUNITIES TO
14 ENHANCE EFFICIENCY AND OUTCOMES OF THE PROGRAM;

15 (d) REQUIRE REASONABLE ACCOMMODATION OF MEMBER
16 REQUESTS FOR AN ALTERNATE OR SPECIFIC TRANSPORTATION PROVIDER
17 WHEN OPERATIONALLY FEASIBLE;

18 (e) CREATE A PROCESS FOR MEMBERS AND TRANSPORTATION
19 PROVIDERS TO FILE CONCERNS WITH THE STATE DEPARTMENT AND FOR THE
20 STATE DEPARTMENT TO REPORT TO THE BOARD THE NUMBER OF CONCERNS
21 FILED;

22 (f) ESTABLISH PROCESSES FOR CLAIM SUBMISSION FROM
23 TRANSPORTATION PROVIDERS AND PAYMENT OF TRANSPORTATION
24 PROVIDERS;

25 (g) ESTABLISH POLICIES REGARDING THE STORAGE, ACCESS,
26 RETENTION, AND DELETION OF VIDEO RECORDINGS OF MEMBERS MADE
27 DURING NONEMERGENCY MEDICAL TRANSPORTATION. THE POLICIES MUST

1 NOT PROHIBIT THE USE OF VIDEO RECORDING FOR SAFETY OR DRIVER
2 ACCOUNTABILITY PURPOSES;

3 (h) DEVELOP BILLING PROCEDURES AND REQUIREMENTS FOR THE
4 PAYMENT OF TRANSPORTATION PROVIDERS;

5 (i) DEVELOP A PROCESS FOR TRANSPORTATION PROVIDERS TO
6 RESOLVE BILLING ISSUES WITH THE STATE DEPARTMENT OR
7 TRANSPORTATION BROKER; AND

8 (j) ESTABLISH POLICIES AND PROCEDURES TO VERIFY MEMBER
9 ELIGIBILITY PRIOR TO A MEMBER RECEIVING TRANSPORTATION SERVICES.

10 (11) THE POLICIES REGARDING THE USE OF VIDEO RECORDING
11 DURING NONEMERGENCY MEDICAL TRANSPORTATION OF MEMBERS,
12 ESTABLISHED PURSUANT TO SUBSECTION (10)(g) OF THIS SECTION, MUST
13 ADDRESS MEMBER PRIVACY, OPERATIONAL FEASIBILITY, AND
14 COMPLIANCE. VIDEO RECORDING OF MEMBERS MUST NOT BE REQUIRED
15 FOR BILLING PURPOSES. NOTHING IN THIS SUBSECTION (11) PROHIBITS THE
16 USE OF VIDEO RECORDING FOR SAFETY OR DRIVER ACCOUNTABILITY
17 PURPOSES.

18 (12) THE STATE DEPARTMENT SHALL, IN ACCORDANCE WITH THE
19 "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24,
20 PROVIDE ADVANCED NOTICE AND THE OPPORTUNITY FOR PUBLIC COMMENT
21 PRIOR TO THE IMPLEMENTATION OF AN NEMT RULE CHANGE.

22 (13) THE STATE DEPARTMENT SHALL ESTABLISH BILLING
23 PROCEDURES, DOCUMENTATION REQUIREMENTS, AND PAYMENT
24 STANDARDS FOR TRANSPORTATION PROVIDERS PURSUANT TO SUBSECTION
25 (10)(f) OF THIS SECTION. THE PROCEDURES MUST ESTABLISH:

26 (a) REQUIRED CLAIM FORMATS AND SUPPORTING DOCUMENTS;

27 (b) CLAIM DENIAL CRITERIA; AND

1 (c) REIMBURSEMENT REQUIREMENTS.

2 (14) THE STATE DEPARTMENT MAY ISSUE INTERIM OPERATIONAL
3 GUIDANCE TO CLARIFY PROCEDURES, IMPROVE ADMINISTRATIVE
4 EFFICIENCY, OR PROVIDE TECHNICAL INSTRUCTIONS TO TRANSPORTATION
5 PROVIDERS. INTERIM GUIDANCE MUST NOT SUBSTANTIVELY CHANGE
6 BILLING, DOCUMENTATION, OR PAYMENT STANDARDS IDENTIFIED IN THE
7 RULES ADOPTED PURSUANT TO SUBSECTION (13) OF THIS SECTION.

8 (15) THE STATE DEPARTMENT SHALL NOTIFY TRANSPORTATION
9 PROVIDERS OF NEW BILLING OR DOCUMENTATION REQUIREMENTS OR
10 SUBSTANTIVE CHANGES, WHETHER ISSUED BY RULE OR BY INTERIM
11 GUIDANCE, AT LEAST THIRTY DAYS BEFORE THE CHANGES BECOME
12 EFFECTIVE. FORMS, TEMPLATES, OR DOCUMENTATION THAT WAS VALID
13 PRIOR TO THE EFFECTIVE DATE OF A NEW RULE CONTINUES TO BE VALID
14 THROUGH ITS EXPIRATION OR UNTIL THE END OF THE NOTICE PERIOD,
15 WHICHEVER IS LATER.

16 **SECTION 3.** In Colorado Revised Statutes, **add 25.5-1-803** as
17 follows:

18 **25.5-1-803. State nonemergency transportation broker -**
19 **transportation providers.**

20 (1) (a) THE STATE DEPARTMENT MAY CONTRACT WITH A
21 TRANSPORTATION BROKER.

22 (b) A TRANSPORTATION BROKER SHALL CREATE A PUBLICLY
23 AVAILABLE CONTINGENCY PLAN TO ENSURE UNINTERRUPTED NEMT
24 SERVICES IN THE EVENT THE TRANSPORTATION BROKER EXPERIENCES
25 SYSTEM OUTAGES OR IS OTHERWISE UNABLE TO PERFORM REQUIRED
26 FUNCTIONS. THE TRANSPORTATION BROKER SHALL SHARE THE
27 CONTINGENCY PLAN WITH TRANSPORTATION PROVIDERS.

1 (c) IF THE STATE DEPARTMENT CONTRACTS WITH A
2 TRANSPORTATION BROKER, THE STATE DEPARTMENT SHALL DESIGNATE
3 REGIONS WITHIN THE STATE FOR IMPLEMENTATION OF A BROKERED NEMT
4 PROGRAM.

5 (2) THE TRANSPORTATION BROKER SHALL IMPLEMENT A BROKERED
6 NEMT PROGRAM ON A PHASED BASIS, ONE REGION AT A TIME, AND SHALL
7 NOT BEGIN IMPLEMENTATION IN A SUBSEQUENT REGION UNTIL THE
8 PROGRAM IS FULLY IMPLEMENTED IN THE PRIOR REGION. FOR PURPOSES OF
9 THIS SECTION, A PROGRAM IS FULLY IMPLEMENTED IN A REGION WHEN:

10 (a) TECHNOLOGY SYSTEMS FOR SCHEDULING, ELIGIBILITY
11 VERIFICATION, TRIP ASSIGNMENT, PROVIDER PAYMENT, AND CUSTOMER
12 SUPPORT ARE FULLY OPERATIONAL;

13 (b) TRANSPORTATION PROVIDERS IN THE REGION ARE PROVIDED A
14 REASONABLE OPPORTUNITY TO COMPLETE THE BROKER ONBOARDING
15 PROCESS, INCLUDING PROVIDER TRAINING, SYSTEM ACCESS, AND REQUIRED
16 VEHICLE AND DRIVER VERIFICATION;

17 (c) A SUFFICIENT NETWORK OF TRANSPORTATION PROVIDERS IS
18 AVAILABLE TO MEET MEMBER DEMAND AND ENSURE TIMELY ACCESS TO
19 NEMT SERVICES; AND

20 (d) THE STATE DEPARTMENT HAS VERIFIED THAT PROVIDER
21 PAYMENT PROCESSES AND CUSTOMER SUPPORT FUNCTIONS OPERATE
22 EFFECTIVELY.

23 (3) THE STATE DEPARTMENT AND TRANSPORTATION BROKER
24 SHALL PROVIDE TIMELY NOTICE AND TECHNICAL ASSISTANCE TO
25 TRANSPORTATION PROVIDERS REGARDING THE ONBOARDING PROCESS.
26 PROVIDERS MAY CONTINUE TO COMPLETE ONBOARDING DURING THE
27 IMPLEMENTATION PERIOD.

1 (4) FOR TRIPS ORIGINATING IN REGIONS THAT HAVE NOT YET BEEN
2 DESIGNATED BY THE STATE DEPARTMENT FOR IMPLEMENTATION OF A
3 BROKERED NEMT PROGRAM, TRANSPORTATION PROVIDERS MAY
4 CONTINUE TO PROVIDE TRANSPORTATION SERVICES AND BILL THE STATE
5 DEPARTMENT DIRECTLY. ONCE A REGION HAS BEEN DESIGNATED FOR
6 IMPLEMENTATION OF A BROKERED NEMT PROGRAM, TRANSPORTATION
7 SERVICES PROVIDED TO MEMBERS IN THAT REGION MUST BE SCHEDULED
8 AND AUTHORIZED THROUGH THE TRANSPORTATION BROKER IN
9 ACCORDANCE WITH STATE DEPARTMENT RULES.

10 (5) NOTHING IN THIS SECTION LIMITS MEMBER ACCESS TO
11 TRANSPORTATION SERVICES OR CREATES SERVICE GAPS DURING
12 IMPLEMENTATION OF A BROKERED PROGRAM.

13 (6) TRANSPORTATION PROVIDERS MAY COMMUNICATE WITH
14 MEMBERS REGARDING TRANSPORTATION SERVICES, INCLUDING TRIP
15 SCHEDULING, SERVICE DELIVERY, AND OPERATIONAL QUESTIONS. THE
16 STATE DEPARTMENT AND BOARD SHALL DEVELOP POLICIES REGARDING
17 WHEN AND HOW TRANSPORTATION PROVIDERS CAN COMMUNICATE WITH
18 MEMBERS.

19 (7) THE STATE DEPARTMENT SHALL DEVELOP AND PROVIDE
20 TRANSPORTATION PROVIDERS A PROVIDER COMMUNICATION TOOLKIT TO
21 ASSIST TRANSPORTATION PROVIDERS IN DISCUSSING THE TRANSITION TO
22 TRANSPORTATION BROKER CONTROL OR OTHER PROGRAM CHANGES. THE
23 PROVIDER COMMUNICATION TOOLKIT MUST INCLUDE TALKING POINTS,
24 SCRIPTS, AND GUIDANCE TO ENSURE ACCURATE AND CONSISTENT
25 INFORMATION IS COMMUNICATED TO MEMBERS. THE STATE DEPARTMENT
26 SHALL MAKE THE PROVIDER COMMUNICATION TOOLKIT AVAILABLE TO
27 TRANSPORTATION PROVIDERS AT LEAST NINETY DAYS PRIOR TO THE

1 IMPLEMENTATION OF A BROKERED NEMT PROGRAM IN THE REGION IN
2 WHICH THE PROVIDER OPERATES.

3 (8) AT LEAST NINETY DAYS PRIOR TO THE IMPLEMENTATION OF A
4 BROKERED NEMT PROGRAM IN A REGION, THE TRANSPORTATION BROKER,
5 IN COORDINATION WITH THE STATE DEPARTMENT, SHALL PROVIDE
6 TRAINING AND TECHNICAL SUPPORT TO TRANSPORTATION PROVIDERS THAT
7 PROVIDE SERVICES IN THE REGION. THE STATE DEPARTMENT MAY EXTEND
8 THE NINETY-DAY PERIOD AS NEEDED BASED ON PROVIDER READINESS OR
9 DELAYS IN MATERIALS OR INSTRUCTION. THE TRANSPORTATION BROKER
10 SHALL PROVIDE TRAINING AND TECHNICAL SUPPORT TO TRANSPORTATION
11 PROVIDERS, WITH SUPPORT AND OVERSIGHT BY THE STATE DEPARTMENT.

12 (9) THE TRANSPORTATION BROKER SHALL PROVIDE ALL
13 TRANSPORTATION PROVIDERS IN A BROKERED NEMT PROGRAM REGION
14 WITH SOFTWARE TO FACILITATE NEMT SERVICES. THE TRANSPORTATION
15 BROKER SHALL NOT REQUIRE TRANSPORTATION PROVIDERS TO PAY THE
16 COST OF SOFTWARE LICENSING, IMPLEMENTATION, MAINTENANCE,
17 UPGRADES, OR TRAINING.

18 (10) THE TRANSPORTATION BROKER MAY REQUIRE A MEMBER TO
19 SCHEDULE TRANSPORTATION SERVICES MORE THAN TWO DAYS PRIOR TO
20 THEIR REQUESTED TRANSPORTATION DATE. THE TRANSPORTATION
21 BROKER SHALL ACCEPT AND MAKE REASONABLE EFFORTS TO FULFILL
22 SAME-DAY TRANSPORTATION REQUESTS. THE TRANSPORTATION BROKER
23 SHALL ALLOW MEMBERS TO SCHEDULE SINGLE AND RECURRING
24 TRANSPORTATION SERVICES. THE TRANSPORTATION BROKER SHALL
25 ALLOW MEMBERS, PRIOR TO THE REQUESTED TRANSPORTATION SERVICES,
26 TO REQUEST A TRANSPORTATION PROVIDER OR REQUEST A DIFFERENT
27 TRANSPORTATION PROVIDER. THE TRANSPORTATION BROKER SHALL NOT

1 DIRECT MEMBERS AWAY FROM THEIR PREFERRED TRANSPORTATION
2 PROVIDER. THE TRANSPORTATION BROKER SHALL DOCUMENT AND RETAIN
3 ALL PROVIDER PREFERENCE REQUESTS FOR AUDIT PURPOSES.

4 (11) A TRANSPORTATION BROKER, OR A TRANSPORTATION
5 PROVIDER IF THERE IS NO TRANSPORTATION BROKER, SHALL VERIFY A
6 MEMBER'S ELIGIBILITY FOR NEMT SERVICES IMMEDIATELY UPON A
7 MEMBER'S REQUEST FOR NEMT TRANSPORTATION SERVICES USING
8 REAL-TIME ACCESS TO THE STATE DEPARTMENT'S ELIGIBILITY SYSTEM. IF
9 VERIFICATION CANNOT BE COMPLETED DUE TO SYSTEM ISSUES OR
10 INCOMPLETE INFORMATION, THE TRANSPORTATION BROKER SHALL NOTIFY
11 THE MEMBER AND THE STATE DEPARTMENT AS SOON AS PRACTICABLE AND
12 TAKE ACTION TO RESOLVE THE ISSUE PROMPTLY. ONCE ELIGIBILITY IS
13 VERIFIED, THE MEMBER IS IMMEDIATELY ELIGIBLE TO SCHEDULE TRIPS, IN
14 ACCORDANCE WITH PROGRAM RULES.

15 (12) THE TRANSPORTATION BROKER SHALL NOT IMPOSE
16 ADDITIONAL CREDENTIAL REQUIREMENTS ON TRANSPORTATION
17 PROVIDERS THAT ARE NOT REQUIRED IN RULES ADOPTED BY THE STATE
18 DEPARTMENT.

19 (13) THE TRANSPORTATION BROKER SHALL NOT OPERATE, OWN, OR
20 CONTROL A TRANSPORTATION PROVIDER THAT OPERATES IN COLORADO.
21 THE TRANSPORTATION BROKER SHALL MAINTAIN POLICIES CONCERNING
22 PREVENTING CONFLICTS OF INTEREST AND ENSURE THAT TRIP
23 ASSIGNMENTS ARE MADE CONSISTENT WITH SAFETY, COMPLIANCE, AND
24 OPERATIONAL STANDARDS. NOTHING IN THIS SUBSECTION (13) LIMITS
25 PROVIDER PARTICIPATION OR IMPOSES TRIP CAPS.

26 (14) THE TRANSPORTATION BROKER, OR THE STATE DEPARTMENT
27 IF THERE IS NO TRANSPORTATION BROKER, SHALL NOT RESTRICT THE

1 NUMBER OF VEHICLES A TRANSPORTATION PROVIDER CAN UTILIZE OR
2 RESTRICT THE AREAS WHERE OR TYPES OF SERVICES A TRANSPORTATION
3 PROVIDER OPERATES.

4 (15) A TRANSPORTATION BROKER SHALL PROVIDE THEIR TRIP
5 ASSIGNMENT RULES AND PROCEDURES TO THE STATE DEPARTMENT FOR
6 APPROVAL. UPON APPROVAL, THE STATE DEPARTMENT SHALL MAKE THE
7 TRANSPORTATION BROKER TRIP ASSIGNMENT RULES AND PROCEDURES
8 PUBLICLY AVAILABLE ON THE STATE DEPARTMENT'S WEBSITE.

9 (16) TRANSPORTATION PROVIDERS HAVE SOLE AUTHORITY OVER
10 DRIVER SCHEDULING, VEHICLE DISPATCHING, AND DRIVER MANAGEMENT.

11 (17) NEMT DRIVERS AND VEHICLES MUST MEET SAFETY,
12 LICENSING, AND PROGRAM COMPLIANCE REQUIREMENTS. NEMT TRIPS
13 CONDUCTED BY NONCOMPLIANT DRIVERS OR VEHICLES ARE NOT ELIGIBLE
14 FOR REIMBURSEMENT.

15 (18) TO ENSURE CONTINUITY OF CARE, TRANSPORTATION
16 PROVIDERS MAY BILL THE STATE DEPARTMENT DIRECTLY FOR COMPLIANT
17 TRANSPORTATION SERVICES PROVIDED TO MEMBERS DURING THE
18 IMPLEMENTATION OF A BROKERED NEMT PROGRAM IN A REGION OR IN
19 THE EVENT OF TRANSPORTATION BROKER TERMINATION. DIRECT BILLING
20 OUTSIDE OF THESE CIRCUMSTANCES IS NOT PERMITTED.

21 **SECTION 4.** In Colorado Revised Statutes, **add 25.5-1-804** as
22 follows:

23 **25.5-1-804. Medicaid member eligibility and verification.**

24 (1) THE TRANSPORTATION BROKER, OR A TRANSPORTATION
25 PROVIDER IF THERE IS NO BROKER, SHALL ENSURE DURING SCHEDULING
26 THAT INDIVIDUALS WHO SIGN UP TO RECEIVE TRANSPORTATION SERVICES
27 ARE MEMBERS WHO ARE ELIGIBLE TO RECEIVE NONEMERGENCY MEDICAL

1 TRANSPORTATION SERVICES.

2 (2) THE MEMBER ELIGIBILITY VERIFICATION PROCESS MUST
3 PROTECT MEMBER PRIVACY. MEMBER ELIGIBILITY VERIFICATION MUST
4 NOT REQUIRE DISPLAYING A MEMBER IDENTIFICATION CARD ON CAMERA
5 OR THE VIDEO RECORDING OF MEMBERS FOR BILLING OR PAYMENT
6 PURPOSES. NOTHING IN THIS SUBSECTION (2) PROHIBITS THE USE OF VIDEO
7 RECORDING FOR DRIVER OR MEMBER SAFETY, OPERATIONAL MONITORING,
8 OR COMPLAINT RESOLUTION PURPOSES.

9 (3) IF A TRANSPORTATION PROVIDER PROVIDES SCHEDULED
10 TRANSPORTATION SERVICES IN GOOD FAITH BASED ON INFORMATION
11 PROVIDED BY A TRANSPORTATION BROKER OR THE STATE DEPARTMENT,
12 THE STATE DEPARTMENT SHALL NOT DENY PAYMENT SOLELY BECAUSE THE
13 BROKER OR THE STATE DEPARTMENT LATER DETERMINES THAT THE
14 MEMBER'S ELIGIBILITY OR TRIP INFORMATION WAS INACCURATE, IF:

15 (a) THE PROVIDER HAD NO KNOWLEDGE OF THE INACCURACY AT
16 THE TIME OF SERVICE; AND

17 (b) THE PROVIDER FOLLOWED ALL APPLICABLE RULES,
18 PROCEDURES, AND DOCUMENTATION REQUIREMENTS FOR CLAIM
19 SUBMISSION.

20 (4) NOTHING IN THIS SECTION ALTERS OR SUPERSEDES FEDERAL
21 MEDICAID REQUIREMENTS. IF IT IS LATER DETERMINED THAT A MEMBER
22 WAS NOT ELIGIBLE FOR MEDICAID AT THE TIME OF SERVICE, THE STATE
23 DEPARTMENT MAY BE REQUIRED TO ADJUST OR RETRACT PAYMENT, EVEN
24 IF THE PROVIDER RENDERED SERVICES IN GOOD FAITH.

25 (5) THE STATE DEPARTMENT SHALL PROVIDE TRANSPORTATION
26 PROVIDERS WITH ACCESS TO ELIGIBILITY VERIFICATION TOOLS VIA THE
27 TRANSPORTATION BROKER OR OTHER AUTHORIZED SYSTEMS TO REDUCE

1 THE LIKELIHOOD OF INELIGIBLE TRIPS.

2 **SECTION 5.** In Colorado Revised Statutes, **add** 25.5-1-805 as
3 follows:

4 **25.5-1-805. Nonemergency medical transportation provider**
5 **and broker audits - reporting.**

6 (1) THE STATE DEPARTMENT SHALL ENSURE A RANDOM GROUP OF
7 TRANSPORTATION PROVIDERS ARE AUDITED EVERY YEAR. AUDITS MUST
8 INCLUDE A REVIEW OF:

9 (a) THE NUMBER OF CLAIMS FOR SERVICES RENDERED SUBMITTED
10 BY THE TRANSPORTATION PROVIDER;

11 (b) TRANSPORTATION PROVIDER POLICIES AND PROCEDURES;

12 (c) DRIVER CREDENTIALS;

13 (d) VEHICLE CREDENTIALS; AND

14 (e) THE TRANSPORTATION PROVIDER'S COMPLIANCE WITH
15 TRANSPORTATION BROKER AND STATE DEPARTMENT POLICIES AND
16 PROCEDURES.

17 (2) THE STATE DEPARTMENT SHALL AUDIT EACH TRANSPORTATION
18 BROKER ANNUALLY. THE STATE DEPARTMENT MAY DESIGNATE A
19 THIRD-PARTY SERVICE PROVIDER TO CONDUCT AN AUDIT ON ITS BEHALF.
20 AN AUDIT OF A TRANSPORTATION BROKER MUST INCLUDE, AT MINIMUM,
21 A REVIEW OF:

22 (a) THE TRANSPORTATION BROKER'S POLICIES AND PROCEDURES;

23 (b) THE NUMBER OF TRIPS ASSIGNED TO EACH TRANSPORTATION
24 PROVIDER;

25 (c) THE TRANSPORTATION BROKER'S COMPLIANCE WITH THE
26 PROHIBITION ON TRIP CAPS ESTABLISHED PURSUANT TO SECTION
27 25.5-1-802 (10)(b);

1 (d) THE TRANSPORTATION BROKER'S COMPLIANCE WITH THE
2 PROHIBITION ON CONFLICTS OF INTEREST ESTABLISHED IN SECTION
3 25.5-1-803 (14);

4 (e) THE TRANSPORTATION BROKER'S COMPLIANCE WITH THE
5 DRIVER, VEHICLE, AND TRANSPORTATION PROVIDER CREDENTIALING
6 REQUIREMENTS ESTABLISHED BY THE STATE DEPARTMENT IN
7 COLLABORATION WITH THE BOARD PURSUANT TO SECTION 25.5-1-802
8 (10)(a); AND

9 (f) MEMBER REQUESTS FOR SPECIFIC TRANSPORTATION PROVIDERS.

10 (3) THE STATE DEPARTMENT SHALL MAKE THE AUDIT REPORTS OF
11 TRANSPORTATION PROVIDERS AND TRANSPORTATION BROKERS PUBLICLY
12 AVAILABLE IN A MANNER THAT ENSURES REASONABLE ACCESS. THE STATE
13 DEPARTMENT SHALL GIVE THE TRANSPORTATION BROKER AND
14 TRANSPORTATION PROVIDERS THE OPPORTUNITY TO REVIEW, RESPOND TO,
15 AND SEEK CORRECTION OF FACTUAL ERRORS PRIOR TO MAKING THE
16 TRANSPORTATION BROKER'S AND TRANSPORTATION PROVIDERS' AUDITS
17 PUBLICLY AVAILABLE. THE STATE DEPARTMENT MAY REDACT
18 CONFIDENTIAL OR SENSITIVE INFORMATION IN THE PUBLICLY AVAILABLE
19 AUDITS TO PROTECT MEMBER PRIVACY.

20 **SECTION 6.** In Colorado Revised Statutes, **add** 25.5-1-806 as
21 follows:

22 **25.5-1-806. Nonemergency medical transportation - fiscal**
23 **efficiency - rules.**

24 (1) TO ENSURE THE STATE DEPARTMENT OPERATES THE NEMT
25 SERVICES PROGRAM AS FISCALLY EFFICIENTLY AS POSSIBLE, THE STATE
26 DEPARTMENT SHALL:

27 (a) CATEGORIZE ALL NEMT EXPENDITURES AS MEDICAL SERVICES

1 FOR ELIGIBLE POPULATIONS;

2 (b) IMPLEMENT CHANGES TO THE NEMT SERVICES PROGRAM AS
3 SOON AS POSSIBLE TO OBTAIN THE MEDICAL SERVICES FEDERAL MATCH
4 RATE FOR NEMT BY:

5 (I) USING A TRANSPORTATION BROKER AND ENSURING THE BROKER
6 COMPLIES WITH 42 CFR 440.170 (a) AND ALL OTHER FEDERAL
7 REQUIREMENTS; OR

8 (II) USING AN ALTERNATIVE ALLOWED UNDER FEDERAL LAW TO
9 CLAIM NEMT EXPENDITURES AS MEDICAL SERVICES FOR FEDERAL
10 REIMBURSEMENT PURPOSES;

11 (c) ISSUE PUBLIC NOTICE AND AMEND THE MEDICAID STATE PLAN
12 AS REQUIRED BY THIS SECTION; AND

13 (d) PROVIDE THE COLORADO HEALTHCARE AFFORDABILITY AND
14 SUSTAINABILITY ENTERPRISE BOARD WITH INFORMATION NO LESS
15 FREQUENTLY THAN QUARTERLY REGARDING ANY STATE SAVINGS THAT
16 RESULT FROM THE RECATEGORIZATION OF NEMT EXPENDITURES AS
17 MEDICAL SERVICES, RATHER THAN ADMINISTRATIVE SERVICES, FOR
18 ELIGIBLE POPULATIONS.

19 (2) THE STATE DEPARTMENT MAY ADOPT RULES TO IMPLEMENT
20 THIS SECTION.

21 **SECTION 7.** In Colorado Revised Statutes, 25.5-5-102, **amend**
22 (1)(m); and **add** (1)(n) as follows:

23 **25.5-5-102. Basic services for the categorically needy -**
24 **mandated services.**

25 (1) Subject to the provisions of subsection (2) of this section and
26 section 25.5-4-104, the program for the categorically needy must include
27 the following services as mandated and defined by federal law:

1 (m) Federally qualified health centers; AND

2 (n) TRANSPORTATION SERVICES.

3 **SECTION 8.** In Colorado Revised Statutes, 25.5-5-202, **amend**

4 (1) introductory portion; and **repeal** (2) as follows:

5 **25.5-5-202. Basic services for the categorically needy - optional**
6 **services - repeal.**

7 (1) ~~Subject to the provisions of subsection (2) of this section,~~ The
8 following are services for which federal financial participation is
9 available and that Colorado has selected to provide as optional services
10 under the medical assistance program:

11 (2) ~~In addition to the services described in subsection (1) of this~~
12 ~~section and subject to continued federal financial participation, Colorado~~
13 ~~has selected to provide transportation services as an administrative cost.~~

14 **SECTION 9. Effective date.** This act takes effect July 1, 2026.

15 **SECTION 10. Safety clause.** The general assembly finds,
16 determines, and declares that this act is necessary for the immediate
17 preservation of the public peace, health, or safety or for appropriations for
18 the support and maintenance of the departments of the state and state
19 institutions.