

Second Regular Session  
Seventy-fifth General Assembly  
STATE OF COLORADO

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 26-0680.01 Ken Fowler x2372

**HOUSE BILL 26-1328**

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**HOUSE SPONSORSHIP**

**Stewart K. and Winter T.,**

**SENATE SPONSORSHIP**

**Mullica and Kirkmeyer,**

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**House Committees**

Health & Human Services  
Appropriations

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING NONEMERGENCY MEDICAL TRANSPORTATION FOR**  
102 **MEDICAID MEMBERS.**

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**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.

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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 TRANSPORTATION BROKER SHALL ESTABLISH THE

18 TRANSPORTATION COMMUNITY ADVISORY BOARD, WHICH IS COMPOSED OF

19 REPRESENTATIVES OF A CROSS-SECTION OF NEMT STAKEHOLDERS,

20 INCLUDING MEMBERS, TRANSPORTATION PROVIDERS, HEALTH-CARE

21 TREATMENT PROVIDERS, AND DISABILITY ADVOCATES. THE BOARD

22 MEMBERSHIP MUST INCLUDE:

23 (a) MEDICAID MEMBERS FROM BOTH RURAL AND URBAN AREAS

24 WHO UTILIZE NEMT SERVICES;

25 (b) BEHAVIORAL HEALTH, PRIMARY CARE, AND OTHER TREATMENT

26 PROVIDERS SERVING MEDICAID MEMBERS;

27 (c) NEMT PROVIDERS REPRESENTING:

- 1 (I) RURAL AND URBAN SERVICE AREAS; AND
- 2 (II) LARGE, MEDIUM, AND SMALL PROVIDER ORGANIZATIONS;
- 3 (d) NEMT PROVIDERS WITH EXPERIENCE IN MANAGEMENT,
- 4 DISPATCH, DRIVING, AND COMPLIANCE;
- 5 (e) CONSUMER AND DISABILITY ADVOCATES REPRESENTING
- 6 POPULATIONS WITH DIVERSE MOBILITY, HEALTH, AND ACCESS NEEDS; AND
- 7 (f) HOSPITAL AND HEALTH SYSTEM REPRESENTATIVES, INCLUDING
- 8 ENTITIES INVOLVED IN DISCHARGE PLANNING AND CARE TRANSITIONS FOR
- 9 MEMBERS; AND
- 10 (g) A REPRESENTATIVE FROM THE STATE DEPARTMENT WITH
- 11 KNOWLEDGE AND SPECIALIZATION IN NEMT.

12 (5) (a) TO ENSURE THAT THE COMPOSITION OF THE BOARD  
13 REPRESENTS ACTIVE TRANSPORTATION PROVIDERS, FORTY PERCENT OF  
14 BOARD MEMBERS MUST BE PROVIDERS WITH DIRECT NEMT OPERATIONAL  
15 EXPERIENCE, INCLUDING MANAGEMENT, DISPATCH, DRIVING, OR  
16 COMPLIANCE.

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

18 (6) BOARD MEMBERS SERVE TWO-YEAR TERMS. BOARD MEMBERS  
19 SERVE WITHOUT COMPENSATION AND WITHOUT REIMBURSEMENT FOR  
20 EXPENSES.

21 (7) THE BOARD CHAIR AND STATE DEPARTMENT SHALL CIRCULATE  
22 MEETING AGENDAS TO THE BOARD MEMBERS AT LEAST TEN DAYS IN  
23 ADVANCE OF MEETINGS. THE BOARD SHALL DOCUMENT MEETING MINUTES  
24 AND APPROVE MEETING MINUTES WITHIN FIFTEEN BUSINESS DAYS AFTER  
25 EACH MEETING. THE BOARD MUST GIVE BOARD MEMBERS THE  
26 OPPORTUNITY TO SUBMIT WRITTEN RECOMMENDATIONS OR COMMENTS TO  
27 THE BOARD PRIOR TO BOARD ACTION OR ADVICE.

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

4 (9) THE BOARD SHALL PROVIDE RECOMMENDATIONS TO THE STATE  
5 DEPARTMENT ABOUT THE STATE DEPARTMENT'S RULES, PROCESSES, AND  
6 POLICIES THAT GOVERN NEMT. FINAL DECISIONS REGARDING RULES,  
7 PROCESSES, AND POLICIES REMAIN THE RESPONSIBILITY OF THE STATE  
8 DEPARTMENT.

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

11 (a) ESTABLISH DRIVER, VEHICLE, AND TRANSPORTATION PROVIDER  
12 CREDENTIALING REQUIREMENTS;

13 (b) PROHIBIT TRIP CAPS, MARKET-SHARE RESTRICTIONS, OR OTHER  
14 POLICIES THAT LIMIT TRANSPORTATION PROVIDER PARTICIPATION IN THE  
15 MARKET, EXCEPT AS ALLOWED PURSUANT TO SUBSECTION (11) OF THIS  
16 SECTION;

17 (c) REQUIRE THE STATE DEPARTMENT TO HOST MEETINGS WITH  
18 THE BOARD NO LESS THAN QUARTERLY TO REVIEW PROGRAM  
19 PERFORMANCE, IDENTIFY AND ADDRESS PROGRAM CHALLENGES, DISCUSS  
20 PROGRESS TOWARD PROGRAM GOALS, AND IDENTIFY OPPORTUNITIES TO  
21 ENHANCE EFFICIENCY AND OUTCOMES OF THE PROGRAM;

22 (d) REQUIRE REASONABLE ACCOMMODATION OF MEMBER  
23 REQUESTS FOR AN ALTERNATE OR SPECIFIC TRANSPORTATION PROVIDER  
24 WHEN OPERATIONALLY FEASIBLE;

25 (e) CREATE A PROCESS FOR MEMBERS AND TRANSPORTATION  
26 PROVIDERS TO FILE CONCERNS WITH THE STATE DEPARTMENT AND FOR THE  
27 STATE DEPARTMENT TO REPORT TO THE BOARD THE NUMBER OF CONCERNS

1 FILED;

2 (f) ESTABLISH PROCESSES FOR CLAIM SUBMISSION FROM  
3 TRANSPORTATION PROVIDERS AND PAYMENT OF TRANSPORTATION  
4 PROVIDERS;

5 (g) ESTABLISH POLICIES REGARDING THE STORAGE, ACCESS,  
6 RETENTION, AND DELETION OF VIDEO RECORDINGS OF MEMBERS MADE  
7 DURING NONEMERGENCY MEDICAL TRANSPORTATION. THE POLICIES MUST  
8 NOT PROHIBIT THE USE OF VIDEO RECORDING FOR SAFETY OR DRIVER  
9 ACCOUNTABILITY PURPOSES;

10 (h) DEVELOP BILLING PROCEDURES AND REQUIREMENTS FOR THE  
11 PAYMENT OF TRANSPORTATION PROVIDERS;

12 (i) DEVELOP A PROCESS FOR TRANSPORTATION PROVIDERS TO  
13 RESOLVE BILLING ISSUES WITH THE STATE DEPARTMENT OR  
14 TRANSPORTATION BROKER;

15 (j) ESTABLISH POLICIES AND PROCEDURES TO VERIFY MEMBER  
16 ELIGIBILITY PRIOR TO A MEMBER RECEIVING TRANSPORTATION SERVICES;

17 (k) REQUIRE A TRANSPORTATION PROVIDER TO MAINTAIN  
18 AUDITABLE ELECTRONIC TRIP RECORDS THAT INCLUDE, AT A MINIMUM,  
19 MEMBER PICKUP AND DROP-OFF LOCATIONS; GPS LOCATION DATA WITH  
20 TIME STAMPS, WHEN AVAILABLE; MILEAGE TRAVELED; DRIVER AND  
21 VEHICLE IDENTIFICATION; AND ANY OTHER DATA REQUIRED BY THE STATE  
22 DEPARTMENT; AND

23 (l) ESTABLISH THAT MEMBERS HAVE A RIGHT TO RECEIVE NEMT  
24 SERVICES THAT ARE ACCESSIBLE AND APPROPRIATE TO THEIR INDIVIDUAL  
25 MEDICAL AND FUNCTIONAL NEEDS, INCLUDING MOBILITY AND  
26 COMMUNICATION ACCOMMODATIONS.

27 (11) THE STATE DEPARTMENT MAY IMPOSE TRIP CAPS OR

1 MARKET-SHARE RESTRICTIONS ON A TRANSPORTATION PROVIDER AS  
2 CORRECTIVE ACTION AS PART OF A CORRECTIVE ACTION PLAN BASED ON  
3 A TRANSPORTATION PROVIDER'S DOCUMENTED MATERIAL PERFORMANCE  
4 DEFICIENCIES THAT ARE SUPPORTED BY OBJECTIVE MEASURABLE CRITERIA  
5 APPLIED ON AN INDIVIDUALIZED, PROPORTIONAL, AND TIME-LIMITED BASIS  
6 FOLLOWING PRIOR WRITTEN NOTICE OF THE DEFICIENCIES AND A  
7 MEANINGFUL OPPORTUNITY TO CURE.

8 (12) FOR THE PRIMARY PURPOSE OF SAFETY AND DRIVER  
9 ACCOUNTABILITY, EACH TRANSPORTATION PROVIDER SHALL IMPLEMENT  
10 AND UTILIZE A VIDEO RECORDING SYSTEM WITHIN EACH VEHICLE USED TO  
11 TRANSPORT MEMBERS. THE POLICIES REGARDING THE USE OF VIDEO  
12 RECORDING DURING NONEMERGENCY MEDICAL TRANSPORTATION OF  
13 MEMBERS, ESTABLISHED PURSUANT TO SUBSECTION (10)(g) OF THIS  
14 SECTION, MUST ADDRESS MEMBER PRIVACY, OPERATIONAL FEASIBILITY,  
15 AND COMPLIANCE. VIDEO RECORDING OF MEMBERS MUST NOT BE  
16 REQUIRED FOR BILLING PURPOSES.

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

21 (14) THE STATE DEPARTMENT SHALL ESTABLISH BILLING  
22 PROCEDURES, DOCUMENTATION REQUIREMENTS, AND PAYMENT  
23 STANDARDS FOR TRANSPORTATION PROVIDERS PURSUANT TO SUBSECTION  
24 (10)(f) OF THIS SECTION. THE PROCEDURES MUST BE CONSISTENT WITH  
25 STATE AND FEDERAL MEDICAID REQUIREMENTS AND MUST NOT REQUIRE  
26 PAYMENT FOR CLAIMS THAT DO NOT MEET APPLICABLE PROGRAM  
27 INTEGRITY, DOCUMENTATION, OR ELIGIBILITY STANDARDS. THE

1 PROCEDURES MUST ESTABLISH:

2 (a) REQUIRED CLAIM FORMATS AND SUPPORTING DOCUMENTS;

3 (b) CLAIM DENIAL CRITERIA; AND

4 (c) REIMBURSEMENT REQUIREMENTS.

5 (15) THE STATE DEPARTMENT MAY ISSUE INTERIM OPERATIONAL  
6 GUIDANCE TO CLARIFY PROCEDURES, IMPROVE ADMINISTRATIVE  
7 EFFICIENCY, OR PROVIDE TECHNICAL INSTRUCTIONS TO TRANSPORTATION  
8 PROVIDERS. INTERIM GUIDANCE MUST NOT SUBSTANTIVELY CHANGE  
9 BILLING, DOCUMENTATION, OR PAYMENT STANDARDS IDENTIFIED IN THE  
10 PROCEDURES ADOPTED PURSUANT TO SUBSECTION (14) OF THIS SECTION,  
11 EXCEPT AS NECESSARY TO ADDRESS PROGRAM INTEGRITY RISKS,  
12 INCLUDING FRAUD, WASTE, OR ABUSE, OR TO ENSURE COMPLIANCE WITH  
13 STATE OR FEDERAL LAW. IN INSTANCES OF FRAUD, WASTE, OR ABUSE OF  
14 NEMT SERVICES, THE STATE DEPARTMENT MAY PROVIDE IMMEDIATE  
15 INTERIM OPERATIONAL GUIDANCE IF THE STATE DEPARTMENT INCLUDES  
16 THE JUSTIFICATION FOR THE INTERIM OPERATIONAL GUIDANCE IN THE  
17 GUIDANCE AND PROVIDES REASONABLE ADVANCED NOTICE TO AFFECTED  
18 TRANSPORTATION PROVIDERS, UNLESS IMMEDIATE ACTION IS REQUIRED TO  
19 PREVENT ONGOING FRAUD. IF THE STATE DEPARTMENT TAKES IMMEDIATE  
20 ACTION, THE ACTIONS MUST BE:

21 (a) LIMITED IN SCOPE AND DURATION;

22 (b) INCLUDE PROMPT WRITTEN NOTICE EXPLAINING THE CHANGE;

23 (c) APPLIED PROSPECTIVELY TO THE EXTENT PERMITTED BY STATE  
24 AND FEDERAL LAW AND MUST NOT ALTER CLAIMS SUBMITTED PRIOR TO  
25 THE EFFECTIVE DATE OF THE INTERIM OPERATIONAL GUIDANCE, EXCEPT AS  
26 REQUIRED TO ADDRESS FRAUD, WASTE, OR ABUSE.

27 (16) THE STATE DEPARTMENT SHALL NOTIFY TRANSPORTATION

1 PROVIDERS OF NEW BILLING OR DOCUMENTATION REQUIREMENTS OR  
2 SUBSTANTIVE CHANGES, WHETHER ISSUED BY RULE OR BY INTERIM  
3 GUIDANCE, AT LEAST THIRTY DAYS BEFORE THE CHANGES BECOME  
4 EFFECTIVE. FORMS, TEMPLATES, OR DOCUMENTATION THAT WAS VALID  
5 PRIOR TO THE EFFECTIVE DATE OF A NEW RULE CONTINUES TO BE VALID  
6 THROUGH ITS EXPIRATION OR UNTIL THE END OF THE NOTICE PERIOD,  
7 WHICHEVER IS LATER.

8 (17) NOTHING IN THIS SECTION ENTITLES A PROVIDER TO PAYMENT  
9 OR LIMITS THE STATE DEPARTMENT'S AUTHORITY TO DENY, RECOUP, OR  
10 ADJUST CLAIMS IN ACCORDANCE WITH STATE OR FEDERAL LAW.

11 (18) MATTERS OUTSIDE THE SCOPE OF THE BOARD OR THAT  
12 CANNOT BE RESOLVED AMONG BOARD MEMBERS MUST BE DIRECTED TO  
13 THE STATE DEPARTMENT.

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

16 **25.5-1-803. State nonemergency transportation broker -**  
17 **transportation providers.**

18 (1) (a) THE STATE DEPARTMENT MAY CONTRACT WITH A  
19 TRANSPORTATION BROKER.

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

26 (c) IF THE STATE DEPARTMENT CONTRACTS WITH A  
27 TRANSPORTATION BROKER, THE STATE DEPARTMENT SHALL DESIGNATE

1 REGIONS WITHIN THE STATE FOR IMPLEMENTATION OF A BROKERED NEMT  
2 PROGRAM.

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

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

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

15 (c) A SUFFICIENT NETWORK OF TRANSPORTATION PROVIDERS IS  
16 AVAILABLE TO MEET MEMBERS' MEDICAL NEEDS AND ENSURE TIMELY  
17 ACCESS TO NEMT SERVICES; AND

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

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

26 (4) FOR TRIPS ORIGINATING IN REGIONS THAT HAVE NOT YET BEEN  
27 DESIGNATED BY THE STATE DEPARTMENT FOR IMPLEMENTATION OF A

1 BROKERED NEMT PROGRAM, TRANSPORTATION PROVIDERS MAY  
2 CONTINUE TO PROVIDE TRANSPORTATION SERVICES AND BILL THE STATE  
3 DEPARTMENT DIRECTLY. ONCE A REGION HAS BEEN DESIGNATED FOR  
4 IMPLEMENTATION OF A BROKERED NEMT PROGRAM, TRANSPORTATION  
5 SERVICES PROVIDED TO MEMBERS IN THAT REGION MUST BE SCHEDULED  
6 AND AUTHORIZED THROUGH THE TRANSPORTATION BROKER IN  
7 ACCORDANCE WITH STATE DEPARTMENT RULES.

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

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

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

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

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

16          (10) THE TRANSPORTATION BROKER MAY ENCOURAGE A MEMBER  
17          TO SCHEDULE TRANSPORTATION SERVICES AT LEAST TWO DAYS PRIOR TO  
18          THEIR REQUESTED TRANSPORTATION DATE. THE TRANSPORTATION  
19          BROKER SHALL ACCEPT AND MAKE REASONABLE EFFORTS TO FULFILL  
20          SAME-DAY AND NEXT-DAY TRANSPORTATION REQUESTS, INCLUDING  
21          REQUESTS FOR URGENT MEDICAL AND BEHAVIORAL HEALTH OUTPATIENT,  
22          SPECIALTY, AND HOSPITAL VISITS; TIME-SENSITIVE IN-STATE AND  
23          OUT-OF-STATE TRANSFERS; AND DISCHARGES FROM HEALTH-CARE  
24          FACILITIES, WHEN FEASIBLE, AND SHALL NOT REQUIRE ADVANCED NOTICE  
25          THAT WOULD UNREASONABLY LIMIT ACCESS TO MEDICALLY NECESSARY  
26          SERVICES. THE TRANSPORTATION BROKER SHALL ALLOW MEMBERS TO  
27          SCHEDULE SINGLE AND RECURRING TRANSPORTATION SERVICES. THE

1 TRANSPORTATION BROKER SHALL ALLOW MEMBERS, PRIOR TO THE  
2 REQUESTED TRANSPORTATION SERVICES, TO REQUEST A TRANSPORTATION  
3 PROVIDER OR REQUEST A DIFFERENT TRANSPORTATION PROVIDER. THE  
4 TRANSPORTATION BROKER SHALL NOT DIRECT MEMBERS AWAY FROM  
5 THEIR PREFERRED TRANSPORTATION PROVIDER. THE TRANSPORTATION  
6 BROKER SHALL DOCUMENT AND RETAIN ALL PROVIDER PREFERENCE  
7 REQUESTS FOR AUDIT PURPOSES. THE TRANSPORTATION BROKER MAY  
8 ONLY PROVIDE MEMBERS THE OPTION TO REQUEST A SPECIFIC PROVIDER  
9 AFTER ALL SERVICE REGIONS HAVE BEEN IMPLEMENTED.

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

21 (12) THE TRANSPORTATION BROKER SHALL NOT IMPOSE  
22 ADDITIONAL CREDENTIAL REQUIREMENTS ON TRANSPORTATION  
23 PROVIDERS THAT ARE NOT REQUIRED IN RULES ADOPTED BY THE STATE  
24 DEPARTMENT.

25 (13) THE TRANSPORTATION BROKER SHALL NOT OPERATE, OWN, OR  
26 CONTROL A TRANSPORTATION PROVIDER THAT OPERATES IN COLORADO.  
27 THE TRANSPORTATION BROKER SHALL MAINTAIN POLICIES CONCERNING

1 PREVENTING CONFLICTS OF INTEREST AND ENSURE THAT TRIP  
2 ASSIGNMENTS ARE MADE CONSISTENT WITH SAFETY, COMPLIANCE, AND  
3 OPERATIONAL STANDARDS. NOTHING IN THIS SUBSECTION (13) LIMITS  
4 PROVIDER PARTICIPATION OR IMPOSES TRIP CAPS.

5 (14) THE TRANSPORTATION BROKER, OR THE STATE DEPARTMENT  
6 IF THERE IS NO TRANSPORTATION BROKER, SHALL NOT RESTRICT THE  
7 NUMBER OF VEHICLES A TRANSPORTATION PROVIDER CAN UTILIZE OR  
8 RESTRICT THE AREAS WHERE OR TYPES OF SERVICES A TRANSPORTATION  
9 PROVIDER OPERATES.

10 (15) A TRANSPORTATION BROKER SHALL PROVIDE THEIR TRIP  
11 ASSIGNMENT RULES AND PROCEDURES TO THE STATE DEPARTMENT FOR  
12 APPROVAL. UPON APPROVAL, THE STATE DEPARTMENT SHALL MAKE THE  
13 TRANSPORTATION BROKER TRIP ASSIGNMENT RULES AND PROCEDURES  
14 PUBLICLY AVAILABLE ON THE STATE DEPARTMENT'S WEBSITE.

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

17 (17) NEMT DRIVERS AND VEHICLES MUST MEET SAFETY,  
18 LICENSING, AND PROGRAM COMPLIANCE REQUIREMENTS. NEMT TRIPS  
19 CONDUCTED BY NONCOMPLIANT DRIVERS OR VEHICLES ARE NOT ELIGIBLE  
20 FOR REIMBURSEMENT.

21 (18) TO ENSURE CONTINUITY OF CARE, TRANSPORTATION  
22 PROVIDERS MAY BILL THE STATE DEPARTMENT DIRECTLY FOR COMPLIANT  
23 TRANSPORTATION SERVICES PROVIDED TO MEMBERS DURING THE  
24 IMPLEMENTATION OF A BROKERED NEMT PROGRAM IN A REGION OR IN  
25 THE EVENT OF TRANSPORTATION BROKER TERMINATION. DIRECT BILLING  
26 OUTSIDE OF THESE CIRCUMSTANCES IS NOT PERMITTED.

27 (19) (a) TRANSPORTATION NETWORK COMPANIES, AS DEFINED IN

1 SECTION 40-10.1-602, MAY PROVIDE NEMT SERVICES IF:

2 (I) THE TRANSPORTATION PROVIDER ORIGINALLY ASSIGNED TO  
3 COMPLETE A TRIP IS UNABLE TO FULFILL THE ASSIGNMENT AND NO OTHER  
4 ENROLLED TRANSPORTATION PROVIDER IS AVAILABLE TO COMPLETE THE  
5 TRIP WITHIN THE TIME FRAME NECESSARY TO ENSURE THE MEMBER  
6 ARRIVES AT THEIR APPOINTMENT; OR

7 (II) NO TRANSPORTATION PROVIDER IS AVAILABLE TO SERVE THE  
8 MEMBER IN THE MEMBER'S COUNTY OR SERVICE AREA AT THE TIME THE  
9 TRIP IS REQUESTED.

10 (b) EACH USE OF A TRANSPORTATION NETWORK COMPANY IN  
11 ACCORDANCE WITH THIS SUBSECTION MUST BE DOCUMENTED BY THE  
12 TRANSPORTATION BROKER IN WRITING OR AN ELECTRONIC RECORDS,  
13 INCLUDING THE REASON FOR USING THE TRANSPORTATION NETWORK  
14 COMPANY, THE REASON A TRANSPORTATION PROVIDER WAS UNABLE TO  
15 COMPLETE THE TRIP, AND THE DATE AND TIME OF THE REQUEST. THE  
16 TRANSPORTATION BROKER SHALL MAKE THE DOCUMENTATION AVAILABLE  
17 TO THE STATE DEPARTMENT OR ITS DESIGNEE UPON REQUEST FOR AUDIT  
18 PURPOSES.

19 (c) THE TRANSPORTATION NETWORK COMPANY PROVIDING NEMT  
20 SERVICES MUST COMPLY WITH ALL APPLICABLE DRIVER AND VEHICLE  
21 SAFETY REQUIREMENTS INCLUDING VIDEO RECORDING REQUIREMENTS  
22 ESTABLISHED IN SECTION 25.5-1-802.

23 (20) A LICENSED AMBULANCE SERVICE PROVIDER IS NOT SUBJECT  
24 TO THE REQUIREMENTS OF THIS SECTION AND MAY PROVIDE NEMT  
25 SERVICES TO MEMBERS.

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

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

2           (1) THE TRANSPORTATION BROKER, OR A TRANSPORTATION  
3 PROVIDER IF THERE IS NO BROKER, SHALL ENSURE DURING SCHEDULING  
4 THAT INDIVIDUALS WHO SIGN UP TO RECEIVE TRANSPORTATION SERVICES  
5 ARE MEMBERS WHO ARE ELIGIBLE TO RECEIVE NONEMERGENCY MEDICAL  
6 TRANSPORTATION SERVICES.

7           (2) THE MEMBER ELIGIBILITY VERIFICATION PROCESS MUST  
8 PROTECT MEMBER PRIVACY. MEMBER ELIGIBILITY VERIFICATION MUST  
9 NOT REQUIRE DISPLAYING A MEMBER IDENTIFICATION CARD ON CAMERA  
10 OR THE VIDEO RECORDING OF MEMBERS FOR ROUTINE BILLING PURPOSES.  
11 NOTHING IN THIS SUBSECTION (2) PROHIBITS THE USE OF VIDEO  
12 RECORDING FOR DRIVER OR MEMBER SAFETY, OPERATIONAL MONITORING,  
13 OR COMPLAINT RESOLUTION PURPOSES. THE STATE DEPARTMENT MAY  
14 REQUEST VIDEO RECORDINGS FOR PROGRAM INTEGRITY REVIEW WITHOUT  
15 ADVANCED NOTICE TO THE TRANSPORTATION PROVIDER, PROVIDED THAT  
16 REQUESTS ARE NARROWLY TAILORED TO SPECIFIC ISSUES UNDER REVIEW.  
17 THE USE OF VIDEO RECORDINGS MUST COMPLY WITH APPLICABLE PRIVACY  
18 AND CONFIDENTIALITY REQUIREMENTS. TRANSPORTATION PROVIDERS ARE  
19 NOT REQUIRED TO RETAIN OR PRODUCE VIDEO RECORDINGS BEYOND THE  
20 STANDARD RETENTION PERIOD ESTABLISHED IN THEIR OPERATING  
21 PROCEDURES. ABSENCE OF VIDEO RECORDINGS OUTSIDE A RETENTION  
22 PERIOD DOES NOT CONSTITUTE NONCOMPLIANCE, AND ADVERSE ACTION  
23 SHALL NOT BE TAKEN AGAINST A TRANSPORTATION PROVIDER ON THIS  
24 BASIS.

25           (3) IF A TRANSPORTATION PROVIDER PROVIDES SCHEDULED  
26 TRANSPORTATION SERVICES IN GOOD FAITH BASED ON INFORMATION  
27 PROVIDED BY A TRANSPORTATION BROKER OR THE STATE DEPARTMENT,

1 THE STATE DEPARTMENT SHALL NOT DENY PAYMENT SOLELY BECAUSE THE  
2 BROKER OR THE STATE DEPARTMENT LATER DETERMINES THAT THE  
3 MEMBER'S ELIGIBILITY OR TRIP INFORMATION WAS INACCURATE, IF:

4 (a) THE PROVIDER HAD NO KNOWLEDGE OF THE INACCURACY AT  
5 THE TIME OF SERVICE; AND


6 (b) THE PROVIDER FOLLOWED ALL APPLICABLE RULES,  
7 PROCEDURES, AND DOCUMENTATION REQUIREMENTS FOR CLAIM  
8 SUBMISSION.

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

14 (5) THE STATE DEPARTMENT SHALL PROVIDE TRANSPORTATION  
15 PROVIDERS WITH ACCESS TO ELIGIBILITY VERIFICATION TOOLS VIA THE  
16 TRANSPORTATION BROKER OR OTHER AUTHORIZED SYSTEMS TO REDUCE  
17 THE LIKELIHOOD OF INELIGIBLE TRIPS.

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

20 **25.5-1-805. Nonemergency medical transportation provider**  
21 **and broker audits - reporting.**

22   
23 (1) THE STATE DEPARTMENT SHALL, SUBJECT TO AVAILABLE  
24 APPROPRIATIONS, AUDIT TRANSPORTATION PROVIDERS TO ENSURE  
25 REIMBURSEMENT IS MADE ONLY FOR TRIPS PERFORMED BY CREDENTIALLED  
26 DRIVERS OPERATING CREDENTIALLED VEHICLES PURSUANT TO THE RULES  
27 ADOPTED PURSUANT TO SECTION 25.5-1-802.

1           (2) THE STATE DEPARTMENT MAY USE DATA ANALYTICS,  
2 COMPLAINTS BY MEMBERS, AND OTHER PROGRAM INTEGRITY INDICATORS  
3 TO PRIORITIZE WHICH TRANSPORTATION PROVIDERS TO AUDIT. THE STATE  
4 DEPARTMENT IS NOT REQUIRED TO ANNUALLY PERFORM AUDITS BUT MUST  
5 PERFORM AUDITS AS RESOURCES ALLOW. AN AUDIT OF A TRANSPORTATION  
6 PROVIDER MAY INCLUDE A REVIEW OF THE FOLLOWING, AS THEY RELATE  
7 TO THE PROVIDER:

- 8           (a) CLAIMS SUBMITTED;
- 9           (b) THE PROVIDER'S POLICIES AND PROCEDURES;
- 10          (c) DRIVER AND VEHICLE CREDENTIALS;
- 11          (d) COMPLIANCE WITH STATE DEPARTMENT AND BROKER  
12 REQUIREMENTS;
- 13          (e) TRIP RECORDS;
- 14          (f) MEMBER GRIEVANCES, COMPLAINTS, AND INCIDENTS,  
15 INCLUDING THEIR RESOLUTION; OR
- 16          (g) OTHER DATA NECESSARY TO EVALUATE SAFETY, TIMELINESS,  
17 AND QUALITY OF THE SERVICES PROVIDED BY THE PROVIDER.

18           (3) THE STATE DEPARTMENT SHALL, SUBJECT TO AVAILABLE  
19 APPROPRIATIONS, CONDUCT AUDITS OF EACH TRANSPORTATION BROKER  
20 AT LEAST ANNUALLY. THE DEPARTMENT MAY USE THIRD-PARTY  
21 CONTRACTORS TO CONDUCT AUDITS OF TRANSPORTATION BROKERS. AN  
22 AUDIT OF A TRANSPORTATION BROKER MAY INCLUDE A REVIEW OF THE  
23 BROKER'S:

- 24          (a) POLICIES AND PROCEDURES;
- 25          (b) TRIP DISTRIBUTION AMONG TRANSPORTATION PROVIDERS,  
26 INCLUDING ANALYSIS BY GEOGRAPHY AND TRIP TYPE;
- 27          (c) COMPLIANCE WITH PROHIBITIONS ON TRIP CAPS ESTABLISHED

1 IN STATE DEPARTMENT RULE;

2 (d) COMPLIANCE WITH DRIVER, VEHICLE, AND PROVIDER  
3 CREDENTIALING REQUIREMENTS ESTABLISHED IN STATE DEPARTMENT  
4 RULE; AND

5 (f) RESPONSE TO MEMBER REQUESTS FOR SPECIFIC  
6 TRANSPORTATION PROVIDERS, INCLUDING WHETHER THEY WERE HONORED  
7 AND, IF NOT, THE REASON FOR DENIAL.

8 **SECTION 6.** In Colorado Revised Statutes, 25.5-5-102, **amend**  
9 (1)(m); and **add** (1)(n), (3), (4), (5), and (6) as follows:

10 **25.5-5-102. Basic services for the categorically needy -**  
11 **mandated services.**

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

15 (m) Federally qualified health centers; AND

16 (n) NONEMERGENCY MEDICAL TRANSPORTATION SERVICES, AS  
17 REQUIRED BY 42 U.S.C. 1396a(a)(4)(A).

18 (3) THE STATE DEPARTMENT SHALL CLASSIFY NONEMERGENCY  
19 MEDICAL TRANSPORTATION EXPENDITURES AS MEDICAL SERVICES FOR ALL  
20 ELIGIBLE POPULATIONS.

21 (4) THE STATE DEPARTMENT SHALL, TO THE EXTENT PERMITTED BY  
22 FEDERAL LAW, ENSURE THAT ALL ELIGIBLE NONEMERGENCY MEDICAL  
23 TRANSPORTATION EXPENDITURES CLASSIFIED AS MEDICAL SERVICES  
24 RECEIVE AVAILABLE FEDERAL FINANCIAL PARTICIPATION.

25 (5) ON NOVEMBER 1, 2026, AND NOVEMBER 1, 2027, THE STATE  
26 DEPARTMENT SHALL SUBMIT A REPORT TO THE JOINT BUDGET COMMITTEE  
27 AND THE COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY

1 ENTERPRISE BOARD ABOUT STATE SAVINGS EXPECTED OR RECEIVED AS A  
2 RESULT OF CLASSIFYING NONEMERGENCY MEDICAL TRANSPORTATION AS  
3 A MEDICAL SERVICE. THE REPORT MUST INCLUDE, AT A MINIMUM:

4 (a) THE TOTAL AMOUNT OF NONEMERGENCY MEDICAL  
5 TRANSPORTATION EXPENDITURES CLASSIFIED AS MEDICAL SERVICES;

6 (b) THE FEDERAL FINANCIAL PARTICIPATION AS A RESULT OF THE  
7 CLASSIFICATION;

8 (c) A DESCRIPTION OF ACTIONS TAKEN TO IMPLEMENT SUBSECTION  
9 (3) OF THIS SECTION, INCLUDING STATE PLAN AMENDMENTS, WAIVERS, OR  
10 PROGRAM CHANGES;

11 (d) IDENTIFICATION OF REMAINING NONEMERGENCY MEDICAL  
12 TRANSPORTATION EXPENDITURES NOT YET CLASSIFIED AS MEDICAL  
13 SERVICES AND THE BARRIERS TO THE CLASSIFICATION; AND

14 (e) RECOMMENDATIONS FOR ADDITIONAL STATUTORY OR  
15 ADMINISTRATIVE CHANGES NECESSARY TO MAXIMIZE FEDERAL FINANCIAL  
16 PARTICIPATION.

17 (6) SUBSECTION (5) OF THIS SECTION REPEALS, EFFECTIVE  
18 JANUARY 1, 2028.

19 **SECTION 7.** In Colorado Revised Statutes, 25.5-5-202, **amend**  
20 (1) introductory portion; and **repeal** (2) as follows:

21 **25.5-5-202. Basic services for the categorically needy - optional**  
22 **services - repeal.**

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

27 (2) ~~In addition to the services described in subsection (1) of this~~

1 ~~section and subject to continued federal financial participation, Colorado~~  
2 ~~has selected to provide transportation services as an administrative cost.~~

3 **SECTION 8. Effective date.** This act takes effect July 1, 2026.

4 **SECTION 9. Safety clause.** The general assembly finds,  
5 determines, and declares that this act is necessary for the immediate  
6 preservation of the public peace, health, or safety or for appropriations for  
7 the support and maintenance of the departments of the state and state  
8 institutions.