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PUBLIC
TRANSPORTATION
ASSOCIATION**

May 20, 2022

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Mr. Jeff Goldman

Principal - Health FFRDC

MITRE Corp on behalf of Centers for Medicaid and Medicare Services

NEMTEngagement@mitre.org

Subject: CMS Non-Emergency Medical Transportation (NEMT)
Program Comments

Dear Mr. Goldman:

The American Public Transportation Association (APTA) represents 1,500 public- and private-sector organizations that directly employ 450,000 people and support millions of private-sector jobs. Many of our public transit agency members provide non-emergency medical transportation (NEMT), a Medicaid benefit that provides vital access to health-care appointments for Medicaid recipients, particularly in rural areas. Without NEMT, millions of Americans would not be able to access these important medical services.

APTA believes that, as partners in transportation to the most vulnerable members of our communities, we should find ways to coordinate and collaborate on best practices to ensure that these communities are well-served. It is in that spirit that we provide the following comments on the Centers for Medicaid and Medicare Services (CMS) NEMT Program.

At the outset, APTA strongly encourages CMS to clearly define the roles of federal, state, and local agency partners and providers associated with providing NEMT services. By clearly defining the roles of each agency that touches an NEMT trip, CMS will establish a more cohesive and consistent system that providers and customers can easily understand and access.

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Mr. Jeff Goldman

May 20, 2022

Page 2

In addition, CMS should look to more broadly coordinate with public transportation providers, recognizing that the social determinants of health outcomes are dependent on the ability to access broader mobility in communities, and work to effectively utilize all resources. Many individuals who utilize NEMT services, are also customers of other systems and programs including public transportation, thus enabling transportation to be a seamless and easily accessible from a customer perspective.

After these roles are defined, we strongly encourage CMS to coordinate communication in each region of the country with other transportation providers so customers know what transportation resources are available to them, and how they can be accessed.

APTA recognizes the financial complexities of coordinating with multiple agencies, programs, and outcomes. Given the complexities, APTA is concerned about cost transference and urges the CMS to address it directly. Cost transference occurs when states or private, for-profit brokerages transfer transportation responsibility to local communities or public transit agencies through increased use of the transit agencies' Americans with Disabilities Act (ADA) paratransit services. This cost transference places a significant financial strain on local taxpayers who fund public transportation agencies, particularly small urban and rural systems. Public transit agencies should not be required to absorb financial and other burdens to relieve other entities of their responsibilities in paying for and providing trips.

In Florida, APTA is aware of an issue where NEMT trips are being improperly applied to state transit agencies' ADA services. In that situation, the Florida Commission for the Transportation Disadvantaged (CTD) has denied individuals access to state-reimbursable trips if they live within a transit ADA corridor. Accordingly, transit agencies are not able to seek reimbursement for transportation services rendered from state funds specifically reserved for these trips. APTA strongly discourages this "trip shedding" and believes the ADA complementary services should not be used to deny access to eligible NEMT trips.

In addition, the Coordinating Council on Access and Mobility (CCAM) plays a vital role in ensuring federal agency collaboration to ensure community-wide access to transportation networks for all, including underserved communities. As a CCAM-participating agency, CMS should ensure that any NEMT policy changes are well vetted and coordinated with all federal agency CCAM partners, including the U.S. Department of Transportation and the Federal Transit Administration (FTA). Failure to coordinate transportation leads to confusion and creates unnecessary barriers for providing these essential services.

CMS should also work with FTA to ensure that Medicaid programs do not place additional licensing, drug testing, and training requirements on public transit drivers performing NEMT services. Public transit drivers are currently required by law to undergo significant training, obtain CDL licensing, and adhere to well-established drug testing protocols, among other requirements. Any additional requirements imposed by state Medicaid programs are

Mr. Jeff Goldman

May 20, 2022

Page 3

unnecessary, contrary to Congressional directives,¹ and could adversely affect public transit authorities' ability to hire drivers to perform these vital services.

Last, APTA is strongly supportive of the NEMT program and opposes any effort to make NEMT for Medicaid recipients optional for states. APTA commits to continue to collaborate with CMS and all federal, state, and local agency partners to improve NEMT coordination and services for our customers. If there are any questions regarding this letter, please contact Stacie Tiongson, Senior Director, Government Affairs and Advocacy, at stiongson@apta.com.

Sincerely,



Paul P. Skoutelas
President and CEO

cc: The Honorable Chiquita Brooks-LaSure, Administrator, Centers for Medicaid and Medicare Services

The Honorable Nuria Fernandez, Administrator, Federal Transit Administration,
U.S. Department of Transportation

¹ The Consolidated Appropriations Act, 2021 (P.L. 116-260) specifically excludes public transit authorities from the requirement that State Medicaid plans include NEMT provider and individual driver requirements. Under the law, State plans must ensure that any provider (including a transportation network company) or individual driver of NEMT receiving payments under the plan (**but excluding any public transit authority**): (1) is not barred from participating in any federal healthcare plan and is not on the HHS Inspector General's exclusion list; (2) each individual driver has a valid driver's license; and (3) each provider has a process in place to address any violation of a State drug law and to disclose the driving history, including traffic violations, of each individual employed.