

1 STATES.—Expenditures for medical assistance provided to
2 an individual described in section 431(b)(8) of the Per-
3 sonal Responsibility and Work Opportunity Reconciliation
4 Act of 1996 (8 U.S.C. 1641(b)(8)) shall not be taken into
5 account for purposes of applying payment limits under
6 subsections (f) and (g).”.

7 (e) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to benefits for items and services
9 furnished on or after the date of the enactment of this
10 Act.

11 **SEC. 209. MEDICAID COVERAGE OF CERTAIN MEDICAL**
12 **TRANSPORTATION.**

13 (a) CONTINUING REQUIREMENT OF MEDICAID COV-
14 ERAGE OF NECESSARY TRANSPORTATION.—

15 (1) REQUIREMENT.—Section 1902(a)(4) of the
16 Social Security Act (42 U.S.C. 1396a(a)(4)) is
17 amended—

18 (A) by striking “and including provision
19 for utilization” and inserting “including provi-
20 sion for utilization”; and

21 (B) by inserting after “supervision of ad-
22 ministration of the plan” the following: “, and,
23 subject to section 1903(i), including a specifica-
24 tion that the single State agency described in
25 paragraph (5) will ensure necessary transpor-

1 tation for beneficiaries under the State plan to
2 and from providers and a description of the
3 methods that such agency will use to ensure
4 such transportation”.

5 (2) APPLICATION WITH RESPECT TO BENCH-
6 MARK BENEFIT PACKAGES AND BENCHMARK EQUIV-
7 ALENT COVERAGE.—Section 1937(a)(1) of the Social
8 Security Act (42 U.S.C. 1396u–7(a)(1)) is amend-
9 ed—

10 (A) in subparagraph (A), by striking “sub-
11 section (E)” and inserting “subparagraphs (E)
12 and (F)”;

13 (B) by adding at the end the following new
14 subparagraph:

15 “(F) NECESSARY TRANSPORTATION.—Not-
16 withstanding the preceding provisions of this
17 paragraph, a State may not provide medical as-
18 sistance through the enrollment of an individual
19 with benchmark coverage or benchmark equiva-
20 lent coverage described in subparagraph (A)(i)
21 unless, subject to section 1903(i)(9) and in ac-
22 cordance with section 1902(a)(4), the bench-
23 mark benefit package or benchmark equivalent
24 coverage (or the State)—

1 “(i) ensures necessary transportation
2 for individuals enrolled under such package
3 or coverage to and from providers; and

4 “(ii) provides a description of the
5 methods that will be used to ensure such
6 transportation.”.

7 (3) LIMITATION ON FEDERAL FINANCIAL PAR-
8 TICIPATION.—Section 1903(i) of the Social Security
9 Act (42 U.S.C. 1396b(i)) is amended by inserting
10 after paragraph (8) the following new paragraph:

11 “(9) with respect to any amount expended for
12 non-emergency transportation authorized under sec-
13 tion 1902(a)(4), unless the State plan provides for
14 the methods and procedures required under section
15 1902(a)(30)(A); or”.

16 (4) EFFECTIVE DATE.—The amendments made
17 by this subsection shall take effect on the date of the
18 enactment of this Act and shall apply to transpor-
19 tation furnished on or after such date.

20 (b) MEDICAID PROGRAM INTEGRITY MEASURES RE-
21 LATED TO COVERAGE OF NONEMERGENCY MEDICAL
22 TRANSPORTATION.—

23 (1) GAO STUDY.—Not later than two years
24 after the date of the enactment of this Act, the
25 Comptroller General of the United States shall con-

1 duct a study, and submit to Congress, a report on
2 coverage under the Medicaid program under title
3 XIX of the Social Security Act of nonemergency
4 transportation to services. Such study shall take into
5 account the 2009 report of the Office of the Inspec-
6 tor General of the Department of Health and
7 Human Services, titled “Fraud and Abuse Safe-
8 guards for State Medicaid Nonemergency Medical
9 Transportation Services” (OEI-06-07-00320). Such
10 report shall include the following:

11 (A) An examination of the 50 States and
12 the District of Columbia to identify safeguards
13 to prevent and detect fraud and abuse with re-
14 spect to coverage under the Medicaid program
15 of nonemergency transportation to covered serv-
16 ices.

17 (B) An examination of transportation bro-
18 kers to identify the range of safeguards against
19 such fraud and abuse to prevent improper pay-
20 ments for such transportation.

21 (C) Identification of the numbers, types,
22 and outcomes of instances of fraud and abuse,
23 with respect to coverage under the Medicaid
24 program of such transportation, that State

1 Medicaid Fraud Control Units have investigated
2 in recent years.

3 (D) Identification of commonalities or
4 trends in program integrity, with respect to
5 such coverage, to inform risk management
6 strategies of States and the Centers for Medi-
7 care & Medicaid Services.

8 (2) STAKEHOLDER MEETINGS.—

9 (A) IN GENERAL.—Not later than 18
10 months after the date of the enactment of this
11 Act, the Secretary of Health and Human Serv-
12 ices, through the Centers for Medicare & Medi-
13 caid Services, shall convene a series of meet-
14 ings to obtain input from appropriate stake-
15 holders to facilitate discussion and shared
16 learning about the leading practices for improv-
17 ing Medicaid program integrity, with respect to
18 coverage of nonemergency transportation to
19 medically necessary services.

20 (B) TOPICS.—The meetings convened
21 under subparagraph (A) shall—

22 (i) focus on ongoing challenges to
23 Medicaid program integrity as well as lead-
24 ing practices to address such challenges;
25 and

1 (ii) address specific challenges raised
2 by stakeholders involved in coverage under
3 the Medicaid program of nonemergency
4 transportation to covered services, includ-
5 ing unique considerations for specific
6 groups of Medicaid beneficiaries meriting
7 particular attention, such as American In-
8 dians and tribal land issues or accommoda-
9 tions for individuals with disabilities.

10 (C) STAKEHOLDERS.—Stakeholders de-
11 scribed in subparagraph (A) shall include indi-
12 viduals from State Medicaid programs, brokers
13 for nonemergency transportation to medically
14 necessary services that meet the criteria de-
15 scribed in section 1902(a)(70)(B) of the Social
16 Security Act (42 U.S.C. 1396a(a)(70)(B)), pro-
17 viders (including transportation network compa-
18 nies), Medicaid patient advocates, and such
19 other individuals specified by the Secretary.

20 (3) GUIDANCE REVIEW.—Not later than 24
21 months after the date of the enactment of this Act,
22 the Secretary of Health and Human Services,
23 through the Centers for Medicare & Medicaid Serv-
24 ices, shall assess guidance issued to States by the
25 Centers for Medicare & Medicaid Services relating to

1 Federal requirements for nonemergency transpor-
2 tation to medically necessary services under the
3 Medicaid program under title XIX of the Social Se-
4 curity Act and update such guidance as necessary to
5 ensure States have appropriate and current guidance
6 in designing and administering coverage under the
7 Medicaid program of nonemergency transportation
8 to medically necessary services.

9 (4) NEMT TRANSPORTATION PROVIDER AND
10 DRIVER REQUIREMENTS.—

11 (A) STATE PLAN REQUIREMENT.—Section
12 1902(a) of the Social Security Act (42 U.S.C.
13 1396a(a)) is amended—

14 (i) by striking “and” at the end of
15 paragraph (85);

16 (ii) by striking the period at the end
17 of paragraph (86) and inserting “; and”;
18 and

19 (iii) by inserting after paragraph (86)
20 the following new paragraph:

21 “(87) provide for a mechanism, which may in-
22 clude attestation, that ensures that, with respect to
23 any provider (including a transportation network
24 company) or individual driver of nonemergency
25 transportation to medically necessary services receiv-

1 ing payments under such plan (but excluding any
2 public transit authority), at a minimum—

3 “(A) each such provider and individual
4 driver is not excluded from participation in any
5 Federal health care program (as defined in sec-
6 tion 1128B(f)) and is not listed on the exclu-
7 sion list of the Inspector General of the Depart-
8 ment of Health and Human Services;

9 “(B) each such individual driver has a
10 valid driver’s license;

11 “(C) each such provider has in place a
12 process to address any violation of a State drug
13 law; and

14 “(D) each such provider has in place a
15 process to disclose to the State Medicaid pro-
16 gram the driving history, including any traffic
17 violations, of each such individual driver em-
18 ployed by such provider, including any traffic
19 violations.”.

20 (B) EFFECTIVE DATE.—

21 (i) IN GENERAL.—Except as provided
22 in clause (ii), the amendments made by
23 subparagraph (A) shall take effect on the
24 date of the enactment of this Act and shall
25 apply to services furnished on or after the

1 date that is one year after the date of the
2 enactment of this Act.

3 (ii) EXCEPTION.—In the case of a
4 State plan under title XIX of the Social
5 Security Act (42 U.S.C. 1396 et seq.), or
6 waiver of such plan, that the Secretary of
7 Health and Human Services determines re-
8 quires State legislation in order for the re-
9 spective plan to meet any requirement im-
10 posed by amendments made by this sec-
11 tion, the respective plan shall not be re-
12 garded as failing to comply with the re-
13 quirements of such title solely on the basis
14 of its failure to meet such an additional re-
15 quirement before the first day of the first
16 calendar quarter beginning after the close
17 of the first regular session of the State leg-
18 islature that begins after the date of the
19 enactment of this Act. For purposes of the
20 previous sentence, in the case of a State
21 that has a 2-year legislative session, each
22 year of the session shall be considered to
23 be a separate regular session of the State
24 legislature.

1 (5) ANALYSIS OF T-MSIS DATA.—Not later
2 than one year after the date of the enactment of this
3 Act, the Secretary of Health and Human Services,
4 through the Centers for Medicare & Medicaid Serv-
5 ices, shall analyze, and submit to Congress a report
6 on, the nation-wide data set under the Transformed
7 Medicaid Statistical Information System to identify
8 recommendations relating to coverage under the
9 Medicaid program under title XIX of the Social Se-
10 curity Act of nonemergency transportation to medi-
11 cally necessary services.

12 (c) CONSULTATION RELATING TO NONEMERGENCY
13 MEDICAL TRANSPORTATION.—In the case of a State that
14 exercises the option described in section 1902(a)(70) of
15 the Social Security Act (42 U.S.C. 1396a(a)(7)), in estab-
16 lishing a non-emergency medical transportation brokerage
17 program under such section, a State Medicaid agency may
18 consult relevant stakeholders, including stakeholders rep-
19 resenting patients, medical providers, Medicaid managed
20 care organizations, brokers for non-emergency medical
21 transportation, and transportation providers (including
22 public transportation providers).