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MaineCare Services
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Augusta, Maine 04333-0011

BETHANY L. HAMM
ACTING COMMISSIONER

DATE: October 30, 2018

TO: Interested Parties

FROM: Stefanie Nadeau, Director, MaineCare Services

SUBJECT: Proposed Rule: Chapter II, Section 113, Non-Emergency Transportation (NET)

PUBLIC HEARING: November 26, 2018 at 9:00 AM
Augusta Armory, 2nd Floor Conference Room
179 Western Avenue, Augusta, ME 04330

COMMENT DEADLINE: December 6, 2018 at 11:59 p.m.

This letter gives notice of a proposed rule: MaineCare Benefits Manual, Chapter(s) II, Section 113, Non-Emergency Transportation (NET).

This rule is being proposed in order to provide the following changes to Chapter II, Section 113, Non-Emergency Transportation (NET):

- a) Adds a definition for nearest appropriate provider;
- b) Adds description and procedures regarding school-based specialized transportation;
- c) Provides clarification as to how a broker determines the type of transportation authorized for members;
- d) Further defines child safety seat and federally approved child restraint systems while also providing guidance on responsibility of providers in securing Members prior to and during transport;
- e) Removes covered service which allowed for transportation to visit inpatient MaineCare members;
- f) Further clarifies procedures for Brokers in handling Member safety issues;
- g) Adds modifiers for encounter codes to identify school-based transportation and urgent trips;
- h) Corrects and/or deletes outdated references and website addresses; and
- i) Edits and minor language updates for clarification purposes.

Rules and related rulemaking documents may be reviewed at, or printed from, the MaineCare website at <http://www.maine.gov/dhhs/oms/rules/index.shtml> or for a fee, interested parties may request a paper copy of rules by calling (207) 624-4050 or Maine Relay number 711.

A concise summary of the proposed rule is provided in the Notice of Agency Rulemaking Proposal, which can be found at <http://www.maine.gov/sos/cec/rules/notices.html>. This notice also provides information regarding the rulemaking process. Please address all comments to the agency contact person identified in the Notice of Agency Rulemaking Proposal.

Notice of Agency Rule-making Proposal

AGENCY: Department of Health and Human Services, MaineCare Services, Division of Policy

CHAPTER NUMBER AND TITLE: 10-144 C.M.R., Chapter 101, MaineCare Benefits Manual, Chapter II, Section 113, Non-Emergency Transportation (NET)

PROPOSED RULE NUMBER:

CONCISE SUMMARY:

- a) Adds a definition for Appropriate Provider;
- b) Adds description and procedures regarding School-based Specialized Transportation;
- c) Provides clarification as to how a Broker determines the Type of transportation authorized for Members;
- d) Further defines Child Safety Seat and Federally Approved Child Restraint Systems while also providing guidance on responsibility of providers in securing Members prior to and during transport;
- e) Removes Covered Service which allowed for transportation to visit inpatient MaineCare Members;
- f) Further clarifies procedures for Brokers in handling Member safety issues;
- g) Adds modifiers for encounter codes to identify School-based transportation and Urgent trips;
- h) Corrects and/or deletes outdated references and website addresses; and
- i) Edits and minor language updates for clarification purposes.

See <http://www.maine.gov/dhhs/oms/rules/index.shtml> for rules and related rulemaking documents.

STATUTORY AUTHORITY: 22 M.R.S. §§ 42, 3173

PUBLIC HEARING:

Date and Time: November 26, 2018 at 9:00 a.m.
Location: Augusta Armory, 2nd Floor Conference Room
Augusta, ME 04333

The Department requests that any interested party requiring special arrangements to attend the hearing contact the agency person listed below before November 22, 2018.

DEADLINE FOR COMMENTS: Comments must be received by 11:59 PM on December 6, 2018.
Trista.Collins@maine.gov

AGENCY CONTACT PERSON: Trista Collins, Comprehensive Health Planner II

AGENCY NAME: MaineCare Services

ADDRESS: 242 State Street, 11 State House Station
Augusta, Maine 04333-0011

TELEPHONE: 207-624-4094 FAX: (207) 287-1864
TTY: 711 (Deaf or Hard of Hearing)

IMPACT ON MUNICIPALITIES OR COUNTIES (if any): The Department anticipates that this rulemaking will not have any impact on municipalities or counties.

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INTRODUCTION

MaineCare's Non-Emergency Transportation (NET) Services provide transportation for eligible MaineCare Members to and from covered, non-emergency MaineCare services when no other means of transportation is available. The State is divided into eight regions for the purposes of providing this transportation. Broker(s) have contracts with the State to provide NET services in one or more regions.

NET services are provided under a Medicaid program waiver authorized under Section 1915(b) of the *Social Security Act* and approved by the Centers for Medicare and Medicaid Services (CMS). The waiver restricts a Member's freedom of choice in providers by limiting the number of Brokers with which the State contracts for NET services.

113.01 DEFINITIONS

113.01-1 **Attendant:** An employee of an Agency Transporter or Broker, approved and reimbursed by the Broker, who assists the driver and accompanies a Member or group of Members during transport in order to ensure the safe operation of the vehicle and the safety of the Members. Attendants must be at least 18 years of age.

113.01-2 **Appropriate Provider:** A provider who is able to ~~accept~~ provide medically necessary MaineCare services to the MaineCare Member within a reasonable time frame.

113.01-~~23~~ **Broker:** An entity with which the Department has contracted to manage, authorize, coordinate, and reimburse the provision of necessary Non-Emergency Transportation for eligible MaineCare Members.

113.01-4 **Child Safety Seat:** A child safety seat that meets the Federal Motor Vehicle Safety Standards as described in Maine State Law at 29-A M.R.S. §2081.

113.01-~~35~~ **Department:** The Maine Department of Health and Human Services, acting through the Office of MaineCare Services.

113.01-~~46~~ **Escort:** A personal assistant, family member, friend, volunteer or facility employee who accompanies a Member ~~for the entire trip and stays with the Member at the destination. Escorts are not arranged for or funded by the Broker or the Department. It is the responsibility of the member, or the member's parent or guardian, or the Member's residential provider to arrange for or supply an Escort. The term "Escort" may be used interchangeably with the term "Personal Assistant."~~

113.01-7 **Federally Approved Child Restraint System:** Means a child safety restraint that is intended to be used as crash protection in vehicles and that meets the requirements of the Federal Motor Vehicle Safety Standards as described in 29-A M.R.S. § 2081.

113.01-8 **Friends, Family, Neighbors (FFN):** Means transportation provided by friends, family, volunteers, neighbors, or any other natural support.

113.01 DEFINITIONS (cont.)

- 113.01-~~59~~ **Incident:** Any unanticipated event, other than a motor vehicle accident, which results in a disruption of services.
- 113.01-~~610~~ **Late:** More than 15 minutes after the scheduled pick-up time from a Point of Origin, more than 5 minutes after the scheduled drop-off time for an appointment/ MaineCare covered service, or more than 30 minutes after the scheduled pick-up time from an appointment/MaineCare covered service.
- 113.01-~~711~~ **MaineCare Covered Services:** Services covered and reimbursed through MaineCare, as provided in the *MaineCare Benefits Manual*.
- 113.01-~~812~~ **Member:** Any person certified as eligible for services under the MaineCare program.
- 113.01-~~913~~ **NET:** Non-Emergency Transportation.
- 113.01-~~1014~~ **No Show:** A failure by the Member to utilize previously scheduled transportation without contacting the Broker in advance of the trip to cancel it. This includes the Member failing to be at the agreed upon Point of Origin no later than 10 minutes after the scheduled pick up time or canceling with the Transporter at its arrival at the Point of Origin location.
- 113.01-~~1115~~ **On Time:** From thirty (30) minutes before until fifteen (15) minutes after the scheduled pick-up time from a Point of Origin; from thirty (30) minutes before until five (5) minutes after the scheduled drop-off time at an appointment/MaineCare covered service; and until thirty (30) minutes after the scheduled pick-up time from an appointment/MaineCare covered service. For an unscheduled pick-up (e.g., when the Member will call after a medical appointment), “on time” is within two (2) hours of the time the Broker is notified that the Member is ready to be picked up in a rural area, and within (1) hour of the call to a Broker in an urban area.
- 113.01-~~1216~~ **Personal Assistant:** A person who is designated by a Member to assist with one or more daily life functions, including helping the Member use transportation services. A fare is not charged for the Personal Assistant to ride with the Member. Personal assistants are not provided by the Broker.
- 113.01-~~1317~~ **Point of Origin:** Location (usually, but not always, a residence) where a Member first boards a ride.
- 113.01-~~1418~~ **Public Transportation:** Buses, trains, ferries, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

113.01 DEFINITIONS (cont.)

113.01-~~1519~~**Records:** All documents relating to the services performed by the Broker or Transporter, including but not limited to books, notes, meeting agendas, schedules, phone records, voicemail messages, email and other communications, payrolls, papers, accounting records and other documents that contain information regarding the subject matter of this Section.

113.01-~~1620~~**Related Travel Expenses:** Expenses incurred by the Transporter, Member, or Escort during the provision of NET services that are necessary to ensure Member access to MaineCare covered services. These expenses may include overnight lodging and meal expenses.

113.01-~~1721~~**Reports:** Regularly scheduled submissions that the Broker is contractually required to submit to the Department so that the Department can monitor the Broker's performance.

113.01-~~1822~~**Rural:** Areas not defined as Urban by the Maine Department of Transportation.-
~~Current definitions can be found at~~
<http://www.maine.gov/mdot/esd/mts/stateurbancompact.htm>. (Maine Department of Transportation, "MaineDOT Speak: Frequently Used Maine Department of Transportation Terms and Definitions" (2008). *Transportation Documents*, Paper 14).

113.01-23 **School-Based Transportation Order:** -A Transportation request to and from a medical service for a student Member who is accessing the service because it is medically necessary for the student to access their education through Individuals with Disabilities Education Act (IDEA). Both the medical service(s) being accessed, and the actual Transportation service must be listed on an individual's Individual Education Plan (IEP) or Individualized Family Service Plan (IFSP).

113.01-~~1924~~**Standing Orders:** Recurring or repetitive trips that occur one (1) or more days a week with the same Point of Origin, MaineCare covered service destination and return.

113.01-~~2025~~**Transporters:** Any entity, organization or individual that provides transportation services reimbursable by a Broker under the NET program. This includes agents of the Broker with which the Broker has entered a Service Agreement ("Agency Transporters"), public transportation, commercial taxis, volunteers, and friends and family.

113.01-~~2126~~**Urban:** Areas defined as Urban by the Maine Department of Transportation. These include those areas in which, according to the last United States census, the population (1) exceeds 7,500 inhabitants or (2) is less than 7,500 inhabitants but more than 2,499 inhabitants, and the ratio of people whose place of employment is in a given municipality to employed people residing in that same municipality is 1.0 or greater, and when the municipality has not exercised the opt-out provision as set forth by the Maine Department of Transportation.

113.01 DEFINITIONS (cont.)

~~A current list of urban areas can be found at~~
~~<http://www.maine.gov/mdot/esd/mts/stateurbancompact.htm>~~ (Maine Department of
Transportation, “MaineDOT Speak: Frequently Used Maine Department of
Transportation Terms and Definitions” (2008). *Transportation Documents*, Paper 14).

113.01-~~2227~~ **Urgent Trip:** An unscheduled and irregular situation in which there is no immediate threat to life or limb but the Member must be seen on the day of request and treatment cannot be delayed until the next day (e.g. follow-up); appointments scheduled less than 5 days after the last appointment; unexpected pre-operative appointments; hospital discharges; appointments for new medical conditions or tests when the Member must be seen; dialysis; and urgent pharmacy trips.

113.01-~~2328~~ **Wheelchair Accessible Vehicle:** A motorized vehicle equipped specifically with certified wheelchair lifts or other equipment designed to allow persons in wheelchairs or other mobility devices to safely enter a vehicle and secure their wheelchair or device for transportation in accordance with national safety standards.

113.02 NON-EMERGENCY TRANSPORTATION REGIONS

Brokers oversee NET services on a regional basis. Each Broker is responsible for arranging all NET services for eligible Members that reside in its assigned region(s). The Broker may not coordinate transportation for Members who reside outside its region(s) except when: (1) coordination between Brokers is necessary to adequately and timely ensure a Member’s access to NET services; or (2) the Member resides out-of-state for medical reasons.

When a MaineCare Member resides out-of-state for medical reasons, as approved by the Department, NET services shall be provided by the Broker located in the region most geographically proximate to the Member’s out-of-state residence. Geographic proximity is defined as the shortest straight line distance between the Member’s out-of-state residence and any point along the border of the state of Maine.

On a monthly basis, the Department will provide each Broker with a list of approved Members residing out-of-state who are assigned to the Broker’s region(s). This list is subject to change between the Department’s monthly reporting to the Broker. The Broker may not use the absence of a Member’s name on the list as the sole reason to deny NET services to the Member.

The following map details the regional boundaries.

113.03 ELIGIBILITY FOR SERVICES

Members who meet the financial, residency and eligibility criteria found in the *MaineCare Eligibility Manual* qualify for Non-Emergency Transportation (NET) Services. Some Members may have restrictions on the type and amount of underlying services they are eligible to receive. It is the responsibility of the Broker to verify a Member's eligibility for MaineCare services, as described in the *MaineCare Benefits Manual* (MBM), Chapter I, "General Administrative Policies and Procedures", **prior to providing services**. ~~All Members who receive services under waivers are eligible to receive services under Section 113.~~

Refusal to cooperate and provide requested documents by the Member may be cause for the denial of services. Members must have no other means to reach the covered service, therefore requiring the Department's transportation services.

113.04 COVERED TRANSPORTATION SERVICES

113.04-1 Covered Transportation services include:

- A. **Non-emergency transportation to covered MaineCare services.** The Broker must ensure the availability of wheelchair-accessible vehicles. The Broker may utilize wheelchair van companies, taxis, other agency vehicles, or family, friends or volunteers with vehicles that meet wheelchair accessibility standards and the individual Member's mobility needs.
- B. **Transportation to a pharmacy to obtain MaineCare covered medication.**
- C. **Related travel expenses, such as meals and lodging.** In addition to the provision and reimbursement of transportation services, the Broker, at its sole expense, must cover and reimburse related travel expenses in providing NET services. However, the Broker shall not reimburse related travel expenses when NET services are provided to transport a Member to a medical service that requires prior authorization in writing by the Department, and for which prior authorization was either not obtained or denied.
- D. **Minor Traveling with Adult Members:** There may be times when an adult Member requests to allow a minor to accompany the Member to an appointment, not as an Escort, but because the Member does not have alternate childcare available. If there is room or an available seat, the Broker ~~will~~ may allow a child or children to be transported with the adult Member who requires the MaineCare service.

113.04 COVERED TRANSPORTATION SERVICES (cont.)

~~E. **Inpatient minors:** A parent, foster parent or guardian is eligible to be transported to visit his or her MaineCare or Member minor child (age 17 or younger) who is an inpatient of a hospital, whether or not the parent is MaineCare eligible him or herself. These trips are limited to the child's period of hospitalization. Transportation of individuals who are not MaineCare Members should be reported under the minor child's MaineCare eligibility number. Transportation to visit an inpatient adult MaineCare Member is not covered.~~

E. School-Based Specialized Transportation as defined in 113.01-21. Requests for transportation to and from a School-based provider will be approved based on actual time of service for medical appointment(s). Verification of time of medical appointment may be requested by the Broker.

F. Children receiving treatment in a PNMI may be eligible for NET transport to and from visits home. In order for the NET trip to be covered, visits home must be included in the member's plan of care/ treatment plan. A PNMI making a NET trip request on behalf of a child must provide the broker with documentation that visits home are included in the plan of care/ treatment plan. The PNMI must also inform the broker of any safety risks the member may pose during transportation.

113.04-2 Types of Covered Transportation:

Types of Covered Transportation services include:

- A. Public transportation, including buses, trains and ferries;
- B. Family, friends, and volunteers;
- C. Commercial taxis; Ad-hoc;
- D. Agency vehicle: A multiple passenger vehicle operated by a public, private nonprofit, or private for profit agency;
- E. Wheelchair transport; ~~and~~
- F. Other specialized vehicles used to provide paratransit services.
- G. School-based Specialized Transportation provided by a school or contracted entity of the school.

113.05 NON-COVERED SERVICES

Non-Emergency Transportation (NET) services do not include:

- A. **Ambulance Services:** Ambulance Services are covered in the *MaineCare Benefits Manual*, (MBM), Chapter II, "Ambulance Services." ~~Section 5 (Ambulance Services);~~

113.05 NON-COVERED SERVICES (cont.)

- B. Transportation for individuals residing in Nursing Facilities and for individuals residing in Intermediate Care Facilities for individuals with Intellectual Disabilities or Pervasive Developmental Disorders (ICF-IIDs) unless there is a written request from the facility to the Department that it is unable to supply the transportation for good cause, the transportation is for medically necessary medical service, and that written request has been prior approved by the Department;
- C. Transportation to visit inpatient MaineCare Members. a sick infant or child or critically ill/injured spouse, except as allowed above for visits by a parent, foster parent, or guardian to his or her children admitted to a hospital under an inpatient status. ~~Transportation to visit an inpatient adult MaineCare member is not covered.~~
- D. Transportation for individuals ineligible for NET services. Brokers must verify Member eligibility prior to authorizing transports.
- E. Transportation of parents to visit children residing in Private Non-Medical Institutions.
- ~~E~~F. Transportation to return a Member to Maine from another state, unless the Member was in another state for the purpose of obtaining MaineCare approved medical services.
- ~~E~~G. Transportation for Members when those same trips are available at no cost to the general public or when the general public is being transported in the same vehicle at no cost. Brokers may waive this requirement for Members for whom free transportation is medically inappropriate.
- G. Transportation where no actual Member transport occurred, even if the NET services may have been authorized by the Broker, such as a no-show or a cancellation.
- H. Transportation for Members to see providers not enrolled in MaineCare.
- I. Daily transportation to daycare facilities, summer camps, schools, or afterschool programs on days when a MaineCare service is not scheduled to be provided to a Member. Additional verification of billable service may be required if prior records indicate transportation was provided for a Member to a facility on a date when no MaineCare service was provided.

113.06 POLICIES AND PROCEDURES

113.06-1 Broker Agreements

- A. Broker(s) are required to have a current executed MaineCare Provider Agreement with the Department.
- B. Broker(s) are required to have a current executed Business Associate Agreement with the Department.

113.06 POLICIES AND PROCEDURES (cont.)

- C. Brokers are required to have a current executed contract for NET services with the Department.

113.06-2 Transportation Network

- A. **Service Agreements.** Each Broker must have signed Service Agreements with agencies providing transportation services. Service Agreements are not required for volunteers, family and friends, Public Transportation, taxis, or other ad-hoc transportation use. All Service Agreements shall be submitted to the Department for review. The Department shall notify the Broker if the Service Agreement is not approved and include the reasons why it is not approved. The Broker must provide the Department with copies of all fully executed Service Agreements.
- B. Each Broker must establish a network of Transporters to deliver NET services to eligible Members who live in its regions which is sufficient to provide adequate access to all covered services. The Broker must secure sufficient Transporter resources (numbers and types of vehicles, drivers, and Attendants, including requirements for wheelchair accessibility) under Service Agreements so that the failure of any Transporter to perform will not impede the ability of the Broker to provide NET services.
- C. Each Broker must insure adequate transportation at all times, including holidays.
- D. Each Broker must notify the Department (or its agent) within 24 hours of knowledge of a termination of a Service Agreement. Within 72 hours of any such termination, the Broker shall have a plan for replacement of coverage for Members served pursuant to that Service Agreement.

113.06-3 Assignment of Members to Brokers

The Department will notify Members by written notice of the name, address, phone number, and other contact information regarding the Broker that has been assigned to them.

113.06-4 Verification of Member Eligibility

- A. As set forth in Section 113.02, the Broker will be responsible for receiving and processing requests for NET services from MaineCare Members who reside in its assigned region(s). Any Members who must reside out of state due to medical reasons, as approved by the Department, will be assigned to the Broker in the region most geographically proximate to their physical residences. The Broker is responsible for verifying Member MaineCare eligibility. The Broker may use one (1) of four (4) options available to verify Member eligibility:

113.06 POLICIES AND PROCEDURES (cont.)

1. Access this information via the MaineCare web portal;
2. Use automated telephone verification;
3. Reference the eligibility file provided by the Department; or
4. Additionally, if necessary, the Broker may contact a Departmental provider services agent to verify eligibility. The Broker must ensure that it can verify eligibility at all times.

- B. **Specific service eligibility:** Each Broker will be responsible for verifying the service eligibility of the Member for the MaineCare service to which the Member is being transported. Some Members may have restrictions on the type and amount of covered MaineCare services they may receive (e.g. a visit cap on a particular type of medical appointment).

Additionally, Members have varying levels of eligibility for services. In some cases the Broker may need to determine the type of eligibility a Member has (e.g. full MaineCare benefit, Home and Community Based Services (HCBS) benefits, etc.) to verify that the requested trip is to an authorized service for that Member.

113.06-5 Authorization and Verification of NET Services

- A. The Broker will assess the Member's eligibility for transportation services. This assessment will include ensuring:
1. That the transportation is to and/or from a MaineCare covered service. This may include transportation to non-medical services as indicated on an approved plan of care for HCBS waiver Members; and that the cost of transportation is not a component of the rate paid for the service.
 2. That the Member has no other appropriate means of transportation available. Members are considered to have no other appropriate means of transportation if they are unable to safely rely on themselves, a household member, friend, public transit or other means to access MaineCare-covered services, without undue financial hardship and/or substantial interference with family or friends' work or other obligations; and
 3. That the transportation is to and/or from the nearest appropriate provider of care or meets one of the listed exceptions.

A Member's freedom of access to health care does not require Medicaid to cover transportation at unusual or exceptional cost in order to meet a beneficiary's personal choice of provider.

113.06 POLICIES AND PROCEDURES (cont.)

4. For School-based services, either a Broker or a MaineCare NET office representative may review the transportation requested alongside the Member's Individual Education Plan (IEP) or Individualized Family Service Plan (IFSP), in addition to letters from the providing service agency to determine if the transportation is being provided in accordance with CMS guidance and Federal IDEA regulations.

B. Validity of Information

Except for these required verifications, the Broker will accept as valid the the Member when determining the need for NET services, unless the Brokers have cause to doubt the validity of said information.

If the Broker has cause to doubt the validity of the information provided by or on behalf of the Member, the Broker may require documentation to confirm the information as necessary.

If the Member refuses to cooperate in determining status of MaineCare eligibility, or refuses to provide the documentation requested to determine eligibility for NET services, the Member can be denied services.

C. Residence in NET Service Region

The Broker is responsible for ensuring that NET services are provided to MaineCare Members who require medical or HCBS waiver services, reside within the Broker's region and have no other means of accessing those services. The Broker is not responsible for arranging MaineCare NET services for MaineCare Members who reside outside the region for which the Broker holds a valid contract unless the Member resides out of state for medical reasons. In that case the Member will be assigned to the Broker in the region most geographically proximate to the Member's residence. The Broker will arrange travel to and from medically necessary services in other regions when the eligible MaineCare Member who is being transported resides within the Broker's region.

D. Transportation Services to HCBS Waiver Services

When HCBS waiver Members or their authorized representatives request transportation to HCBS waiver services, the Broker must verify that the Member is authorized to receive transportation under the HCBS waiver, and that the HCBS waiver service to which the Member is requesting transportation is a MaineCare-covered service (e.g., employment specialist services, adult day health services, etc.).

113.06 POLICIES AND PROCEDURES (cont.)

1. For Members with Intellectual Disabilities and Autism Spectrum Disorders receiving Home and Community or Support Benefits under Sections 21 or 29 of the *MaineCare Benefits Manual*, the Broker will contact the Member's assigned case manager to confirm that the service or activity to which the Member is requesting transportation is a covered HCBS waiver service under the Member's plan of care.
2. For elderly Members and those with physical disabilities, the Broker will contact the designated Service Coordination Agency to confirm that the service or activity to which the Member is requesting transportation is a covered HCBS waiver service under the Member's plan of care. See *MaineCare Benefits Manual*, Chapter II, Section 19.
3. For Waiver Services for Children with Intellectual Disabilities or Pervasive Developmental Disorders (MBM Chapter II, Section 32), the Broker will contact the Member's assigned case manager to confirm that the service or activity to which the Member is requesting transportation is a covered HCBS waiver service under the Member's plan of care.
4. For Members with Other Related Conditions receiving Home and Community Benefits under Section 20 of the *MaineCare Benefits Manual* or for Members with Brain Injury receiving Home and Community Benefits under Section 18 of the *MaineCare Benefits Manual*, the Broker will contact the Member's assigned care coordinator to confirm that the service or activity to which the Member is requesting transportation is a covered HCBS waiver service under the Member's plan of care.
5. Additional waiver services may be initiated by the Department during the course of the NET contract. The Broker will be given specific instructions for verifying eligibility and covered services at the time the waiver is initiated.

113.06-6 Determination of ~~Mode~~ Type of Transportation

The Broker may arrange for non-emergency transportation by:

- A. Negotiating Service Agreements with qualified Transporters;
- B. Entering into Service Agreements with federally funded and/or fixed route transit;
- C. Providing tokens, vouchers or passes to Members, and to Escorts when requested, to cover the fare for federally funded, established public, or private transit service which is available when the Member has the capacity to use such service;

113.06 POLICIES AND PROCEDURES (cont.)

- D. Providing mileage reimbursement to Members, family and/or friends to transport MaineCare Members;
- E. Entering into Service Agreements with commercial taxi services to supplement the Broker's NET services;
- F. Use of commercial taxis; ~~and~~ Ad hoc;
- G. Other methods, including utilizing family, friends, and volunteers, if permitted by federal and state law.

~~In all cases, t~~The Broker determines the ~~mode-type~~ of transportation used that meets the Member's needs.

113.06-7 Nearest Appropriate HealthCare or Waiver Service Provider

NET is generally limited to transporting the Member to MaineCare providers that are geographically proximate to the Member. It is neither efficient nor economical to transport a Member a lengthy distance to a MaineCare provider when there are qualified and appropriate providers located closer to the Member. Each Broker shall develop procedures ensuring that transportation is provided to medical or waiver service providers that are geographically proximate to the Member.

- A. A MaineCare provider will be considered a nearest ~~a~~Appropriate ~~p~~Provider if the distance between the Member's residence and the provider location is less than or equal to:
 - 1. 30 Miles for non-pharmacy or waiver service providers in Urban areas.
 - 2. 50 Miles for non-pharmacy medical or waiver service providers in Rural areas.
 - 3. 15 Miles for pharmacies in Urban areas.
 - 4. 30 Miles for pharmacies in Rural areas.
- B. For all non-urgent care, regardless of the provider's geographic proximity to the Member, Members must call or contact the Broker at least two (2) business days in advance of their appointment to receive transportation services. Business days shall not include weekends, state or federal holidays, or any other days on which the Office of MaineCare services is closed.

For an urgent trip or for other good cause, there is no waiting period.

113.06 POLICIES AND PROCEDURES (cont.)

- C. The Broker(s) shall arrange for transportation beyond these mileage limits when any of the following conditions exist:
1. The Member does not have access to an appropriate provider within the mileage limits;
 2. The Member's Primary Care Provider has referred the Member to a specific provider whose location is beyond the mileage limit;
 3. A specific medical or waiver service provider is designated in the Member's Plan of Care for HCBS services whose location is beyond the mileage limit; because the Member has a unique medical need which can only be met by utilizing a specified provider and there is no appropriate provider in the member's region.
 4. The Member requests NET to a medical or waiver service provider with whom the Member has had an ongoing relationship for at least one (1) year and a change of provider would be detrimental to the Member's care. Such determination is made by the Member's MaineCare provider.
- D. These mileage limits may be extended if necessary; but in no case may they be reduced.
- E. All requests for transportation to out of state destinations must be prior authorized by the Department.

113.06-8 Limit on Self-Referral and Certain Relationships

The Broker may operate as a Transporter and Broker. However, a Broker who also operates as a Transporter may not show preference towards itself in the scheduling of trips and may act as a Transporter only when it is the most cost effective means of appropriate transportation available. No more than 25% of trips shall be self-referred unless approved in advance by the Department. Such approval shall be contingent on demonstrating insufficient network adequacy if the limit is not exceeded.

- A. A trip is considered self-referred when the vehicle used to transport the Member is owned and/or operated by the Broker or if the same company that owns and operates the vehicle has an ownership interest in the Broker. The self-referral rate is calculated monthly.
- B. In addition, the Broker shall not knowingly have a relationship with the following:

113.06 POLICIES AND PROCEDURES (cont.)

1. An individual who is debarred, suspended, or otherwise excluded from participating in procurement activities under the *Federal Acquisition Regulation*, 48 C.F.R. 1 *et seq.* or from participating in non-procurement activities under regulations issued under Executive Order No.12549 or under guidelines implementing Executive Order No. 12549.
2. An individual who is an affiliate, as defined in the Federal Acquisition Regulation, of an individual who is debarred, suspended, or otherwise excluded from participating in procurement activities under the *Federal Acquisition Regulation*, 48 C.F.R. 1 *et seq.* or from participating in non-procurement activities under regulations issued under Executive Order No.12549 or under guidelines implementing Executive Order No. 12549.
3. For purposes of Section 113.06-8(B), “relationship” is described as follows:
 - a. A director, officer, or partner of the Broker;
 - b. A person with beneficial ownership of five percent or more of the Broker's equity; or
 - c. A person with an employment, consulting, or other arrangement with the Broker obligations under its contract with the State.

113.06-9 Timely Access Requirements

- A. The Broker(s) must meet the following minimum timely access to service delivery standards:
 1. The Broker must make NET services available for Members 24 hours a day, 7 days a week, when transportation to a MaineCare covered service is medically necessary;
 2. The Broker must establish mechanisms to ensure that its network of Transporters complies with the timely access requirements;
 3. The Broker must regularly monitor its network to determine compliance with timely access;
 4. The Broker must take corrective action if there is a failure to comply with timely access and notify the Department of any corrective action undertaken;

113.06 POLICIES AND PROCEDURES (cont.)

5. If the Broker's network is unable to provide transportation to MaineCare covered services to an eligible Member, the Broker must adequately and timely provide transportation utilizing Transporters outside of the Broker's network for as long as the Broker's network is unable to provide the needed transportation;
6. In the event that a trip pickup will not be made On Time, the Broker, or its designated representative, must contact and inform the Member. Making such contact does not negate the pickup being considered Late; and
7. Drivers must wait no less than 10 minutes beyond the scheduled pickup time if the Member is not at the scheduled Point of Origin prior to service. The driver must contact the Broker, or Broker's designated representative, if a Member has not presented within 10 minutes of the scheduled pickup time before the driver may leave the Point of Origin.

113.06-10 Urgent Trips

Brokers must provide same day trips for Members who have urgent medical needs that do not require emergency treatment. This includes:

- A. Urgent care, defined as a need, as assessed by the medical provider, for the Member to be seen within 48 hours;
- B. Post-surgical and/or medical follow-up care specified by a health care provider to occur in fewer than forty eight hours;
- C. Imminent availability of an appointment with a specialist when the next available appointment would require a delay of two weeks or more;
- D. Trips to acquire prescription medication, when defined as urgent by the medical provider;
- E. The result of administrative or technical delay caused by the Broker and requiring that an appointment be rescheduled; and
- F. Hospital discharges.

113.06-11 Standing Orders

- A. Standing Orders may be put in place for recurring or repetitive trips that occur one (1) or more days a week with the same Point of Origin, destination and return. Examples of services treated as Standing Orders include, but are not limited to: trips to dialysis, methadone treatment, adult day health care, day support, and supported employment.

113.06 POLICIES AND PROCEDURES (cont.)

~~B. B.~~—The necessity for a Standing Order for a Member must be re-affirmed by the Member's Broker at least once every 90 days.

C. Standing Orders for School-based Specialized Transportation received within thirty (30) days prior to and after the start of a new school year, or thirty (30) days prior to and after the start of Extended School Year (ESY), will be processed within two weeks of the request. All orders received outside of that time frame will be processed within two business days.

D. School-based Specialized Transportation requests must be made by the staff employed by the school district responsible for a Member's placement, or in the case of a Member receiving services through CDS, requests must be made by CDS staff.

113.06-12 Transporting MaineCare Members With Non-MaineCare Passengers

Unless otherwise specified in this Section, non-MaineCare Members may share rides with Members only if the fare or rate paid to the Transporter for non-Member riders is not less than the amount paid for Members. Medicaid shall not supplement or supplant other funding sources. If there is no funding/payment to pay for the non-Member's ride, the individual shall not be permitted to share a ride with a Member.

113.06-13 Escorts and Attendants

The Broker(s) must allow, without charge to the Escort, Member, or the Department, one (1) Escort to accompany a Member or group of Members who are blind, deaf, have an intellectual disability, have Autism Spectrum Disorder, have a brain injury, are less than 21 years of age, or as otherwise determined by the Department staff as needing an Escort, to a covered service.

The Broker must arrange with the Transporter for the provision of one Attendant during transport when, in the judgment of the Broker, considering all known factors or as required by the licensed MaineCare provider, it is necessary to have an adult aide on a trip to assure the safety of all passengers. Neither the Member nor the Department may be charged for the use of attendants.

113.06-14 Transport of Minors

~~A. Unaccompanied Minors~~

~~Children under the age of sixteen (16) shall not be transported without an adult Escort, except when:~~

113.06 POLICIES AND PROCEDURES (cont.)

- ~~1. The Broker is in possession of a consent form, signed by the legal parent or guardian of the child, authorizing the Broker to provide transportation to the unaccompanied minor. The consent form shall be valid for a period of up to twelve months; or until revoked by the legal parent or guardian; or~~
- ~~2. The minor requests transportation to a service deliverable without parental consent, only if allowed by state and/or federal law.~~

~~**B. Children Under the Age of 12**~~

~~For children under the age of twelve (12), parental consent must include specific approval for the type of transportation utilized to convey the child. In providing transportation to children under the age of 12, in addition to the general requirements for unaccompanied minors set forth above, the following requirements apply:~~

- ~~1. At the time of scheduling, the Broker must confirm that an adult at the drop off location will be available to take responsibility for the minor. It is sufficient to note that an employee, volunteer, or other associate of the medical or waiver service provider will be available; a specific named employee is not required.~~
- ~~2. Upon reaching the destination, the driver shall consider all circumstances in determining if the driver will accompany the minor into the drop off location. Under no circumstances shall the driver leave the vehicle unattended if:
 - ~~a. There are other riders who would remain in the vehicle; or~~
 - ~~b. Leaving the vehicle unattended would create a risk to public safety.~~~~
- ~~3. Should the driver determine it unsafe to leave the vehicle, the driver, Transporter, or Broker shall contact the medical or waiver service provider requesting that an authorized adult come to the vehicle to take responsibility for the child.~~
- ~~4. Whether the driver accompanies the child into the building, or an employee, volunteer, or other associate comes to the vehicle, the driver shall confirm that the person is authorized to take responsibility for the minor and agrees to do so. It is not sufficient to inform a receptionist that the child is present without confirming that the medical service provider and/or its staff are taking responsibility for the child. If the~~

~~113.06~~ — ~~POLICIES AND PROCEDURES (cont.)~~

~~driver cannot verify that any person is authorized to take responsibility, the driver shall not leave the child with that individual.~~

~~5. In the event that no verified and authorized adult is available to take responsibility for the child; the Broker and Transporter will arrange for safe transportation of the child to a parent or guardian.~~

~~6. The Broker and Transporter may create additional policies and procedures to ensure the safe transportation of unaccompanied minors.~~

A. Children Ages Zero (0) to Twelve (12)

A Broker or transporter may not provide transportation to children between the ages of zero (0) and twelve (12) without an adult Escort, except when:

1. The Broker is in possession of a consent form, signed by the legal parent or guardian of the child, authorizing the Broker to provide transportation to the unaccompanied minor. The consent form shall be valid for a period of up to twelve months, or until revoked by the legal parent or guardian;
2. The minor requests transportation to a service deliverable without parental consent under state or federal law; or
3. Transportation is being provided as a School-Based Specialized Transportation service and is included on the Member's Individual Education Plan (IEP), or Individualized Family Service Plan (IFSP). Parental Consent forms pursuant to 113.06-14C are required for all School-Based Specialized Transportation requests.

B. Standing Order Requests- Appointment Time

Standing order requests for Members under the age of twelve (12) will only be approved if the appointment start time is at least thirty (30) minutes after the time at which a facility opens for business so the provider(s) can ensure adequate staffing for supervision of a Member in the event that a transportation provider arrives within their contracted thirty (30) minute window early to the medical appointment.

For example: ABC Preschool opens its doors and has staff available at 8:00 am. Member standing orders will not be approved prior to a time of 8:30 a.m.

113.06 POLICIES AND PROCEDURES (cont.)

A Standing order may be approved with a start time the same as the facility opening time, at the Broker's discretion, if a provider attests to being able to receive a Member should they be transported earlier to the appointment.

For example: ABC Preschool has an official open time of 8:00 a.m. Provider attests to having staff available to receive Member at 8:00 a.m. Upon receiving the attestation statement, Broker may approve the request.

C. Parental Consent

In providing transportation to children under the age of twelve (12), in addition to the general requirements for unaccompanied minors set forth above, the following requirements apply:

1. Prior to scheduling the transportation, the Broker must confirm with the person requesting the transportation that an appropriate adult will be present at the drop off location to take responsibility for the minor. It is sufficient to confirm that an employee, volunteer, or other associate of the medical or waiver service provider will be available; a specifically named employee is not required.
2. The persons requesting the transportation must provide the Broker with at least two emergency contacts. One contact must be a parent or legal guardian, and the other contact may be an individual other than the parent(s)/guardian(s). In the event that a Broker, Transporter, or any NET representative is unable to reach either emergency contact to obtain information regarding the Member or in case of an emergency, the Broker may determine it is no longer safe or appropriate to continue to transport the Member and may consider alternatives, including, but not limited to, mileage reimbursement in lieu of transport.
3. Upon reaching the drop off location, a driver shall consider all circumstances in determining whether the driver will accompany the minor into the drop off location. Under no circumstances shall a driver leave the vehicle unattended if:
 - A. There are other riders who would remain in the vehicle; or
 - B. In the opinion of the driver, leaving the vehicle unattended could create a safety risk.
4. Should the driver determine it is unsafe to leave the vehicle unattended, the driver, Transporter, or Broker shall contact the appropriate individual at the drop off location and request that an authorized adult come to the vehicle to take responsibility for the minor.

113.06 POLICIES AND PROCEDURES (cont.)

5. The driver shall confirm that the adult receiving the minor is authorized to and agrees to take responsibility for the minor. It is not sufficient to simply inform a receptionist that the minor is present without confirming that an appropriate adult is taking responsibility for the minor. If the driver cannot verify that any person is authorized to take responsibility, the driver shall not leave the minor with that individual.

6. In the event that no verified and authorized adult is available to take responsibility for the minor, the Broker and Transporter will arrange for the transportation of the minor to a parent or guardian. Transportation may not resume immediately after the event unless Broker determines that providing the transportation continues to be the most appropriate method of service delivery.

If a medical provider has demonstrated an unwillingness or inability to take responsibility for a minor being transported, a Broker may require an Escort for the Member in order to continue transportation of the Member to that medical provider.

D. Children Ages Thirteen (13) to Seventeen (17)

Brokers may provide transportation to children ages thirteen (13) to seventeen (17) with parental or legal guardian consent. The Parent(s) or legal guardian must provide the Broker with emergency contact information that must also be provided to Broker with transportation request.

The parent or legal guardian must supply the Broker with two emergency contacts. One contact must be a parent or legal guardian, and the other contact may be a responsible adult individual other than the parent(s)/guardian(s). In the event that the Broker, or any NET representative is unable to reach either emergency contact to obtain information regarding the Member transportation request or in the event of an emergency, the Broker may determine it is not appropriate to continue to transport the Member and may consider alternatives, including, but not limited to mileage reimbursement in lieu of transport.

E. Child Safety Seats

1. Brokers are responsible for the provision and installation of Federally Approved Child Restraint Systems for all children as required by federal and State law.

2. A Parent, Guardian, Escort, or Receiving Provider is responsible for securing the minor into Child Safety Seat prior to leaving the minor with the driver. A Parent, Guardian, or Receiving Provider may not leave a minor in the vehicle until the driver has confirmed the minor is properly secured.

113.06 POLICIES AND PROCEDURES (cont.)

3. After the driver has transported the minor to the drop off location, the Receiving Provider, Parent, or Guardian must release the minor from Child Safety Seat.

If at any time during the transport, the driver becomes aware that a child Member is not properly restrained, the driver must immediately stop the transport. For children traveling unaccompanied, the driver will secure the minor into child seat and resume transport. The driver will be required to provide a written report to Broker.

Type of Transportation

In cases where a Member has prior documented incidents or incidents of unsafe conduct which potentially place the Member, other Members, and/or driver at risk due to safety concerns, the Broker alone, or with guidance from the MaineCare NET unit, will determine the most appropriate type of transportation.

Information contained in a Member's Individual Treatment Plan (ITP) in addition to any other medical documentation provided to Broker and NET unit may be used to make this determination. The Broker will determine the type of transportation used that meets the Member's needs.

In the event that the Broker needs to re-determine the type of transportation, either due to Member conduct, safety, issues related to the Receiving Provider location, or other issues the Member will be provided with a ten (10) day notice of change; however if a documented safety incident has occurred, the Broker may require an Escort required immediately. In the event an appeal is filed due to re-determination, the Broker will retain the authority to require an Escort, pending the appeal of the decision.

113.06-15 Related Travel Expenses

Brokers must reimburse Related Travel Expenses, such as overnight lodging and meals, at the current State rates and under the current State limitations as addressed in section 10.90.20 of the *State Administrative and Accounting Manual* (SAAM) for the State of Maine, except in any exceptional circumstances where adherence to the maximum limits would effectively prohibit the Member from being able to access MaineCare-covered services. The Department shall not be responsible for providing reimbursement to the Brokers for Related Travel Expenses.

113.06-16 Maine Federally Recognized Native Tribes Requirements

Brokers are required to enter into Service Agreements with any Federally Recognized Native Tribe that resides within the Brokers' regions, would like to be a Transporter, and that meets the driver and vehicle requirements and all other applicable requirements set forth in the Brokers' contracts with the Department.

113.06 POLICIES AND PROCEDURES (cont.)

The Department will work with the Tribe and the Broker to ensure that the agreed upon, negotiated rates are adequate and reasonable given other area rates and the cultural expertise offered by the Tribe. Brokers must pay Tribal Transporters rates that are not less than the level and amount of payment that would be made if the Transporters were not Tribal Transporters.

113.06-17 Requirements for Drivers and Attendants

Each Broker shall establish a written oversight procedure that ensures all drivers and Attendants operating under a Service Agreement with the Broker:

- A. Have a current valid driver's license to operate the transportation vehicle to which they are assigned;
- B. Are competent in their driving habits (if a driver);
- C. Have no more than two (2) chargeable accidents or moving violations in the previous three (3) years;
- D. Have not had their driver's license suspended or revoked within the last five (5) years. This excludes individuals whose cause for license suspension is for non-payment of child support (once the courts release the individual and such release can be verified and the individual remains in good standing for a minimum of ninety (90) days). At any point should the individual's status change and he or she be in arrears of child support payment(s), said driver's approval would be revoked permanently;
- E. Cannot be convicted of two (2) moving violations and/or accidents related to NET services, during the course of the Service Agreement, where the driver was at fault.
- F. Attend training in patient assistance techniques such as the Community Transportation Association's PASS program, defensive driving, customer service, and cultural & disability sensitivity. Training shall be provided to all drivers and Attendants who are not currently certified in any curriculum. Training must be conducted within 30 days of the Transporter beginning service under a Service Agreement and within 30 days of hiring for drivers and Attendants hired during the term of the Service Agreement;
- G. Are prohibited from wearing headphones or earpieces, except that a driver may wear a single earpiece if it is part of the Transporter's two way communication system;

113.06 POLICIES AND PROCEDURES (cont.)

- H. Are prohibited from using hand-held cellular devices or texting while driving. All cellular use is prohibited while the vehicle is in motion unless the driver is using a headset and communicating with the Broker, Transporter, or calling emergency services;
- I. Must wear identification badges that are easily visible and legible. These badges must identify the name of the Transporter as well as the name of the driver or Attendant;
- J. Are certified in First Aid and CPR. Such certification must be achieved by the driver or Attendant within 60 days of the first date of operations under the Service Agreement;
- K. Are courteous, patient, and helpful to all passengers;
- L. Are neat and clean in appearance;
- M. Do not engage in any behavior or practices that may subject the Broker to charges of discrimination against protected groups;
- N. Are not known ~~to have substance use disorders, abusers of alcohol or known consumers of narcotics or drugs/medications~~ that would endanger the safety of Members. If the Transporter or Broker suspects a driver of driving under the influence of alcohol, narcotics, or drugs/medications that would endanger the safety of Members, the Transporter or Broker shall immediately remove the driver from providing service to Members;
- O. Do not smoke in any vehicle used to provide NET services. Drivers and Attendants shall not smoke at any time when they are in the presence of any Member;
- P. ~~Ensure~~ Verify that all passengers are secured with the proper restraints (seatbelts, wheelchair restraints and tie downs, child safety seats, etc.) and assist adult Members as needed prior to putting the vehicle in motion;
- Q. Assist Members, including with the movement, securing, and storage of mobility assistance devices. The driver will ensure all such devices are properly secured before putting the vehicle in motion;
- R. Meet the following requirements regarding previous criminal convictions:
 - 1. If a person has been convicted of a Class A, B, or C crime under Maine law, or has been convicted of a felony or its equivalent under another state or under federal law,

113.06 POLICIES AND PROCEDURES (cont.)

and that conviction was for a violent crime or a crime of a sexual nature, that person shall not be allowed to provide services under a Service Agreement for a minimum of ten (10) years after the completion of that person's sentence. After 10 years, in the event that the individual reapplies to provide services under a Service Agreement, the Transporter shall notify the Broker regarding same and obtain its approval prior to hiring the individual.

2. If a person has been convicted of a Class A, B, or C crime under Maine law, or has been convicted of a felony or its equivalent under another state or under federal law, and that conviction was for a crime related to drugs, that person is prohibited from operating a vehicle being used to transport Members and from having unsupervised contact with a Member for a minimum of seven (7) years after the completion of that individual's sentence. After 7 years, in the event that the individual reapplies to provide services under a Service Agreement, the Transporter shall notify the Broker regarding same and obtain its approval prior to hiring the individual.
3. If a person has been convicted of a Class A, B, or C crime under Maine law, or has been convicted of a felony or its equivalent under another state or federal law within the previous five (5) years, and that conviction was not for a crime related to drugs, a violent crime, or a crime of a sexual nature, that person is not prohibited from operating a vehicle being used to transport Members, nor from having unsupervised contact with Members, so long as the Broker approves.
4. If a person has been convicted of a Class D or E crime under Maine law, or has been convicted of a misdemeanor or its equivalent under another state or federal law, and the conviction was for a violent crime, a crime related to drugs, or crime of a sexual nature, that person shall be allowed to serve in a position with unsupervised contact with Members only with the approval of the Broker.

113.06-18 Monitoring and Enforcement of Driver and Attendant Requirements

Each Broker must have written oversight procedures for ensuring that any Transporters utilized meet all driver and vehicle Attendant requirements as stated in the NET contract between the Broker and the Department. The Broker is not responsible for enforcing these requirements for drivers of Public Transportation or commercial taxis used on an ad hoc basis operating outside of a Service Agreement with the Broker as stated in contract with the Department.

113.06 POLICIES AND PROCEDURES (cont.)

The Broker may establish additional qualifications, which will be approved by the

The Broker must have procedures in place to verify and document that Transporters meet the requirements as stated in the NET contract with the Department.

113.06-19 Wheelchairs

Vehicles used to transport wheelchair passengers must meet ADA requirements, including but not limited to, the following:

- A. Maintain a floor-to-ceiling height clearance of at least fifty-six (56) inches in the passenger compartment.
- B. Must have wheelchair lift or manual ramp. A hydraulically or electro-mechanically powered wheelchair lift mounted so as not to impair the structural integrity of the vehicle or a secure ramp will satisfy this requirement so long as the Member is capable of utilizing such a lift or ramp.
- C. For vehicles equipped with a powered wheelchair lift, the vehicle must have an engine-wheelchair lift interlock system which requires that the vehicle's transmission be placed in park and the emergency brake engaged to prevent vehicle movement when the lift is deployed.
- D. Wheelchair Restraint System: For each wheelchair position, the vehicle shall be equipped with a wheelchair securement device (i.e. "tie-down") that complies with applicable ADA standards.
- E. The vehicle utilized may accommodate scooter-type wheelchairs. Passengers utilizing these devices may be requested to dismount from the device and be seated in a passenger seat. Alternately, the rider may remain on the device, with the device secured with tie-downs and the rider secured with a separate floor seatbelt.

113.06-20 Telephone Call Centers

Each Broker must each establish and maintain a call center so that Members may conveniently schedule needed transportation and contact the Broker regarding potential problems, Complaints, and questions as necessary. Detailed information regarding call center services, hours of operation, telephone numbers, questions and Complaints can be obtained by contacting the Broker assigned to each region.

113.07 NET ADVISORY COMMITTEE

The Broker will establish and convene a Regional NET Advisory Committee for the region(s) in which it operates. This NET Advisory Committee shall convene at least once every six (6) months to review and discuss the Broker's performance in the region(s). Topics may include coordination with local transportation companies, service expectations, coordination of services with any Federally Recognized Native Tribes in the region, or any other topic determined relevant by the Broker or the Department. The Committee shall serve in an advisory capacity only. The Broker will notify the Department of scheduled meetings and provide minutes and action items from the meetings to the Department. The Department may attend any scheduled meetings.

113.08 PERFORMANCE STANDARDS

The Broker will be required to meet all performance standards and reporting requirements as defined herein and in the contracts between the Brokers and the Department. The Broker must submit monthly Reports detailing performance in a format that is agreed upon by the Department.

113.09 REPORTING REQUIREMENTS

Brokers shall collect data on Member and Transporter characteristics, as specified by the Department, and on services furnished to Members through an encounter data system, as may be specified by the Department. The Broker shall submit encounter data to the State's Medicaid Management Information System (MMIS)—Maine Integrated Health Management Information System (MIHMS)—monthly, no later than the 15th of the month, for encounters related to service performed during the previous month. Encounter data shall be submitted in a HIPAA-compliant format (X12N and NCPDP format required by federally mandated timelines in effect at the time of submission).

The Broker shall submit "clean" American National Standards Institute (ANSI) ASC X 12N standard 837P claims encounter transactions as if submitting claims for payments, which document all NET services provided the previous month. The claims must comply with the current billing standards and must have at least the following information:

Documentation must include:

1. Date of service;
- ~~2. Transporter name;~~
- ~~3. Time driver/vehicle leaves base station to begin transporting members;~~
- ~~4.~~ Point of Origin;
- ~~5.~~ Drop-off location (destination);
- ~~6. Return time to base station;~~
- ~~7. Authorized signature of Transporter (on file);-~~
8. Mileage.

113.09 REPORTING REQUIREMENTS (cont.)

When appropriate to the service provided, Brokers shall report ~~the current Healthcare Common-Procedure Coding System (HCPCS)~~-modifiers.

Examples:

Modifier	Description
D	Diagnostic or therapeutic site other than "P" or "H" when these are used in origin codes
E	Residential, domiciliary, custodial facility (other than 1819 facility)
G	Hospital-based ESRD facility
H	Hospital
I	Site of transfer (examples: airport or helicopter pad) between modes of ambulance transport
J	Free standing ESRD facility
N	Skilled nursing facility (SNF)
P	Physician's office
R	Residence
S	Scene or accident or acute event
<u>TL</u>	<u>School-Based Transportation- Member has IFSP (Individualized Family Service Plan)</u>
<u>TM</u>	<u>School-Based Transportation- Member has IEP (Individualized Education Program)</u>
<u>U</u>	<u>Urgent</u>
X	Intermediate stop at physician's office on way to hospital (destination code only). Please note that Modifier X can only be used as a destination code in the second position of a modifier.
<u>59</u>	<u>A distinct and independent encounter from other services performed, transportation provided by different provider types on each leg.</u>

113.10 DENIAL OF SERVICES, COMPLAINT PROCEDURES, AND MEMBER APPEAL RIGHTS

113.10-1 Denial of Services

- A. The Broker may deny a trip or immediately discontinue a trip for any individual under the following circumstances:
 - 1. The individual is found to be ineligible for NET services on the basis of the information provided and available to the Broker, including:
 - a. The individual is not MaineCare eligible;
 - b. The individual is not going to a covered MaineCare service; or

**113.10 DENIAL OF SERVICES, COMPLAINT PROCEDURES,
AND MEMBER APPEAL RIGHTS(cont.)**

- c. The individual is not medically eligible for the covered MaineCare service
 2. The individual fails to request a transportation 2 business days in advance of the covered MaineCare service appointment without good cause. For purposes of this section, “good cause” can be established by factors such as:
 - a. The imminent availability of an appointment with a specialist when the next available appointment would require a delay of two weeks or more;
 - b. The result of administrative or technical delay caused by the Broker and requiring that an appointment be rescheduled;
 - c. The need for urgent care; or
 - d. The need for post-surgical and/or medical follow up care specified by a health care provider to occur in fewer than 48 hours;
 3. Or, the individual has other transportation resources available.
- B. A Broker may not deny or refuse to arrange NET services due to a Member’s ~~behavior~~ conduct. The Broker may at its discretion use a less cost effective mode-type of transportation if it determines it is necessary based on a Member’s conduct or condition. This alternate transportation must still be medically appropriate.
- C. Brokers may not discriminate against Members based upon political affiliation, religion, race, color, gender, physical or mental handicap, age, or national origin, or membership in any class protected under federal or state law.
- D. **Notice of Denial of Services**

Following a denial of services to a Member, the Broker must notify the Member in writing within seventy-two (72) hours on a form approved by the Department. The written notice must include:

 1. The Member’s name, address, and MaineCare ID number at the head of the letter;
 2. The date of the letter;

**113.10 DENIAL OF SERVICES, COMPLAINT PROCEDURES,
AND MEMBER APPEAL RIGHTS(cont.)**

3. Notice that Appeals must be filed within 60 days of the date of the written notification;
4. The date the transportation request was made by the Member (not the date of service, which may be different);
5. The nature of the transportation request, including the destination, the type of transportation requested, the date and time of the medical appointment, and the type of medical service;
6. The reason(s) the request was denied, including such things as: a) other verification that was done such as checking to see if there was an appointment scheduled with the medical provider, b) the Member had other transportation available to them; c) the transport was not to a covered medical service;
7. The Member's right to choose to file an Appeal either with the Broker, or to appeal directly to the Department and proceed with the Fair Hearing process, pursuant to Chapter I Section 1 of the *MaineCare Benefits Manual*;
8. Notice that if the Member chooses to file an appeal with the Broker, the Member must sign a written waiver that he or she understands that the right to receive a final decision after a Department administrative hearing, within 90 days of filing the Appeal, is waived. The notice must also inform the Member that at any point during the Broker appeal process, the Member may choose instead to file an appeal with the Department, and on the date the Member does so, the 90 day time period for the Department to render a final decision begins.
9. If the Member chooses to file an Appeal with the Department and proceed to a Fair Hearing,
 - a. The Member's right to obtain legal assistance for the Fair Hearing and a list of those organizations that may be able to provide free legal assistance to the Member;
 - b. The Member's right to bring representation to assist the Member with the Fair Hearing; and
 - c. The Member's right to bring witnesses to confront and cross examine any witnesses that are adverse to the Member at the Fair Hearing

**113.10 DENIAL OF SERVICES, COMPLAINT PROCEDURES,
AND MEMBER APPEAL RIGHTS(cont.)**

10. The circumstances under which the Member has a right to continuation of NET services including an immediate requirement for an Escort, pending outcome of the Appeal process and how the Member can request that benefits be continued, and the time frame for the request; and
11. A notice that if benefits are continued, and if the Broker's denial of services is upheld at the Department Fair Hearing, the Broker may not attempt to recover from the Member the cost of the NET services furnished.

113.10-2 Broker Complaint Procedures

- A. **Complaints:** A complaint is an expression of discontent with NET services that does not rise to the level of an appeal and for which the complainant has no appeal rights. Complaints must be registered with the Broker, either in writing or orally, by Members or their representatives, Transporters, or the public.
- B. **Complaint Procedure:** The Broker shall implement a Complaint Procedure. The Broker shall respond to all Complaints in a timely fashion and in accordance with its Complaint Procedure. There are no administrative hearing rights for Complaints.
- C. **Reports:** Brokers must report all Complaints and their resolutions to the Department. Brokers must retain all records of Complaints and their resolutions.

113.10-3 Appeal Procedures

Following the denial, termination, reduction, or suspension of services under Section 113, a Member has the option to appeal to either the Department or to the Broker. The Department's Appeals process involves a right to a fair hearing, whereas the Broker's Appeals process does not.

A. Appeal Defined

1. A written request from a Member to the Department requesting a hearing regarding the denial, termination, reduction, or suspension of eligibility of services, made pursuant to Chapter Section 1.22 of the MBM;

OR

**113.10 DENIAL OF SERVICES, COMPLAINT PROCEDURES,
AND MEMBER APPEAL RIGHTS(cont.)**

2. A written request from a Member to a Broker requesting relief from the denial, termination, reduction, or suspension of eligibility of services

B. Broker Appeals Process

1. Each Broker shall establish a Broker appeal process, which must be approved by the Department.
2. The Broker shall resolve all Broker appeals, in writing, within 60 days of a Member's request for the Broker appeal.
3. The Broker shall send a copy of the Broker appeal resolution to the Department.
4. If a Member is dissatisfied with the outcome of the Broker's Appeal process, the Member may file an Appeal with the Department.

C. Department Fair Hearing Appeals

1. The Department Fair Hearing Appeal process is set forth in the *MaineCare Benefits Manual*, Ch. 1, Sec. 1;
2. The Broker shall attend fair hearings, if requested by the Department, and shall defend its decisions and otherwise assist the Department at its request, including providing copies of all documentation requested by the Department. It is essential that thorough documentation is available to support any testimony or respond to issues under investigation in the fair hearing.

D. Timing of Appeals

Should the Member choose to file an appeal with the Broker, the Member waives the right to receive a final decision after a Department administrative hearing within 90 days of filing the Appeal. However, at any point during the Broker appeal process, the Member may choose instead to file an appeal with the Department, and on the date the Member does so, the 90 day time period for the Department to render a final decision begins.

113.11 FRAUD AND ABUSE

- A. The Broker shall have internal controls, policies and procedures in place designed to prevent, detect, and report known or suspected instances of fraud and abuse. Such policies and procedures must be in accordance with Federal regulations described in 42 CFR Parts 455 and 456.

113.11 FRAUD AND ABUSE (cont.)

- B. The Broker shall not allow the use of Medicaid-funded transportation for any purpose other than as stated in this policy, or in violation of any State or Federal law.

113.12 CONFIDENTIALITY AND PRIVACY

- A. Pursuant to state and federal laws, the Broker(s) shall maintain Member confidentiality and shall only disclose such information as is necessary to determine a Member's eligibility for NET services, to schedule transportation, and to provide medical transportation. All Broker staff are required to sign a Confidentiality Statement agreeing to maintain Member confidentiality.
- B. Personal information about Members, their treatment, or medical diagnoses shall not be relayed to the Transporters, except for information necessary for meeting the Member's transportation needs. Information which is important to meeting the Member's needs can be relayed to Transporter, including: physical limitations, need for assistance, special equipment used by Members, emotional or mental issues affecting the Member during transport, and need for assistance entering or exiting a vehicle or getting to or from the vehicle and home or medical office.
- C. In the event that the Department determines that disclosure of protected health information (PHI) of any or all populations eligible for NET services under this rule require a signed authorization to disclose such information, the Broker shall obtain such authorization in writing from a Member, prior to disclosing any such PHI about the Member. If a Member refuses to authorize disclosure of any information which is required to verify Member and trip eligibility or otherwise is required to authorize transportation services under this Section, the Member may be denied transportation services.

113.13 REIMBURSEMENT

- A. The Department pays each Broker for the provision of NET services under this Section pursuant to the Department's contract with the Broker.
- B. Transporters are paid by Brokers pursuant to Service Agreement contracts entered into between these parties.
- C. Transporters who have not entered into a Service Agreement with a Broker (e.g., family and friends) are paid by the Broker according to rates set by the Department as described in this Section.
- D. The Brokers shall use the following NET encounter codes to track encounter (trip) data as required under the NET contract with the Department.

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SECTION 113

NON-EMERGENCY TRANSPORTATION (NET) SERVICES

ESTABLISHED 10/1/1985
 LAST UPDATED 10/30/18

NET ENCOUNTER CODES	DESCRIPTION	UNIT OF SERVICE
T2003	NONEMERGENCY TRANSPORTATION; ENCOUNTER/TRIP [<i>PROVIDER BASE RATE (ONE WAY TRIP)</i>]	PER ONE-WAY TRIP
S0215	NONEMERGENCY TRANSPORTATION; MILEAGE,PER MILE [<i>PROVIDER (AGENCY) CONTROLLED VEHICLE</i>]	PASSENGER MILE
S0215 Mod TK	NONEMERGENCY TRANSPORTATION; MILEAGE, PER MILE [<i>SHARED RIDE ON A PROVIDER (AGENCY) CONTROLLED VEHICLE</i>]	PER MILE
A0090	NONEMERGENCY TRANSPORTATION, PER MILE-VEHICLE PROVIDED BY INDIVIDUAL (FAMILY MEMBER, SELF, NEIGHBOR) WITH VESTED INTEREST [<i>FAMILY VEHICLE – NON-EMERGENCY TRANSPORTATION PER MILE</i>]	PER MILE
A0080	NONEMERGENCY TRANSPORTATION, PER MILE-VEHICLE PROVIDED BY VOLUNTEER (INDIVIDUAL OR ORGANIZATION), WITH NO VESTED INTEREST [<i>VOLUNTEER VEHICLE – NON-EMERGENCY TRANSPORTATION PER MILE</i>]	PER MILE

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SECTION 113

NON-EMERGENCY TRANSPORTATION (NET) SERVICES

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NET ENCOUNTER CODES	DESCRIPTION	UNIT OF SERVICE
A0110	NONEMERGENCY TRANSPORTATION AND BUS, INTRA- OR INTERSTATE CARRIER	ACTUAL ONE-WAY FARE
A0100	NON-EMERGENCY TRANSPORTATION- TAXI <u>NON-CONTRACTED- AD-HOC</u>	ACTUAL ONE WAY FARE
A0110-UA	NONEMERGENCY TRANSPORATION-BUS PASS	ACTUAL ONE WAY FARE
A0160	NONEMERGENCY TRANSPORTATION- PER MILE CASEWORKER OR SOCIAL WORKER [STATE (EMPLOYEE) RATE- NON EMERGENCY TRANSPORTATION PER MILE]	PER MILE
T2001	NONEMERGENCY TRANSPORTATION; PATIENT ATTENDANT/ESCORT [ATTENDANT ON COMMON CARRIER OTHER THAN A TAXI]	ACTUAL FARE
<u>A0120</u>	<u>NON-EMERGENCY TRANSPORTATION- TRAIN</u>	<u>ACTUAL ONE WAY FARE</u>
<u>A0140</u>	<u>NON-EMERGENCY TRANSPORTATION- AIRFARE</u>	<u>ACTUAL ONE WAY FARE</u>

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SECTION 113

NON-EMERGENCY TRANSPORTATION (NET) SERVICES

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NET ENCOUNTER CODES	DESCRIPTION	UNIT OF SERVICE
A0170	TRANSPORTATION ANCILLARY – PARKING FEES, TOLLS, OTHER [Family and Volunteer drivers may use this code.]	ACTUAL FARE
A0180	NON-EMERGENCY TRANSPORTATION – ANCILLARY – LODGING – RECIPIENT	ACTUAL FARE
A0190	NON-EMERGENCY TRANSPORTATION – ANCILLARY – MEALS – RECIPIENT	ACTUAL FARE
A0200	NON-EMERGENCY TRANSPORTATION – ANCILLARY – LODGING – ESCORT	ACTUAL FARE
A0210	NON-EMERGENCY TRANSPORTATION – ANCILLARY – MEALS – ESCORT	ACTUAL FARE
T2002	NONEMERGENCY TRANSPORTATION; PER DIEM [PROVIDER BASE RATE FOR SEVEN DAY CLINICS]	PER DAY
	HOME AND COMMUNITY BASED WAIVERS	
T2003-U3	TRANSPORTATION (SECTION 21, INTELLECTUAL DISABILITES OR AUTISTIC DISORDERS WAIVER)	PER MILE
T2003-HA	TRANSPORTATION (Section 32 Waiver Services for Children with Intellectual Disabilities or Pervasive Developmental Disorders) <u>(SECTION 28 REHABILITATIVE AND COMMUNITY SUPPORT SERVICES FOR CHILDREN WITH COGNITIVE IMPAIRMENTS AND FUNCTIONAL LIMITATIONS).</u>	PER MILE

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SECTION 113

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ESTABLISHED 10/1/1985
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NET ENCOUNTER CODES	DESCRIPTION	UNIT OF SERVICE
T2003-U4	TRANSPORTATION (Section 29, Support Benefits for Adults with Intellectual Disabilities or Autistic Disorder waiver)	PER MILE
T2003-U8	TRANSPORTATION (Section 20 Home and Community Benefits (HCB) for Adults with disabilities waiver)	PER MILE
S0215-U1	TRANSPORTATION, MILEAGE PER MILE (Section 19, Home and Community Based Benefits for the Elderly and for Adults with Disabilities waiver)	PER MILE
<u>T2003-U2</u>	<u>TRANSPORTATION MILEAGE PER MILE</u> <u>(Section 18, Home and Community-Based Services for Adults with Brain Injury)</u>	<u>PER MILE</u>
	WHEELCHAIR VAN PROVIDERS	
A0130	NON EMERGENCY TRANSPORTATION—WHEELCHAIR VAN	PER TRIP
S0209	WHEELCHAIR VAN, MILEAGE, PER MILE {DOOR THROUGH DOOR}	PASSENGER MILE