

A Review of the Division of Medicaid's Non- Emergency Transportation Program

A Report to the Mississippi Legislature
Report #705
October 15, 2024



PEER Committee

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Kevin Felsher, Secretary

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The Committee assigns top priority to written requests from individual legislators and legislative committees. The Committee also considers PEER staff proposals and written requests from state officials and others.



Joint Legislative Committee on Performance Evaluation and Expenditure Review

PEER Committee

P.O. Box 1204 | Jackson, Mississippi 39215-1204

Senators

Charles Younger
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Kevin Blackwell

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October 15, 2024

Honorable Tate Reeves, Governor

Honorable Delbert Hosemann, Lieutenant Governor

Honorable Jason White, Speaker of the House

Members of the Mississippi State Legislature

On October 15, 2024, the PEER Committee authorized release of the report titled ***A Review of the Division of Medicaid's Non-Emergency Transportation Program.***

Representatives

Becky Currie
Vice Chair

Kevin Felsher
Secretary

Donnie Bell

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Senator Charles Younger, Chair

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This report does not recommend increased funding or additional staff.

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CONCLUSION: Through the 2023 Medicaid NET broker procurement process, DOM reduced the maximum cost for NET services per month, under the cost cap, to \$2,681,795 per month through June 7, 2027. DOM eliminated payments for non-utilizers, switched to making payments for utilizers based on number of NET trips, and capped administrative costs. MTM's unsuccessful protest of 2023 NET contract award cost DOM \$5,628,382 more to operate the NET program from October 2023 to April 2024.



BACKGROUND

Background

As a condition for receiving federal funding, DOM is required to provide its Medicaid fee-for-service beneficiaries non-emergency transportation (NET) to and from scheduled covered medical services. DOM contracts with a private broker to connect riders with transportation providers, manage a customer service center, and to administer the contract.

Medical Transportation Management, Inc. (MTM) served as DOM's NET broker from February 1, 2019, to September 30, 2023.

In 2023, DOM issued an Invitation for Bids (IFB) to determine the NET broker for the term October 1, 2023, to September 30, 2026, with an implementation phase that commenced June 8, 2023. Upon evaluating all responsive and responsible bidders, DOM chose to award the bid to ModivCare Solutions, LLC (ModivCare). MTM, DOM's former NET broker, initiated a protest of this award.

MTM 2023 NET Bid Protest:

MTM unsuccessfully protested the awarding of the 2023 NET IFB to ModivCare, delaying the start of the NET contract with ModivCare from October 1, 2023, to June 8, 2024.

Impact of MTM's Protest:

It cost DOM \$5,628,382 more to operate the NET program from October 2023 to April 2024 under an emergency contract with MTM than had DOM been permitted to proceed with the winning bidder ModivCare.

DOM's Continued Shift to a Utilization-based Payment Methodology

- **2013 NET Contract: Flat Fee Basis, \$3,256,396.08 per month**
- **2018 NET Contract: Utilization Basis, \$3,024,251.68 per month**
 - Based on rates for number of utilizers and non-utilizers each month.
 - 95% of actual NET costs were for non-utilizers.
- **2023 NET Contract: Utilization Basis, \$2,681,794.65 per month**
 - Under the 2023 IFB, DOM eliminated payments for non-utilizers, switched to making payments for utilizers based on number of NET trips, and eliminated implementation costs.
 - Administrative costs capped at 15% of trip cost each month.

Based on trip data from July 2022 to April 2024, PEER estimates 2024 NET contract costs will be below the cost cap.

Efforts by DOM to Enforce Compliance with Performance Standards

DOM assessed liquidated damages against MTM in the amounts of:

- **2013 NET Contract: \$3,007,750**
- **2023 Emergency NET Contract: \$632,800**

As part of the 2024 NET contract, DOM added four additional performance metrics for which liquidated damages may be assessed and modified 18 performance metrics from the 2018 NET contract.

Changes to NET Survey Process

2018 NET contract survey process only surveyed NET utilizers.

- NET broker was required to mail surveys only, resulting in a low response rate (11% in CY 2021).

DOM adopted PEER's 2022 recommendation as part of the 2024 NET contract to require the NET broker to conduct satisfaction surveys of NET eligible members, facilities (i.e., medical providers and offices), and NET providers.

- DOM also required the NET broker to contract with a third party (Cigna Health) to conduct the surveys.
- DOM still does not require the NET broker to survey non-utilizers.

Status of State NET Permitting Process

S.B. 2739, 2022 Regular Session – required all NET providers to obtain a permit through Mississippi State Department of Health (MSDH) by July 1, 2023.

S.B. 2613, 2023 Regular Session:

- Exempted DOM NET providers, and,
- Extended deadline to July 1, 2024.

To date, MSDH has issued a permit to six NET providers, while two NET providers are in the permitting process and two have opted to discontinue providing NET services.

NET Utilization and Trends

NET Eligible Members

- December 2022 – peaked at 335,914
- April 2024 – 141,254

NET Non-utilizers

- January 2023 – peaked at 329,309
- April 2024 – 135,641

Number of NET trips stabilized at or below 50,000 per month over last 3.5 years

- Ambulatory trips = 81 to 82% of trips
- Advanced trips = 18 to 19% of trips

Top Reasons for Utilizing NET, April 2024

- 48.6% – Return ride home
- 28.4% – Dialysis
- 8.1% – Specialist
- 2.2% – Physical therapy
- 2.1% – Primary care
- 20.68 miles – average distance per trip leg

MSDH's Pilot Non-Emergency Transportation Program

Citing a 50% no-show rate to county health department appointments, MSDH entered an emergency contract with Uber Health to start a non-emergency transportation program in November 2023 to transport customers to health department appointments, WIC Centers, and pharmacies.

- MSDH reported providing more than 500 rides to county health departments as of August 23, 2024.
- However, the program still needed Uber Health drivers in 36 of Mississippi's 82 counties.
- MSDH plans to expand the federal grant funded program in 2025.



RECOMMENDATION

To increase the effectiveness of the statutory review process, the Legislature should consider amending MISS. CODE ANN. § 43-13-117 (1972) to require the PEER Committee to conduct a performance evaluation of the Division of Medicaid's (DOM) non-emergency transportation (NET) program:

- Option 1 – Once every three years, or,
- Option 2 – Two years after the implementation date of each new contract.

By altering the review cycle to take place two years after the NET contract commences, PEER would review the NET contract prior to the next procurement cycle, but after sufficient time to assess services provided.

A Review of the Division of Medicaid's Non-Emergency Transportation Program

October 15, 2024

For more information, contact: (601) 359-1226 | P.O. Box 1204, Jackson, MS 39215-1204

Senator Charles Younger, Chair | James F. (Ted) Booth, Executive Director

A Review of the Division of Medicaid's Non-Emergency Transportation

Introduction

Authority, Scope, and Purpose

MISS. CODE ANN. § 43-13-117 (1972) requires the PEER Committee to conduct a performance evaluation of the Division of Medicaid's (DOM) non-emergency transportation (NET) program to evaluate the administration of the program and the providers of transportation services to the program's patients.

Senate Bill 2836 (2018 Regular Session) mandated PEER's review of DOM and required that PEER's report be delivered to the members of the Senate and House Medicaid committees not later than January 1, 2019. The bill requires PEER to conduct such a review of NET every two years thereafter.

The 2024 report serves as the PEER Committee's fifth review of DOM's NET program.

PEER sought to do the following:

- determine the status of the NET contract procured in 2023;
- describe any state and federal law changes since 2022 that impact the NET program;
- describe how DOM administers its NET program;
- determine the factors impacting NET costs since 2022; and,
- describe how DOM holds the NET broker accountable for administering the NET program.

Method

To conduct this analysis, PEER reviewed:

- The 2018 and 2023 IFBs, the 2018 NET contract, the 2023 emergency NET contract, and the 2024 NET contract;
- Procurement documents related to the 2023 IFB and 2024 NET contract;
- Financial data related to the 2018 NET contract and 2023 emergency contract;
- Changes in NET eligibility, utilization, and trip data;
- Liquidated damages assessed under the 2018 contract and 2023 emergency contract as well as any changes in criteria for assessing liquidated damages between the 2018, 2023, and 2024 NET contracts;
- Efforts by DOM to address issues raised in 2022 related to increasing efforts to obtain stakeholder feedback from NET providers, medical providers/facilities, non-utilizers, and utilizers; and,
- Implementation of the NET permitting process enacted under S.B. 2713, 2022 Regular Session.

Scope Limitation

In 2023, DOM issued an Invitation for Bid (IFB) to determine the NET broker for the term October 1, 2023, to September 30, 2026, with an implementation phase that commenced June 8, 2023. Upon evaluating all responsive and responsible bidders, DOM chose to award the bid to ModivCare Solutions, LLC (ModivCare). Medical Transportation Management, Inc. (MTM), DOM's former NET broker, initiated a protest of this award.

Due to MTM's protest, ModivCare did not commence its NET broker operations until June 8, 2024. As a result, PEER reviewed the procurement and cost methodology as it relates to 2023 NET IFB and 2024 NET contract, but not the implementation of the 2024 NET contract. PEER also reviewed the 2023 NET emergency contract with MTM.

Background

This chapter sought to answer the following questions:

- What is NET?
- What is the mission of DOM's NET program?
- How does DOM structure its NET program?

What is NET?

As part of the Consolidated Appropriations Act of 2021, Congress codified in statute the Centers for Medicare and Medicaid Services' long-standing regulatory interpretation of section 1902 (a) (4) of the Social Security Act, which generally requires states to assure necessary NET services for Medicaid beneficiaries to and from covered medical services.

NET is a Medicaid benefit that provides necessary transportation for Medicaid beneficiaries to and from covered services.

NET is a mandatory Medicaid benefit created to help beneficiaries access medically necessary services. As part of the Consolidated Appropriations Act of 2021, Congress codified in statute the Centers for Medicare and Medicaid Services' (CMS) long-standing regulatory interpretation of section 1902 (a) (4) of the Social

Security Act, which generally requires states to assure necessary transportation for Medicaid beneficiaries to and from covered services.

Medicaid will provide transportation assistance to eligible Medicaid beneficiaries for travel to and from scheduled medical appointments when there are no other means of getting to and/or from the appointment (e.g., person does not have a vehicle). The services must be medically necessary, covered by Medicaid, and rendered by a Medicaid-approved provider. The eligible beneficiary must not have exceeded any service limits associated with the covered service.

What is the mission of DOM's NET program?

The mission of DOM's NET program is to provide quality, reliable transportation to Medicaid-covered services for persons eligible for Medicaid in Mississippi and aid in improving health outcomes by increasing access to medical providers.

According to the 2023 NET IFB, the mission of the NET program is to:

...provide high quality, reliable coordination of transportation services to facilitate access to Medicaid covered services and improve health outcomes for persons eligible for the Mississippi Medicaid program.

The objectives of the NET program are to ensure that transportation services made available are:

- similar in scope and duration throughout the state;
- consistent with the best interest of the state’s Medicaid beneficiaries; and,
- prompt, cost-effective, and efficient.

NET services are available for Medicaid-eligible beneficiaries that have no other means of available transportation to access Medicaid services rendered by an enrolled Mississippi Medicaid provider.

How does DOM structure its NET program?

For Medicaid fee-for-service beneficiaries, DOM utilizes the private brokerage service delivery model to provide trips to and from scheduled appointments for eligible Medicaid beneficiaries. In this model, the state contracts with a private company to connect riders with transportation providers.

States may choose which delivery model to utilize to deliver NET services. In a 2021 report to Congress, the Medicaid and CHIP Payment and Access Commission (MACPAC)¹ found there was no consensus as to which model is best.

DOM utilizes the private brokerage model to provide NET services to its Medicaid fee-for-service beneficiaries. In this model, states competitively procure a private, for-profit company to work as an intermediary between transportation providers and eligible riders. States usually make capitated² payments to the broker for each eligible rider.

DOM utilizes a private brokerage service delivery model. This means that the state contracts with a private company to connect riders with transportation providers.

Per 42 U.S. Code § 1396a (a) (70),³ states that choose to use the private brokerage model may enter into contracts with individuals or entities to provide NET services by meeting the following requirements:

- maintaining proof of cost-efficiency;
- using a competitive procurement process in selecting a broker;
- implementing procedures for auditing and overseeing brokerages for quality; and,
- complying with the prohibition on self-referrals.⁴

¹ A non-partisan legislative branch agency that provides policy and data analysis and makes recommendations to Congress, the Secretary of the U.S. Department of Health and Human Services, and the states concerning Medicaid and the State Children’s Health Insurance Program (CHIP).

² An established flat rate of payment per person served, typically per month, not based on the amount of service that each individual receives.

³ May also be referred to as 42 Code of Federal Regulations Section 440.170.

⁴ A state cannot refer a beneficiary to a provider in which the state has a financial interest.

DOM prohibits the NET broker from directly providing rides to NET-eligible beneficiaries. Instead, the NET broker contracts with NET transportation providers to provide services (i.e., rides to Medicaid-covered medical services). Responsibilities of the NET broker include:

- establishing a network of NET providers;
- scheduling and coordinating NET rides; and,
- reimbursing NET providers for trips.

A Medicaid beneficiary wanting to utilize the NET program must contact the NET broker to schedule NET services.⁵ Before connecting riders with transportation providers, the broker must ensure that Medicaid beneficiaries meet the requirements to be eligible for the NET program.

Provider Requirements as of the 2023 IFB

As part of the 2018 NET contract, DOM required the NET broker (i.e., MTM) to have a minimum of two NET providers per county and 46 NET providers on contract with the broker at all times. (MTM complied with this requirement as of June 30, 2022.)

In the 2023 NET IFB, DOM requires the NET broker to contract with as many NET providers as necessary to provide services under the contract.

As part of the 2023 IFB, DOM removed the requirement for the NET broker to have a minimum of two providers in each county. DOM instead required the NET broker to contract with as many NET providers⁶ as necessary to provide services under the contract. As of August 7, 2024, ModivCare contracted

with an average of 3.5 NET providers per county with 15 counties having one NET provider. Additionally, the NET provider shall contract with sufficient providers that the loss of a provider does not delay services.

If the NET broker (i.e., ModivCare) identifies an area without provider network adequacy, it must immediately (i.e., within 24 hours) provide notice to DOM, implement a temporary coverage solution, and to recruit sufficient NET providers to meet the needs of beneficiaries in the identified area within seven business days.

Groups Excluded from Receiving NET Services through the NET Broker Contract

The following groups are not eligible for NET services:

- Family Planning Waiver;
- Qualified Medicaid Beneficiary;
- Qualified Working Disabled Individuals;
- Specified Low-Income Medicare Beneficiary; and,
- Qualified Individual 1 (do not receive full Medicaid benefits).

The NET-eligible population under the 2018 NET IFB and 2023 NET IFB differ from the 2013 NET contract. NET transportation for beneficiaries residing in all long-term care facilities including

⁵ The beneficiary's family members, guardians or representatives, and/or Mississippi Medicaid providers (medical providers) may request a NET ride on the beneficiary's behalf.

⁶ Volunteer drivers, gas mileage reimbursement, fixed route (public transit), commercial carrier (ground), commercial carrier (air), and fixed wing non-emergency air ambulance are not considered contracted NET providers.

nursing facilities, psychiatric residential treatment facilities, and intermediate care facilities for individuals with intellectual disabilities is not the responsibility of the NET broker under this contract.

Managed Care Organizations

Additionally, the 2018 NET IFB and 2023 NET IFB do not include NET services rendered to Medicaid beneficiaries enrolled in the Mississippi Coordinated Access Network (MSCAN). This accounts for an average of 412,143 Medicaid beneficiaries a month in FY 2024, as shown in Exhibit 1 on page 6.

Under the MSCAN program, three managed care organizations (i.e., Molina Healthcare, Magnolia Health, and UnitedHealthcare Community Plan) provide Medicaid NET services in Mississippi by independently contracting with a NET broker.

Exhibit 1: MississippiCAN Average Monthly Enrollment, by Provider, FY 2020 to FY 2024

| FY | Molina Healthcare | Magnolia Health | UnitedHealthcare Community Plan | Average |
|------|-------------------|-----------------|---------------------------------|---------|
| 2020 | 69,725 | 195,467 | 170,128 | 435,320 |
| 2021 | 92,732 | 198,750 | 183,680 | 435,525 |
| 2022 | 83,944 | 168,484 | 159,999 | 412,427 |
| 2023 | 80,590 | 154,506 | 148,893 | 383,989 |
| 2024 | 91,895 | 162,846 | 157,402 | 412,143 |

SOURCE: Mississippi Coordinated Access Network enrollment data, as reported by Division of Medicaid.

2023 NET Procurement Process

This chapter discusses:

- the 2023 NET procurement process; and,
- MTM's bid protest, resulting in awarding of emergency contract.

2023 NET Procurement Process

Although three bidders placed bids, only two bidders competed based on price after DOM determined Verida's bid did not include necessary audit documentation required by the IFB to submit a bid. With only two bidders remaining, DOM determined ModivCare submitted the lowest cost bid.

In preparation for the 2018 NET contract expiring September 30, 2023, DOM issued Invitation for Bid #20230113 for non-emergency transportation (NET) brokerage services on January 13, 2023. Three vendors submitted proposals:

- The legacy vendor, MTM;
- The current vendor, ModivCare;⁷ and,
- Verida, Inc.⁸

These were the same three vendors who submitted bids in 2018. DOM determined MTM and ModivCare's bid document submittals to meet the bid qualifications.

Verida's Bid Submission Deemed Non-Responsive

After reviewing the minimum qualifications for submitting bid proposals, DOM determined Verida's bid was non-responsive. Verida failed to submit independently audited financial statements for each of the preceding three years, as required by IFB Section 1.8.2. Verida submitted financial statements for 2019 and 2020, but not 2018. Verida did not protest the decision; if it had, Verida would have still finished third given its bid was the costliest of the three bids at \$259,298,625.68 for five years.

⁷ Formerly LogistiCare. LogistiCare held the state fee-for-service NET contract prior to MTM initially winning the contract in 2014.

⁸ Formerly Southeast Trans.

DOM Determined ModivCare Was the Lowest Bidder

After determining MTM and ModivCare were both responsive and responsible bidders, DOM determined ModivCare submitted the lowest cost bid. ModivCare's total bid price was \$160,907,679.15 compared to MTM's total bid price of \$195,984,069.96. On April 10, 2023, Medicaid issued a notice of intent to award the contract to ModivCare as the lowest responsive and responsible bidder. Exhibit 2 on page 8 shows MTM and ModivCare's 2023 bids to provide Medicaid NET services.

Exhibit 2: Vendor Bids to Provide Medicaid NET Services, 2023

| Trip Type | Trip Leg Volume ¹ | Medical Transportation Management (MTM) | | ModivCare Solutions (ModivCare) | |
|---------------------------------------------------------|------------------------------|-----------------------------------------|---------------------------|---------------------------------|---------------------------|
| | | Bid Rate (\$) | Estimated Bid Cost (\$) | Bid Rate (\$) | Estimated Bid Cost (\$) |
| Ambulatory ² | 42,125 | 48.04 | 2,023,685.00 | 37.55 | 1,581,793.75 |
| Advanced ³ | 9,829 | 82.96 | 815,413.84 | 74.29 | 730,196.41 |
| Air | 1 | 1,250.00 | 1,250.00 | 20,005.19 | 20,005.19 |
| Monthly Trip Costs, pre-admin fee | | | 2,840,348.84 | | 2,331,995.35 |
| Monthly Administrative Fee ³ (Capped at 15%) | | 15% | 426,052.33 ⁵ | 15% | 349,799.30 ⁷ |
| Operation Cost Per Month | | | 3,266,401.17 ⁶ | | 2,681,794.65 ⁸ |
| Total Operation Cost, 3 Years (10/1/2023 to 9/30/2026) | | | 117,590,441.98 | | 96,544,607.49 |
| Optional Year 1 Extension (10/1/2026 to 9/30/2027) | | | 39,196,813.99 | | 32,181,535.83 |
| Optional Year 2 Extension (10/1/2027 to 9/30/2028) | | | 39,196,813.99 | | 32,181,535.83 |
| Total 5-Year Bid, if extended twice | | | 195,984,069.96 | | 160,907,679.15 |

- 1) Trip leg volume metrics provided by DOM. Bid rates submitted by vendor.
- 2) Includes one-way travel via basic, public transit, gas mileage reimbursement, or volunteer driver.
- 3) Includes one-way travel via non-emergency ambulance (ground) or vehicle capable of transporting wheelchair/stretchers bound Medicaid members.
- 4) May submit a fixed fee or a percentage of trip leg volume; regardless, the fee cannot be more than 15% of trip leg volume costs.
- 5) Rounded. \$4,026,052.326.
- 6) Rounded. \$3,266,401.166.
- 7) Rounded. \$349,799.3025.
- 8) Rounded. \$2,681,794.6525.

SOURCE: Vendor bids submitted to provide Medicaid NET services, 2023, as provided by the Division of Medicaid.

DOM utilized three metrics to determine lowest cost bid:

- Estimated trip leg volume, as determined by DOM, for one-way ambulatory, advanced,⁹ and air NET trips;
- Bid rates for one-way ambulatory, advanced, and air NET trips, as submitted by the competing bidders; and,
- A monthly administrative fee, which may either be a fixed fee or a percentage of trip leg volume costs, but in no case shall be more than 15% of trip leg costs for a given month.

ModivCare's total three-year, 36-month bid was \$96,544,607.49 versus MTM's bid of \$117,590,441.98, a difference of \$21,045,834.49.¹⁰ Each bid included an option for DOM to extend the contract twice, each time for 12 months, at the same monthly operational cost per month used to calculate the three-year bid total. The three-year bid total serves as the initial cost cap.

In comparing bids, PEER found:

- ModivCare bid less for ambulatory trips (\$37.55 per one-way trip versus MTM's bid of \$48.04 per one-way trip).
- ModivCare bid less for advanced trips (\$74.29 per one-way trip versus MTM's bid of \$82.96 per one-way trip).
- ModivCare bid more for the more expensive one-way non-emergency medical flights. However, DOM projected there to be no more than one flight per month, citing previous experience and the 0 flights that had occurred under the 2018 NET contract.
- Although both vendors sought the maximum 15% in monthly administrative fees, ModivCare's monthly administrative fee bid costs were lower since their monthly trip leg bid costs were lower (based on the trip volume data DOM used as the multipliers to determine cost).

There remains no monthly cost cap; therefore, a vendor could receive more in a particular month than their bid's operation cost per month amount if there were more trips that month than the DOM projected trip leg volume. This occurred often under the last contract, but that was largely due to the increase in non-utilizers. That will not be a factor going forward; the 2023 IFB cost methodology and 2024 contract pays \$0 for non-utilizers.

As under the 2018 IFB, assessed liquidated damages do not count against the cost cap; therefore, the vendor may re-earn those dollars if utilization exceeds the forecasted trip leg volume used as the multipliers to determine the bid cost.

After having determined ModivCare to be the lowest bidder, DOM issued a Notice of Intent to award the 2023 IFB NET contract to ModivCare.

⁹ Includes one-way travel via non-emergency ambulance (ground) or vehicle capable of transporting wheelchair/stretchers bound Medicaid members.

¹⁰ For comparison purposes, MTM bid approximately \$96.8M and LogistiCare bid approximately \$97.2 million for the initial 32-month 2018 NET contract. However, the 2023 cost methodology is based on number of one-way NET trips, by type of utilizer, plus administrative costs equal to 15% of trip costs, while the 2018 cost methodology used to calculate the bids was based on number of utilizers and non-utilizers with \$0 cost for administrative expense.

MTM Bid Protest Delays Bid Award, Resulting in Emergency Contract

MTM unsuccessfully protested the awarding of the 2023 NET IFB to ModivCare, delaying the start of the contract from October 1, 2023, to June 8, 2024. Due to MTM's protest of the 2023 NET IFB, it cost DOM \$5,628,382 more to operate the NET program from October 2023 to April 2024 under an emergency contract with MTM.

MTM Protests Award Decision Delaying Award of Bid

On April 19, 2023, MTM filed a protest via written letter protesting DOM's intent to award IFB #20230113 to ModivCare. MTM believed ModivCare's bid:

1. did not contain realistic pricing;
2. was conditional;
3. would negatively impact providers and beneficiaries; and,
4. did not reflect realistic staffing.

DOM Enters Emergency Contract with MTM

MTM attempted to obtain ModivCare's and Verida's bid documents. This delayed the protest, as ModivCare and Verida both barred MTM from obtaining the documents by petitioning for a protective order in Hinds County Chancery Court.

Due to MTM's unresolved protest of DOM's 2023 award of the NET contract to ModivCare and the pending expiration of the 2018 NET contract on September 30, 2023, DOM entered an emergency contract with MTM to continue to provide NET services for fee-for-service Medicaid beneficiaries. As of September 29, 2023, DOM had not issued its response to MTM's April 19, 2023, protest.

The 2023 MTM emergency contract utilized the 2018 IFB as its base, except where amended, but changed to the 2023 IFB cost model. MTM, however, submitted more costly pricing under the 2023 emergency contract than their 2023 IFB bid, as shown in Exhibit 3 on page 11. MTM's pricing per month under the 2023 emergency contract, despite existing services already being in place, was 38.9% higher per month than ModivCare's 2023 NET bid and 14.0% higher per month than MTM's 2023 NET bid.

Exhibit 3: MTM 2023 Emergency Contract Costs versus MTM and ModivCare 2023 IFB Bids to Provide Medicaid Net Services

| Trip Type | Trip Leg Volume ¹ | MTM 2023 Emergency Contract | | MTM 2023 Bid | | ModivCare 2023 Bid | |
|-------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|-----------------------------|-------------------------|-----------------------------------------|-------------------------|--------------------|-------------------------|
| | | Bid Rate (\$) | Estimated Bid Cost (\$) | Bid Rate (\$) | Estimated Bid Cost (\$) | Bid Rate (\$) | Estimated Bid Cost (\$) |
| Ambulatory ² | 42,125 | 54.29 | 2,286,966.25 | 48.04 | 2,023,685.00 | 37.55 | 1,581,793.75 |
| Advanced ³ | 9,829 | 93.77 | 921,665.33 | 82.96 | 815,413.84 | 74.29 | 730,196.41 |
| Air | 1 | 30,000.00 | 30,000.00 | 1,250.00 | 1,250.00 | 20,005.19 | 20,005.19 |
| Total Monthly Trip Costs | | | 3,238,631.58 | | 2,840,348.84 | 2,840,348.84 | 2,331,995.35 |
| Monthly Administrative Fee ⁴ (Capped at 15%) | | 15% | 485,794.74 | 15% | 426,052.33 | 15% | 349,799.30 |
| Operation Cost Per Month | | | 3,724,426.32 | | 3,266,401.17 | | 2,681,794.65 |
| Total Operation Cost, 8 months (10/1/2023 to 5/31/2024) | | | 29,795,410.60 | | 26,131,209.40 | | 21,454,357.20 |
| Additional Cost to Provide NET Services Under Emergency Contract for 8 months versus ModivCare Winning Bid Due to MTM’s Protest of 2023 NET IFB | | | | 29,795,410.60 MINUS 21,454,357.20 | | \$8,341,053.40 | |

- 1) Trip leg volume metrics provided by DOM. Bid rates submitted by vendor.
- 2) Includes one-way travel via basic, public transit, gas mileage reimbursement, or volunteer driver.
- 3) Includes one-way travel via non-emergency ambulance (ground) or vehicle capable of transporting wheelchair/stretchers bound Medicaid members.
- 4) May submit a fixed fee or a percentage of trip leg volume; regardless, the fee cannot be more than 15% of trip leg volume.

SOURCE: Vendor bids submitted to provide Medicaid NET services, 2023, as provided by the Division of Medicaid staff.

Due to MTM’s protest of the 2023 NET IFB, it cost DOM \$5,628,382 more to operate the NET program from October 2023 to April 2024 under the MTM emergency contract.

Because MTM’s protest of the 2023 NET IFB delayed the awarding of the bid to ModivCare, it cost the state an estimated additional \$8,341,053.40 to contract to provide NET services for an additional eight months through MTM under the 2023 emergency contract compared to pricing that would have commenced under ModivCare’s 2023 winning bid.

Utilizing actual cost data from October 2023 to April 2024, DOM expended \$5,628,382 more under the initial seven months of the MTM emergency contract (\$20,057,388.97) than it would have cost had ModivCare been awarded the bid initially as the low bidder (\$14,429,006.55).

DOM Issues Decision regarding MTM's Protest

On September 29, 2023, DOM notified MTM that it had reviewed documentation concerning the procurement and the protest and determined the protest to be without merit. DOM also notified MTM of its intentions to proceed with awarding the contract to ModivCare.

MTM Appeals to PPRB, but PPRB Stays Appeal

In response, on October 11, 2023, MTM formally filed a protest appeal with PPRB appealing DOM's protest decision (and Intent to Award). At its January 3, 2024, meeting, PPRB issued a motion to stay PPRB's protest appeal. PPRB ruled that MTM's protest rights at DOM had not been exhausted pursuant to Rule 3-202.11.3 of the *PPRB OPSCR Rules and Regulations* because there remained an open Hinds County Chancery Court case in which MTM sought to see Verida's bid and Verida petitioned for protective order.

PPRB Approves ModivCare as the 2023 IFB Winner

On February 7, 2024, pursuant to MISS. CODE ANN. § 25-61-5(1)(b) (1972), PPRB authorized DOM to proceed with awarding the NET contract while within an ongoing protest. DOM subsequently awarded ModivCare the NET contract with a term of three years and four months to ModivCare at a not to exceed cost of \$96,544,607.49. This includes a no cost four-month implementation period from February 8, 2024, to June 7, 2024, and three-year service period from June 8, 2024, to June 7, 2027. DOM also has an option to extend the contract twice, each time for one year. If the contract is extended both years, the total not to exceed cost will be \$160,907,679.15.

PPRB Appeal Hearing

At its February 20, 2024, hearing, PPRB ruled in favor of DOM and ModivCare, denying MTM's appeal. Ultimately, PPRB concluded that:

- MTM's protest has no basis in fact or in law;
- ModivCare met the criteria in the IFB to be determined a responsive and responsible bidder;
- ModivCare submitted a lower total bid price than MTM; and,
- ModivCare was the lowest responsive and responsible bidder and was properly awarded the contract pursuant to the Rules and the terms of DOM's IFB.

Conclusion regarding Realistic Pricing

As it relates to MTM's concerns that ModivCare's bid did not contain realistic pricing and was conditional, PPRB reached the conclusion that:

...there is no reasonable reading of the ModivCare bid documents which lends itself to a determination that the bid prices are conditional and would require adjustment if the underlying assumptions are incorrect.

Additionally, by signing the Bid Form, ModivCare affirmatively acknowledged and agreed to the following:

- that "in no case will the contract payments exceed the Total Bid amount for the applicable contract period;" and,

- "agree[d] to all provisions of [the] IFB without reservation and without expectation of negotiation and is able to provide each required component and deliverable as detailed in the Scope of Services."

Unless DOM seeks ModivCare to perform additional services not covered by the contract, the pricing is set. Additionally, PPRB affirmed that it is DOM's role, based on the agency's discretion to determine if a vendor's bid price is unreasonable, per language in the IFB.

Conclusion regarding IFB Requirements

Additionally, PPRB concluded part of MTM's dispute was with the requirements of the IFB, not Medicaid's application of those requirements. In this case, PPRB reasoned that if MTM felt the IFB requirements were insufficient to determine which bidder should be awarded the contract, MTM should have filed a protest within seven days of the solicitation being issued. Having not done so, MTM was time-barred from protesting issues not pertaining to lowest price and IFB compliance.

Changes in the 2023 NET Contract

This chapter discusses:

- DOM's continued shift to a utilization-based payment methodology;
- efforts by DOM to enforce compliance with performance standards;
- changes to the survey process; and,
- changes regarding S.B. 2739.

DOM's Continued Shift to a Utilization-Based Payment Methodology

Although DOM attempted to shift from a flat-fee model to a utilization-based payment methodology in 2018, MTM won the bid despite allocating 79.1% of its bid cost to non-utilizers. This amount increased as the Medicaid-eligible population expanded during the COVID-19 pandemic. Under the 2023 IFB, DOM eliminated payments for non-utilizers, switched to making payments for utilizers based on number of NET trips, and eliminated implementation costs.

Appendix A on page 30 shows the cost per month for NET services under DOM NET contracts in place from July 2014 to September 2027.

2013 Flat Fee Payment Model

In 2013, DOM procured NET services on a flat-fee basis for \$117,230,259 for three years from July 1, 2014, to June 30, 2017. This equates to a cost per year of \$39,076,753 (\$3,256,396.08 per month).¹¹

2018 Utilization-Based Payment Model based on Utilizers and Non-Utilizers

In 2018, DOM procured NET services using a utilization-based payment methodology with a cost cap for the first 32 months not to exceed \$96,776,053.76. This equates to a cost per year of \$36,291,020.16 (or \$3,024,251.68 per month).

Despite the switch to a utilization-based model, the cost model still placed an emphasis on non-utilizers. The 2018 cost model paid the NET broker (i.e., MTM) monthly set rates for each non-utilizer, ambulatory utilizer, advanced utilizer, and air flight utilizer. Each Medicaid NET-eligible

¹¹ The 2013 NET contract did not specify the cost of the four-month implementation period (i.e., from March 1 to June 30, 2014); however, because the 2018 NET contract's four-month implementation period cost was \$0, it is likely that the 2013 NET contract's implementation period cost was also \$0.

member could only be counted in one category each month; members were categorized by the most expensive service they utilized that month.

Changes Based on Non-utilizers

Non-utilizers are Medicaid fee-for-service members who may be eligible to use NET services but who do not use NET services during a given month.

MTM won the 2018 bid by offering lower rates for each type of utilizer. However, MTM allocated 79.1% of its bid cost to non-utilizers. This occurred in part because DOM developed a bid model where payment was not aligned with actual costs of providing NET services (i.e., the operating cost for each one-way NET

trip provided plus the administrative cost related to the NET customer service center and contract compliance).

The bid weighted costs for utilizers at 10% and costs for non-utilizers at 90%; this would have necessitated non-utilizer costs being very low and utilizer costs being high to offset the weighted difference. MTM utilized the bid rules to generate most of their earnings from non-utilizers, increasing the chance they maxed out the contract regardless of how many people utilized the service.

Although DOM did not include money to cover administrative costs in the 2018 contract, it included a rate per non-utilizer. DOM underestimated the number of expected non-utilizers and overestimated the number of utilizers that were used to calculate the cost of each vendors bid. This became problematic when the Medicaid-eligible population expanded during the COVID-19 pandemic, increasing the number of NET-eligible people and subsequently, the number of non-utilizers.

2023 Utilization-based Payment Model Based on Number of NET Trips

In 2023, DOM changed its approach to developing a utilization-based payment model. DOM made three major changes to the 2023 IFB versus the 2018 IFB regarding how cost is determined.

Eliminating Payments for Non-utilizers

DOM eliminated payments for non-utilizers and replaced it with an administrative fee capped at no more than 15% of the vendor's total monthly trip costs.¹² Under the prior contract, DOM paid MTM \$25 per month for each non-utilizer, an amount that was later negotiated down as MTM approached the cost cap early as Medicaid rolls spiked during the COVID-19 pandemic.

Paying per NET Trip

Although DOM still pays the NET broker based on whether the NET utilizer travels by ambulatory transit, advanced transit, or air transit, DOM changed to paying the vendor based on number of one-way NET trips in each category versus number of utilizers in each category. Under the prior 2018 method, a NET broker would charge DOM the same amount whether a utilizer travelled once that month or eight times that month via ambulatory travel. Under the new method, the NET broker would charge DOM once if the NET utilizer road to a doctor with a NET broker and home with a family member versus

¹² 15% of trip cost. Effectively 13.04% of operation cost per month, which includes trip costs plus administration costs.

twice if the NET utilizer road to the doctor and home via ambulatory travel provided by a NET provider.

Eliminating Implementation Costs

DOM required implementation costs be absorbed by the NET broker and not be listed as a separate expenditure category during the bid process. As part of such efforts, on November 2, 2022, DOM sought an exemption to *PPRB OPSCR Rules and Regulations* Section 3-502 Subsection (a) which limits contracts to four years and an additional no-cost implementation period. On November 2, 2022, PPRB approved DOM's request to include optional fourth and fifth years as well as DOM's request to include an additional no-cost implementation period prior to the operational period commencing. This primarily impacted the challenging vendors more than the legacy vendor, as the challenging vendor would have to absorb any start-up costs associated with sub-contracting with state NET providers, (e.g., developing a local call center); the legacy vendor (i.e., in 2023, MTM) would already be operational.

Estimating NET Costs under 2024 NET Contract Based on Past Trip Data

Absent utilization data available for the 2024 NET contract, PEER applied 2024 NET contract trip rates to trip data from the 2018 NET contract and 2023 NET emergency contract to estimate NET costs under the 2024 NET contract based on past trip data. Based on the updated cost methodology, and assuming utilization rates under prior contracts continue, the 2024 NET contract is estimated to be less than the cost cap.

PEER excluded NET data provided for May 2024 to July 2024 due to trips being significantly below normal due, in part, to the transition from contracting with MTM to contracting with ModivCare.¹³

Scenario 1 – Cost Estimate Based on 2018 NET Contract Utilization

From July 2022 to September 2023, there was an average of 41,585 ambulatory trips and 9,040 advanced trips per month. If PEER applied 2024 contract prices to the 2018 trip data, the average cost would be \$2,568,057.53 per month.

If trip data for the 2024 contract averaged the same number of ambulatory trips and advanced trips per month, trip costs would be \$113,737 below the average monthly price \$2,681,794.65 for the cost cap for the 2024 NET contract.

Scenario 2 – Cost Estimate Based on 2023 NET Emergency Contract Utilization

From October 2023 to April 2024, there was an average of 38,230 ambulatory trips and 8,423 advanced trips per month. If PEER applied 2024 contract prices to the 2018 trip data, the average cost would be \$2,370,479.65 per month.

If trip data for the 2024 contract averaged the same number of ambulatory trips and advanced trips per month, trip costs would be \$311,315 below the average monthly price \$2,681,794.65 for the cost cap for the 2024 NET contract.

¹³ MTM reported 39,532 total NET trips in May 2024; MTM and ModivCare reported a combined 22,440 NET trips for June 2024; and ModivCare reported 15,739 NET trips for July 2024.

Efforts by DOM to Enforce Compliance with Performance Standards

To monitor the NET broker's performance, DOM primarily relies on information submitted in the monthly deliverable reports required as part of the NET contract as well as information obtained during meetings with NET broker staff. As part of the 2024 NET contract, DOM added four additional performance metrics for which liquidated damages may be assessed and modified 18 performance metrics from the 2018 NET contract.

Information used to Assess Liquidated Damages

DOM focuses primarily on those performance measures in which liquidated damages can be assessed for instances of noncompliance. To monitor the NET broker's performance, DOM utilizes:

- performance metrics identified in the 2018 or 2023 NET IFBs;
- information submitted as part of the monthly or quarterly deliverable reports¹⁴ required by the NET contract; or,
- information obtained during scheduled and unscheduled meetings with NET broker staff.

Changes to Performance Measures in the 2023 Emergency NET contract and 2024 NET Contract

Appendix C on page 32 shows the changes in liquidated damages that DOM may assess against the NET broker from 2018 NET contract to 2023 emergency NET contract to 2024 NET contract.

2023 Emergency NET Contract

As part of the 2023 emergency NET contract (based on the 2018 IFB), DOM added four additional performance metrics for which liquidated damages may be assessed.

This included an (up to) \$10,000 per day fine and \$1,000 per incident fine "for failure by the Contractor or any of its subcontractor(s) to notify the State of an Incident, both in writing and by telephone, within 72 hours of discovery."

2024 NET Contract

As part of the 2024 NET contract (which includes the 2023 IFB), DOM made several changes to the liquidated damages section to address gaps identified in the 2018 NET contract and/or to strengthen penalties for non-compliance.

As part of the 2024 NET contract, DOM modified the liquidated damage amount to 18 performance metrics in which DOM may have previously assessed liquidated damages under the prior 2018 NET contract. Additionally, as part of the 2024 NET contract, DOM added four additional items for which liquidated damages may be assessed. This includes:

¹⁴ Deliverable reports (e.g., vehicle inspection reports) must be submitted to DOM by the 15th calendar day of the month following the report month/quarter in which they are due and include those specified in the IFB. A list of the 26 monthly deliverable reports is included in Appendix B on page 31.

- a fine of \$1 to \$5,000 if combined complaints by eligible members, medical facilities, and NET providers (excluding rider no show and rider late) exceeds 0.17% of total trips per month, as measured each month by an operations report;
- a fine of \$1 to \$5,000 per incident for trips not fulfilled by the provider, either due to provider no show, unavailable vehicle, unwilling provider available to accept transport, or any other reason resulting in an unfilled trip;
- a fine of \$1 to \$5,000 per incident “if the Contractor failed to notify a Transportation Provider of the need for a special accommodation that was known or should have been known to the Contractor;” and,
- a fine of up to \$1,000 per incident “for failure by the Contractor or any of its subcontractor(s) to notify the State of an Incident, both in writing and by telephone, within 72 hours of discovery.”

Although DOM considered adding a clause to permit the assessment of punitive damages, it was not included in the 2024 contract. The 2023 IFB specifically states, “the parties further declare and agree that the specified liquidated damage amounts to be paid are not meant to be penalties or punitive in nature.”

However, DOM did add a clause to 2024 NET Contract (as part of 2023 IFB) to be able to charge liquidated damages on items identified during the contract period that were not specified by line item under liquidated damages in the contract. For example, during the 2018 contract period, DOM determined it could assess damages for late arrivals and late pick-ups but not pick-ups that did not occur, since, under the 2018 contract, there was not a damage clause for it.

Assessed Liquidated Damages Against MTM for Noncompliance

PEER previously reported as part of its 2020 and 2022 reports (PEER Report #644 and PEER Report #674) that DOM assessed against MTM a total of:

- \$1,274,800 in liquidated damages between February 2019 and December 2019;
- \$0 from January 2020 to December 2020 (waived due to the COVID-19 pandemic); and,
- \$1,027,750 in liquidated damages between January 2021 to May 2022.

DOM assessed against MTM a total of \$3,007,750 in liquidated damages under the 2018 contract.

From June 2022 to September 2023, DOM assessed against MTM a total of \$705,200 in liquidated damages for the remainder of the 2018 NET contract. This results in a total of \$3,007,750 in liquidated damages assessed against MTM under the 2018 NET contract.

Additionally, DOM assessed \$632,800 in liquidated damages against for the 2023 emergency NET contract from October 2023 to May 2024.

Exhibit 4 on page 19 shows the amounts and number of instances of liquidated damages, by performance metric, from June 2022 to May 2024.

Exhibit 4: Amounts and Instances of Liquidated Damages Assessed by DOM to MTM, by Unmet Performance Measures from June 2022 to May 2024

| Performance Measures | | 2018 NET Contract | | 2023 Emergency Contract | |
|----------------------|------------------------------------------------------------|--------------------------|---------------|----------------------------|---------------|
| Section | Description | June 2022 to August 2023 | | September 2023 to May 2024 | |
| | | Liquidated Damages (\$) | Instances | Liquidated Damages (\$) | Instances |
| 2.7.1 (a) | Scheduling and Dispatching Trips: "To Trip" | 119,225 | 4,769 | 101,125 | 4,045 |
| 2.7.1 (b) | Scheduling and Dispatching Trips: "From Trip" | 175,300 | 7,012 | 155,225 | 6,209 |
| 2.7.1 (c) | Scheduling and Dispatching Trips: "Will Call" | 30,950 | 1,238 | 55,950 | 2,238 |
| 2.7.1 (d) | Scheduling and Dispatching Trips: "Hospital Discharge (R)" | 5,900 | 59 | 5,000 | 50 |
| 2.10 | NET Provider Credentialling | 7,000 | 7 | 2,000 | 2 |
| 2.14 | Adequacy NET Provider Network | 60,000 | 600 | 356,300 | 3,563 |
| 2.17.2 | <i>Miscellaneous Operational Rules: On-Time Arrival</i> | 76,200 | 381 | 46,600 | 233 |
| 2.19 | Timeliness Requirements: Routine NET Services | 6,200 | 31 | 5,600 | 28 |
| 2.28 | Vehicle and Driver Non-compliance Procedures | 29,000 | 29 | 26,000 | 26 |
| 2.31.1 | Call Center Location and Hours of Operation | 7,225 | 289 | 31,700 | 1,269 |
| 2.42 | Business Continuity and Disaster Recovery Plan | 35,500 | 142 | 0 | 0 |
| Total | | \$552,500 | 14,557 | \$785,500 | 17,662 |

SOURCE: PEER analysis of monthly liquidated damages reports provided by DOM or posted on MTM's website and 2018 NET IFB.

On-site Field Audits

As of August 27, 2024, DOM has not resumed on-site field audits. According to the 2023 IFB:

DOM shall conduct scheduled quarterly on-site field audits and reviews. DOM shall conduct random onsite reviews of the Contractor's operations and NET Provider field audits to monitor Contractor performance.

PEER's 2020 review of the NET program (PEER Report #674) recommended establishing formal standard operating procedures and an audit checklist to conduct on-site field audits. DOM has not addressed this recommendation due to limitations of current staffing levels.

DOM cites a combination of limited staff resources available to conduct on-site field audits and the comparatively low-risk level associated with the NET contract as reasons for not resuming on-site field audits.

Changes to the Survey Process

As part of the 2023 NET contract, DOM amended the survey process to require the NET broker to contract with a third-party to conduct the surveys and expand the survey process to obtain feedback from all NET-eligible members (i.e., utilizers and non-utilizers), NET providers, Medicaid providers, and medical facilities. The surveys shall also include questions regarding satisfaction with services provided by both the NET broker and NET providers.

2018 NET Contract Survey Requirements

As part of the 2018 NET contract, DOM required the NET broker to conduct utilizer satisfaction surveys via email. DOM reported the response rates for the emailed surveys were 16% in CY 2020, 11% in CY 2021, and 9% in CY 2022.

Because the NET broker was only required to survey utilizers, no surveys were conducted to determine the satisfaction of NET providers, Medicaid providers, and facilities.

2023 NET Contract Survey Requirements

To address gaps in the survey process and increase response rates, the 2023 IFB requires the NET broker to subcontract with a third-party vendor to conduct independent surveys of members, NET providers, Medicaid providers, and facilities. According to DOM staff, ModivCare sub-contracted with Cigna Health to conduct the satisfaction surveys.

The method, format, sampling strategies and questions of the survey must be approved by DOM at least thirty (30) calendar days prior to use, and DOM may specify questions that are to appear in the survey.

Per the 2023 IFB, the surveys shall at minimum inquire about the following:

- **Member satisfaction:** A survey of members regarding ease of scheduling trips, timeliness of services, and non-emergency transportation provider courtesies;

- **Facility satisfaction survey:** A survey of medical providers and facilities regarding ease of scheduling trips if applicable, timeliness of services, non-emergency transportation provider courtesy; and,
- **Provider satisfaction:** A survey of medical providers adequacy of training, communication, and timeliness of reimbursement.

Surveying Non-utilizers

The 2018 IFB specified that the NET broker should survey utilizers of NET services; however, the 2023 IFB contains language that requires the NET broker to conduct member satisfaction surveys—this could include utilizers and non-utilizers.

The general intent behind surveying non-utilizers is to determine why and to what extent this population does not utilize NET services. Under the 2018 contract or 2023 emergency contract, neither DOM nor MTM sought formal feedback from non-utilizers. Some questions to be asked include:

- Are non-utilizers aware of NET services?
- Are non-utilizers reasonably healthy, and therefore go to the doctor once a year or less?
- Is service not timely and reliable?
- Do non-utilizers prefer to utilize other methods of traveling to their medical appointments (e.g., walking, public transport, obtaining a ride from a friend or family member)?

DOM and ModivCare agreed to begin with conducting satisfaction surveys of utilizing members for the new contract.

Changes regarding Implementation of S.B. 2739

During the 2022 Regular Session, the Legislature passed S.B. 2739 requiring all NET providers to obtain a permit through Mississippi State Department of Health (MSDH) by July 1, 2023. This legislation was subsequently amended during the 2023 Regular Session so that NET providers licensed by DOM will not have to obtain a second permit through MSDH. To date, MSDH has issued a permit to six NET providers, while two NET providers are in the permitting process and two have opted to discontinue providing NET services.

Changes to NET Permitting Process Enacted as Part of S.B. 2613, 2023 Regular Session

During the 2022 Regular Session, the Legislature passed S.B. 2739, which required all NET providers, including Medicaid NET providers, to obtain a permit from MSDH and authorized MSDH to set certain standards and issue these permits. S.B. 2739 went into effect on July 1, 2022, and is codified under MISS. CODE ANN. § 41-55-71 (1972).

S.B. 2613, 2023 Regular Session, amended MISS. CODE ANN, § 41-55-71 (1972) to exempt Medicaid

S.B. 2613 exempted Medicaid NET providers from having to obtain a permit through MSDH and moved the deadline for non-Medicaid NET providers to obtain a non-emergency medical transportation provider permit to July 1, 2024.

NET providers from having to obtain a permit through MSDH and moved the deadline for non-Medicaid NET providers to obtain a permit from July 1, 2023, to July 1, 2024.

S.B. 2739 also authorized MSDH to revoke the permit of, or impose fines on, any NET provider that is found to be in noncompliance with MSDH requirements and standards as well as to bring actions for injunctions to enjoin and prohibit any person or entity from providing NET services in the state without having a current, valid permit from MSDH.

Impact of New Permitting Process for NET Providers Permitted through MSDH

The impact of the new NET permitting process has been limited, primarily due to the exemption of all providers permitted through DOM and the delay of the deadline to July 1, 2024. As of August 1, 2024, MSDH reported six NET providers were currently registered through MSDH. Two more NET providers had registered but had not yet been approved. One NET provider still awaited the required decals while one NET provider awaited its inspection. MSDH attributed the low number of NET providers registered (six) to the ability of DOM NET providers to register through DOM. This is in part because these NET providers may also contract to provide NET services to nursing homes, assisted living facilities, or other entities/groups not covered by the DOM fee-for-service NET program.

NET Utilization and Trends

This chapter discusses:

- changes in NET eligible members and NET utilization.

Changes in NET Eligible Members and NET Utilization

Due to a temporary ban on removing members from the Medicaid rolls implemented under the Families First Coronavirus Response Act (FFCRA), NET eligible members peaked at 335,914 in December 2022 but have since decreased to 141,254 as of April 2024. The number of NET trips have stabilized at or below 50,000 per month, with ambulatory trips accounting for 81-82% of NET trips and advanced trips accounting for 18-19% of NET trips.

Decrease in Number of Eligible NET Beneficiaries

The increase in eligible NET beneficiaries and non-utilizers was due to the impact of COVID-19 and new requirements implemented in 2020 under FFCRA.

In 2022, PEER found the number of eligible NET beneficiaries per month increased from 124,040 in July 2020 to 308,557 in May 2022. NET eligibility eventually peaked at 335,914 in December 2022.

This was primarily due to unforeseen economic changes resulting from the COVID-19 pandemic (i.e., job losses), and the requirements under the Families First Coronavirus Response Act (FFCRA) that followed. FFCRA mandated DOM retain Medicaid beneficiaries until the end of the public health emergency. FFCRA “required that individuals enrolled for benefits at the date of enactment shall be treated as eligible for benefits through the end of the emergency period.”¹⁵ On July 18, 2022, the U.S. Department of Health and Human Services issued a Federal Public Health Emergency Update that extended the COVID-19 related public health emergency through October 13, 2022, generally extending it from there in 90-day increments. The public health emergency ended May 11, 2023.

As of April 2024, the number of NET eligible members has declined to 141,254. This decline occurred in part because the federal restriction on removing members from the Medicaid rolls once their eligibility expired during the COVID-19 pandemic was lifted.

The number of NET-eligible members has declined since the end of the public health emergency.

Similarly, NET non-utilizers peaked at 329,309 in January 2023, before declining to 135,641 as of April 2024.

¹⁵ As a condition of receiving the enhanced Federal Medical Assistance Percentage for Medicaid (FMAP) allowed in FFCRA, DOM is excluded from any change to eligibility standards, methodologies, or procedures from those in effect on January 1, 2020. The enhanced FMAP was put in effect from January 1, 2020, through the end of the quarter when the public health emergency ended.

Stabilization of NET Trips at or below 50,000 per Month

In 2022, PEER found NET trips declined from 75,862 in FY 2019 to 48,658 per month in FY 2022. Since FY 2022, NET trips have remained at around 48,000 per month to 50,000 per month, when taking the average over a 12-month period (i.e. fiscal year).

However, there are periods of time in which the six-month average may be larger or smaller. For example, from March 2023 to August 2023, the six-month average was 52,351. From November 2023 to April 2024, the six-month average was 45,908. Exhibit 5 on page 24 depicts the number of NET trips per month from FY 2019 to FY 2024.

The increase in eligible NET beneficiaries and non-utilizers was due to the impact of COVID-19 and new requirements implemented in 2020 under FFCRA.

Exhibit 5: NET Trips per Month, FY 2019 to FY 2024

| Period | Total NET Trips | Number of NET Trips per month |
|------------------------------|----------------------|-------------------------------|
| FY 2019 | 910,341 ² | 75,862 |
| FY 2020 ¹ | 699,811 ³ | 58,318 |
| FY 2021 | 590,253 | 49,188 |
| FY 2022 | 583,801 | 48,658 |
| FY 2023 | 604,255 | 50,355 |
| FY 2024 (through April 2024) | 481,694 | 48,169 |

1. The number of NET trips had begun to decline prior to COVID-19 due to changes in the NET contract (no longer included nursing home transport and MississippiCAN members) and the introduction of telehealth.
2. Excludes two trips reported under the "other" category.
3. Excludes 91 trips reports under the "other" category.

SOURCE: PEER analysis of Division of Medicaid NET trip data provided for FY 2019 to FY 2024.

The number of NET trips had begun to decline prior to COVID-19 due to changes in the NET contract (e.g., it no longer included nursing home residents and MSCAN members) and the introduction of telehealth. The average number of trips from July 2019 to February 2020 declined to 63,066, a decline of approximately 12,800 trips per month. Trips continued to decline into FY 2021 and FY 2022 and stabilized around 49,000 trips per month, a decline of approximately 27,204 trips per month (36%) from FY 2019 levels.

Who Utilizes NET Services?

Nationally, the 2020 MACPAC report found less than 5% of Medicaid beneficiaries used NET in FY 2018. For beneficiaries who do use NET, it plays a vital role in facilitating access to care. The MACPAC report found the most frequent users of NET include beneficiaries who are eligible for Medicaid on the basis of disability or age and those with certain conditions, including end-stage renal disease, intellectual or developmental disabilities, substance abuse disorder, or behavioral health conditions.

In its *2021 Annual Report*, MTM reported that it provided on average 2,001 daily trips on core days (Monday through Friday). In CY 2021, over half (58%) of total NET trips were related to dialysis appointments. The next greatest reasons for total NET trips were attributed to appointments for specialty care (15%), primary care (5%), and physical therapy (5%).

According to DOM, MTM did not submit an annual report in 2022 or as part of the emergency contract despite it being a requirement under the 2018 IFB. Per Item 2.47 of the 2018 IFB, the annual report shall be due no later than the 60th calendar day following the end of each 12-month period beginning with the implementation date. The report “shall include a narrative summary of all NET Brokerage Program activity, Contractor accomplishments, remaining challenges, and Contractor’s recommendations.”

However, MTM submits monthly summary reports that are utilized to develop the annual report, including data on trip leg reason. Of the reasons given for the 44,582 trip legs in April 2024, 48.6% were for return rides home, 28.4% were to dialysis appointments, 8.1% were to a specialist appointment, 2.2% were to physical therapy, and 2.1% were to see their primary care physician. The average distance traveled per trip leg was 20.68 miles.

NET Trips, by Mode Type

The NET program offers multiple modes of transportation, with vehicles that can accommodate any type of accessibility assistance beneficiaries may need (e.g., wheelchair access, ambulances with medical staff). See Appendix D on page 36 for a description of each mode of transportation in the 2024 NET contract.

From February 2019 to April 2024, ambulatory trips accounted for 81-82% of NET trips and advanced trips accounted for 18-19% of NET trips.

Between February 2019 and June 2022, the NET program provided 2,294,099 trips to Medicaid NET beneficiaries. Exhibit 6 on page 26 shows the occurrence of NET trips, by mode. A trip is defined as transporting a NET beneficiary from point A (e.g., their residence) to point B (e.g., their medical provider’s office). It is likely each beneficiary will incur two trips per medical appointment unless arranging a ride from a family member pre- or post-appointment.

Exhibit 6: NET Trips, by Mode Type, FY 2019 to FY 2024

| Period | FY 2019 | FY 2020 ¹ | FY 2021 | FY 2022 | FY 2023 | FY 2024 (thru April) |
|-----------------------------------|----------------------------|----------------------------|----------------------------|----------------------------|----------------|-------------------------|
| Ambulatory Mode | | | | | | |
| Ambulatory | 537,190 | 466,289 | 397,972 | 403,962 | 430,457 | 341,871 |
| Gas Mileage Reimbursement | 175,083 | 92,782 | 72,730 | 67,429 | 64,931 | 53,776 |
| Public Transportation (e.g., bus) | 337 | 29 | 22 | 257 | 198 | 159 |
| Total Ambulatory Mode | 712,610 | 559,100 | 470,724 | 471,648 | 495,586 | 395,806 |
| Advanced Mode | | | | | | |
| Wheelchair Lift | 188,751 | 131,794 | 108,920 | 99,829 | 95,186 | 73,692 |
| Stretcher Van | 2,978 | 1,695 | 6,179 | 9,168 | 10,348 | 6,486 |
| Ambulance (non-emergency) | 5,994 | 7,222 | 4,430 | 3,156 | 3,135 | 5,710 |
| Total Advanced Mode | 197,723 | 140,711 | 119,529 | 112,153 | 108,669 | 85,888 |
| Air Flight | 0 | 0 | 0 | 0 | 0 | 0 |
| Total | 910,333² | 699,811³ | 590,253⁴ | 583,801⁵ | 604,255 | 481,694 |

1. Impacted by COVID-19 pandemic limiting access to in-person medical office visits, unless necessary.
2. Excludes 8 trips reported under the "other" category.
3. Excludes two trips reported under the "other" category.
4. Excludes two trips reported under the "other" category.
5. Excludes 91 trips reported under the "other" category.

SOURCE: PEER analysis of NET trip data provided by the Division of Medicaid.

From February 2019 to June 2022, the three most utilized categories of non-emergency transportation were ambulatory (64.3%), wheelchair (17.4%), and gas mileage reimbursements (16.8%), with ambulatory trips accounting for 81.1% of trips and advanced trips accounting for 18.9% of trips.

Between July 2022 and April 2024, the NET program provided 772,328 trips to Medicaid NET beneficiaries. Over this period, ambulatory trips accounted for 82.1% of trips, an increase of 1%, and advanced trips accounted for 17.9% of trips, a decrease of 1%. However, ambulatory trips now account for 71.1% of NET trips (up from 64.3%), wheelchair ambulatory trips now account for 15.6% of NET trips (down from 17.4%), and gas reimbursements trips now account for 10.9% of NET trips (down from 16.8%).

MSDH's Pilot Non-emergency Transportation Program

This chapter discusses:

- MSDH's Pilot Non-Emergency Transportation Program.

MSDH's Pilot Non-emergency Transportation Program

Citing a 50% no-show rate to county health department appointments, MSDH entered an emergency contract with Uber Health to start a non-emergency transportation program in November 2023 to transport customers to health department appointments, WIC Centers, and pharmacies. MSDH reported providing more than 500 rides to county health departments as of August 23, 2024. However, the program still needed Uber Health drivers in 36 of Mississippi's 82 counties.

In November 2023, MSDH started a non-emergency transportation program to provide transportation of patients to county health department appointments and, if necessary, to pharmacies to pick up prescriptions that were ordered because of their appointment. Rides may also be requested to visit MSDH offices for health services or Women, Infants, and Children's Nutrition (WIC) program appointments. The program is funded by a federal grant as part of the Mississippi COVID-19 Health Disparities Elimination Project.

MSDH entered into an emergency contract with Uber Health to provide such appointments throughout the state. As of July 24, 2024, MSDH was still seeking non-emergency transportation drivers in 36 of Mississippi's 82 counties. Adults must be at least 18 to schedule a ride through Uber Health and must call to schedule a ride at least 30 minutes prior to their appointment.

Need for the Program

The pilot program attempts to target individuals who do not attend healthcare appointments or get medical care, primarily due to lack of access to a vehicle (or public transit). According to MSDH, Mississippi county health departments experience a 50% no-show rate, which MSDH primarily attributes to lack of access. According to an Urban Institute

According to MSDH, Mississippi county health departments experience a 50% no-show rate, which MSDH primarily attributes to lack of access to transportation.

study,¹⁶ 21% of adults without access to a vehicle and limited or no access forgo needed health care because of difficulty finding transportation. According to the Urban Institute study, while 91% of adults reported having household access to a vehicle, the figure was substantially lower among adults with a disability (83%), adults with no health insurance coverage (83%), Black adults (81%), adults with public health insurance (79%), and adults with low family incomes (78%).

Utilization and Plans for Program Expansion

MSDH reported providing more than 500 rides to and from county health departments as of August 23, 2024, although a specific number was not given. MSDH expects to expand the program in the summer of 2025. MSDH plans to utilize the procurement process to select and contract with multiple transportation providers that meet the program's objectives.

MSDH reported providing more than 500 rides to county health departments as of August 23, 2024.

Use of Uber as a Non-Emergency Transportation Provider

As of August 1, 2024, MSDH reported no issues with the use of Uber as its non-emergency transportation provider. MSDH opted to initially utilize Uber in part because Uber grants government agencies access to their Uber Health Dashboard. According to MSDH, use of the Uber Health Dashboard and transportation services is a HIPAA-secure¹⁷ solution for healthcare organizations to arrange rides on behalf of their patients.

Compliance with Drug Testing Requirement for Non-Emergency Transportation Providers

According to MSDH, Uber has specific requirements an individual must meet to become an Uber driver that includes a series of background checks on the individual and their vehicle. This includes a personal background check (including criminal record), drug test, and driver's license. Their vehicle is also inspected to make sure it meets Uber's standards as well as meeting all legal requirements. In a response to follow-up questions, MSDH stated that Uber drivers are employed by Uber Health, drug screened before being matched to a service request, and rescreened at various intervals.

Uber Health customers (e.g., MSDH) can report complaints about a driver. Uber will then block a driver's pairing with the program. According to the official Uber website driver safety section, Uber drivers are invited to take a voluntary drug test if the driver receives complaints from riders alleging that the driver was impaired while driving on the platform. Results will determine whether a driver's account is reactivated.

DOM still does not permit Uber, Lyft, or other ridesharing entities to provide services under the DOM fee-for-service NET program due to their limits on mandatorily drug testing drivers. In the past, Uber and Lyft have not mandated that their drivers submit to drug testing as required by DOM's NET program, instead making such tests voluntary. However, these drivers may individually contract through a NET provider or through the NET broker, provided they comply with all state, federal, and contract requirements related to DOM NET drivers. This includes drug testing.

¹⁶ *More than One in Five Adults with Limited Public Transit Access Forgo Health Care Because of Transportation Barriers*. Urban Institute. Laura Barrie Smith, Michael Karpman, Dulce Gonzalez, and Sarah Morriss. April 2023.

¹⁷ Refers to Health Insurance Portability and Accountability Act regarding the privacy and security of a person's health information.

Recommendations

In order to increase the effectiveness of the statutory review process, the Legislature should consider the following options:

Option 1: The Legislature should consider amending MISS. CODE ANN. § 43-13-117 (1972) to require the PEER Committee to conduct a performance evaluation of the Division of Medicaid's (DOM) non-emergency transportation (NET) program every three years.

Option 2: The Legislature should consider amending MISS. CODE ANN. § 43-13-117 (1972) to require the PEER Committee to conduct a performance evaluation of the DOM's NET program two years after the implementation date of each new contract.

PEER currently conducts a review of the DOM fee-for-service NET broker program every two years. Given the contract is typically a three-year contract with an option to extend twice for one year each, PEER typically reviews the same material twice under a given contract or, in this case, conducts the review after the procurement, but prior to the new contract commencing.

By altering the review cycle to take place two years after the NET contract commences, PEER will review the NET contract prior to the next procurement cycle, but after sufficient time to assess services provided.

Appendix A: Cost per Month for NET Services under DOM NET Contracts, July 2014 to September 2027

| NET Contract | NET Contract Period | Period Cost | Total Not-to-exceed Cost | Cost per Month |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------|------------------|--------------------------|----------------|
| 2013 Contract ¹ – Initial | 36 months – July 1, 2014, to July 1, 2017 | \$117,230,259.00 | \$117,230,259.00 | \$3,256,396.08 |
| DOM amended the initial 2013 contract to reduce the cost cap due to the transition of an estimated 330,000 Medicaid beneficiaries from Medicaid fee-for-service to MSCAN. | | | \$109,272,480.00 | \$3,035,346.67 |
| Amendment 2 | 8 months – July 1, 2017, to February 28, 2018 | \$23,449,838.00 | \$132,722,318.00 | \$2,931,229.75 |
| Amendments 3/4 | 11 months – March 1, 2018, to January 31, 2019 | \$35,145,495.00 | \$167,867,758.00 | \$3,195,095.00 |
| 2018 Contract – Initial | 32 months – February 1, 2019, to September 30, 2021 | \$96,776,053.73 | \$96,776,053.73 | \$3,024,251.68 |
| Amendment 1 – Part 1 | 23 months – February 1, 2019, to December 31, 2020 | \$69,557,778.86 | \$69,557,778.86 | \$3,024,251.68 |
| Amendment 1 – Part 2 | 21 months – January 1, 2021, to September 30, 2022 | \$55,467,293.30 | \$125,025,072.16 | \$2,641,299.68 |
| Renewal 2 | 12 months – October 1, 2022, to September 30, 2023 | \$31,695,569.16 | \$156,720,628.10 | \$2,641,299.68 |
| 2023 Emergency Contract | October 1, 2023, to June 7, 2024 ² | \$44,693,108.00 | \$44,693,108.00 | \$3,724,426.00 |
| 2024 Contract | June 8, 2024, to June 7, 2027 | \$96,544,607.49 | \$96,544,607.49 | \$2,681,794.65 |

1. PEER assumed \$0 for implementation costs for the 2013 NET contract, since the 2013 NET contract did not specify a dollar amount for implementation costs, and the 2018 NET contract included \$0 for implementation costs.
2. Initial emergency contract was for twelve months, as needed, through September 30, 2024.

SOURCE: Division of Medicaid NET contracts for 2013, 2018, 2023, and 2024, as well as applicable contract renewal documents in 2017 and 2021.

Appendix B: Modes of Transportation Offered through the NET Program

The modes of transportation offered through the NET program have not changed from the 2018 IFB/contract to the 2023 IFB/2024 NET contract. Uber, Lyft, or other ridesharing entities are still not permitted to provide services under the DOM fee-for-service NET program due to their prohibition on mandatorily drug testing drivers.

1. Ambulatory

Basic Vehicle: transportation by means of a motorized vehicle used for the transportation of passengers whose medical condition does not require use of a wheelchair, hydraulic lift, stretcher, medical monitoring, medical aid, medical care or medical treatment during transport. This does not include private automobiles and transportation through the volunteer driver program.

Commercial Carrier (Ground): transportation by means of passenger train (such as Amtrak) or buses (such as Greyhound).

Fixed Route (Public Transit): transportation by means of a public transit vehicle that follows an advertised route on an advertised schedule, does not deviate from the route or the schedule, and picks up passengers at designated stops.

Gas Mileage Reimbursement: gas reimbursement for beneficiary trips. Transportation by means of private automobile (vehicle owned by the beneficiary, relative, or other individual). This mode of transportation does not include transportation provided by the volunteer driver program.

Volunteer Driver: transportation by means of motor vehicle owned and operated by an individual within the community. The volunteer driver mode does not include global taxi technology companies, on demand transportation companies, or ride sharing services. The volunteer driver must at a minimum meet all credentialing and insurance requirements, timeliness standards, report accidents and incidents, accept/deny trip assignments, comply with policies outlined in the Contractor's volunteer driver agreement, and submit claims to the Contractor.

2. Advanced Vehicle

Wheelchair/Stretcher: transportation by means of a motorized vehicle equipped specifically with certified wheelchair lifts or other equipment designed to carry persons in wheelchairs or other mobility devices or is equipped specifically for the transportation of passengers who cannot sit upright and are required to remain in a lying position during transport. Enhanced vehicles can only be used to transport passengers that do not require medical monitoring, medical aid, medical care, or medical treatment during transport. This does not include private vehicles.

Non-Emergency (ground) Ambulance: transportation by means of a motorized vehicle equipped specifically for the transportation of a passenger whose medical condition requires transfer by stretcher with medical supervision. The passenger's condition may also require the use of medical equipment, monitoring, aid, care, or treatment, including the administration of drugs or oxygen, during the transport. The Contractor is not responsible for scheduling or reimbursement of non-emergency ground ambulance hospital to hospital transports.

3. Air

Commercial Carrier (Air): transportation by means of scheduled airline services.

Fixed Wing Non-Emergency Air Ambulance: transportation by means of a fixed-wing aircraft used for chartered air transportation of sick or injured persons who require medical attention during transport.

SOURCE: PEER analysis of Division of Medicaid Invitation for Bids #20180511 and Invitations for Bids #20230113.

Appendix C: Changes in Liquidated Damages that DOM may Assess Against the NET Broker, by Contract

| Liquidated Damage Categories Included in the 2018 NET Contract | 2018 Contract | 2023 Emergency Contract | 2024 Contract |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------|--------------------------|----------------------------------------------|
| Liquidated Damage Categories Included in the 2018 NET Contract | | | |
| Failure by the Contractor to correctly authorize, schedule, and provide [Routine and Non-Routine] NET services where DOM determines that there is a pattern of such failures. | \$5,000 per calendar day | \$1,000 per calendar day | Up to \$5,000 per instance, per calendar day |
| Failure by the Contractor to educate beneficiaries, Medicaid providers, and transportation providers and carriers where DOM determines that there is a pattern of such failures. | \$750 per instance | No change | Up to \$1,500 per instance, per calendar day |
| Failure by the Contractor to maintain a current Provider Manual or Operations Procedures Manual. | \$250 per calendar day | No change | Up to \$250 per calendar day |
| Failure by the Contractor to ensure that drivers and vehicles meet the minimum requirements, or failure by the Contractor to perform required vehicle inspections. | \$1,000 per instance | No change | Up to \$1,000 per instance |
| Failure by the Contractor to maintain a NET provider network sufficient to meet the standards of the contract as determined by DOM. | \$1,000 per calendar day | No change | Up to \$1,000 per day |
| Failure by the Contractor to make timely payment to providers and drivers as required in this IFB where DOM determines that there is a pattern of such failures. | \$1,000 per instance | No change | No Damages Outlined |
| Failure by the Contractor to meet the quality assurance and monitoring requirements, including the customer satisfaction survey, detailed in the quality assurance plan and monitoring plan. | \$1,000 per instance | No change | Up to \$1,000 per instance per, calendar day |
| Failure by the Contractor to develop or maintain all required electronic and data systems. | \$2,500 per calendar day | No change | Up to \$2,500 per instance, per calendar day |
| Failure by the Contractor to comply with reporting requirements set forth in this IFB. | \$250 per instance, per calendar day | No change | Up to \$250 per instance, per calendar day |
| Failure by the Contractor to maintain staffing levels to meet the standards outlined in this IFB. | \$2,500 per calendar day | No change | Up to \$2,500 per calendar day |

| | | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|---------------------|--------------------------------------------------------|
| Failure by the Contractor to conduct pre-transportation and post-transportation validation checks as required in this IFB. | \$250 per instance | No change | Up to \$250 per instance |
| Failure by the Contractor to authorize and schedule [Routine and Non-Routine] NET services within the time frames set forth in this IFB. | \$200 per instance | No change | No change |
| Failure by the Contractor to submit to DOM, by the due date, any material required by the contract. | \$250 per instance, per calendar day | No change | No Damages Outlined |
| Failure by the Contractor to comply with the closeout and turnover requirements of this IFB. | Up to \$25,000 (deducted from final payment to the Contractor) | No change | No change |
| Any other failure by the Contractor that DOM determines to be a substantial noncompliance with any material term of the contract and/or IFB not specifically enumerated herein. | \$1–\$5,000 for each instance | No Damages Outlined | No Damages Outlined |
| Failure by the Contractor to submit timely and accurate encounter data (paid, amended, or denied). | \$5,000 per month | No change | Between \$1 and \$5,000 per instance, per calendar day |
| Failure by the Contractor to resubmit rejected files with all required data elements in the correct format within 14 calendar days from the date the Contractor received the rejected file. | \$5,000 per month | No change | Up to \$500 per instance, per calendar day |
| Failure by the Contractor to adjust or void encounter claim files within 14 calendar days of notification by DOM. | \$5,000 per month | No change | Up to \$500 per instance, per calendar day |
| Failure by the Contractor to obtain approval in writing by DOM for material requiring DOM approval as outlined in the IFB. | \$250 per instance | No change | No Damages Outlined |
| Failure by the Contractor to obtain signed agreement/acknowledgment forms or submit forms to DOM in accordance with this IFB. | \$250 per instance, per day | No change | No Damages Outlined |
| Failure by the Contractor to submit a DOM-approved corrective action plan (CAP) on time. | \$500 per business day | No change | Up to \$500 per business day |

| | | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|--------------------------------------------------------------|-------------------------------------------------------|
| Failure by the Contractor to successfully complete a DOM-approved CAP within the time frames outlined in the CAP. | \$500 per business day | No change | Up to \$500 per business day |
| Failure by the Contractor to submit to DOM within one business day contractor staff who no longer need access to the Mississippi Enterprise System/Mississippi Medicaid Information System. | \$100 per business day | No change | Up to \$100 per business day |
| Failure by the Contractor to pay at least 90% of all "clean claims" ¹ within 45 ² days. | \$1-\$5,000 | No change | \$1-\$5,000 per instance, per calendar day |
| Failure by the Contractor to pay at least 99% of all "clean claims" within 90 days. | \$1-\$5,000 | No change | \$1-\$5,000 per instance, per calendar day |
| Liquidated Damage Categories Added as Part of the 2023 NET Contract | | | |
| Failure by the Contractor or any of its subcontractor(s) to meet the requirements of a Business Associate Agreement (BAA) or Data Use Agreement (DUA). | No Damages Outlined | Up to \$2,500 per occurrence ³ | No change |
| Failure to meet the requirements of [the] Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Health Information Technology for Economic and Clinical Health Act (HITECH), and the implementing regulations thereunder, including but not limited to the Privacy, Security, Breach, Notification, and Enforcement Rules at 45 CFR Part 160 and 164, as amended. | No Damages Outlined | Up to \$1,000 per incident ⁴ | No change |
| Failure by the Contractor or any of its subcontractor(s) to notify the State of an Incident, both in writing and by telephone, within 72 hours of discovery. | No Damages Outlined | Up to \$10,000 per day and \$1,000 per incident ⁴ | Up to \$10,000 per day and up to \$1,000 per incident |
| Unauthorized utilization or disclosure of any confidential information not classified as PHI, in violation of the requirements listed herein. | No Damages Outlined | Up to \$10,000 per occurrence ⁵ | No change |
| Liquidated Damage Categories Added as Part of the 2024 NET Contract | | | |
| Failure by the Contractor to obtain approval in writing by the Division of Medicaid for any public facing or publicly reported material distributed by the Contractor. | No Damages Outlined | No Damages Outlined | Up to \$2,500 per instance, per calendar day |
| Complaints - Combined complaints by members, facilities, and providers (excluded rider no show and rider late) shall not exceed 0.17% of total trips per month. Measured each month by an Operations Report does not exceed 0.17%. | No Damages Outlined | No Damages Outlined | \$1-\$5,000 |

| | | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|----------------------------|--------------------|
| <p>Unfulfilled Trips - Trips not fulfilled by provider. An unfulfilled trip is an eligible trip that is (a) Not fulfilled (provided) due to a "Provider No Show", (b) Not fulfilled (provided) as a result of the Contractor having "No vehicle available" to transport the member, (c) Not fulfilled (provided) as a result of the Contractor having "No provider willing to transport" the member, or (d) Any other similar inability of the Contractor to secure an NEMT provider to transport the member at the scheduled time.</p> | <p>No Damages Outlined</p> | <p>No Damages Outlined</p> | <p>\$1-\$5,000</p> |
| <p>If the Contractor failed to notify a Transportation Provider of the need for a special accommodation that was known or should have been known to the Contractor (i.e. the information was in the Contractor's profile of the Participant, in a Provider Certification Form or Treatment Plan, was a Repetitive, Scheduled, Non-Emergent Transport, or the transport request was for a Bariatric Transport and this information was not provided to the Transportation Provider whereby a Participant was unable to be transported because an inappropriate vehicle was dispatched, or a vehicle lacked the necessary number of and/or properly trained staff).</p> | <p>No Damages Outlined</p> | <p>No Damages Outlined</p> | <p>\$1-\$5,000</p> |

1. A "clean claim" refers to one that can be processed without obtaining additional information from the NET provider or from a third party.
2. The 2024 contract reduced the payment period to 30 days.
3. An occurrence means each failure to comply with the BAA or DUA requirements, regardless of the number of persons or clinicians involved.
4. An incident means, with respect to protected health information (PHI), (i) any successful Security Incident which results in or is related to unauthorized access, use, or disclosure of PHI, (ii) Breach of Unsecured PHI, or (iii) any loss, destruction, alteration, or other event in which PHI cannot be accounted for.
5. An occurrence means each unauthorized use or disclosure, regardless of the number of persons or Trading Partners involved.

NOTE: 42 C.F.R. § 447.45 requires at least 90% of all "clean claims" from NET providers be paid within 30 days following receipt; at least 99% of all "clean claims" from NET providers be paid within 90 days following receipt unless pending for additional information. For the purposes of assessing liquidated damages, DOM established timeframes of 45 and 90 days, respectively.

SOURCE: DOM 2018 NET Contract, DOM Invitation for Bids #20180511, DOM 2023 Emergency NET Contract, DOM 2024 NET Contract, and DOM Invitation for Bids #20230113.

Appendix D: Quarterly and Monthly Deliverable Reports Provided by NET Broker to DOM

Quarterly Deliverable Reports

1. **MIS Pre-Non-Fixed Verification Report** - Contractor shall conduct validation checks prior to authorizing the request for no fewer than three percent (3%) of the NET Services requests received in a month.
2. **MIS Post-Non-Fixed Verification Report** - Contractor shall conduct post-transportation validation checks on no fewer than two percent (2%) of the NET Services requests received in a month.
3. **MIS Fraud Report** - Quarterly Suspected Fraud, Abuse and/or Misuse Summary Report.
4. **MIS Comprehensive NET Fraud Report** - Comprehensive Suspected Fraud, Waste, Abuse (FWA) and/or Misuse Summary Report.

Monthly Deliverable Reports

1. **MIS Quality** - Reports the monthly complaints received by the NET Broker from members and medical providers. The report also shows the number of incidents and accidents received by the NET Broker and any suspected fraud, waste, and abuse.
2. **MIS Agents Available by Hour** - Reports the number of customer service representatives available to take calls on an hourly basis.
3. **MIS Call Stats** - Reports the number of calls received into the call center for the month.
4. **MIS Claim Denial Reason** - Reports NET claims denied by the NET Broker for the reason: "Driver or Vehicle Not Approved on Date of Service."
5. **MIS Claims Aging** - Reports the number of claims submitted and paid during the month and for the last 90 days.
6. **MIS Denial Summary** - Reports the number of claims that were denied.
7. **MIS Interactions** - Reports the number of times customer service representatives received calls from beneficiaries.
8. **MIS L Detail** - Reports NET request record details, as summarized by the MIS L Summary report.
9. **MIS L Summary** - Reports a general operations summary for the operating period.
10. **MIS L Summary Volunteer Addendum** - Supplements the MIS L Summary report with volunteer driver data.
11. **MIS Member No-Show Report** - Reports the instances of beneficiary trips missed.
12. **MIS Noncompliant Beneficiaries** - Reports beneficiaries with excessive beneficiary no-shows and provides detail of those no-shows.
13. **MIS On-Board Travel Time** - Reports the instances of beneficiaries who are in the transportation vehicles longer than the standard trip time.

14. **MIS Trip Processing Time** - Reports the time in days it takes for a trip to be processed. Processed means that trips have either been scheduled, cancelled, or deleted.
15. **MIS Trips Exceeding Mileage Limits** - Reports the number of trips exceeding the 125-mile limit.
16. **MIS Trip Efficiency Report** - Reports claimed trips by driver and vehicle, showing multi-loading and routing efficiency.
17. **MIS Unduplicated Beneficiaries** - Reports the number of different beneficiaries who use NET services per month per individual trip type. Reports the percentage of usage for each individual transport type.
18. **MIS Vendor Timeliness (FINAL)** - Reports the trip detail information for all claimed trips received during the time period.
19. **MIS Vendor Timeliness (PRELIMINARY)** - Reports the trip detail information for all claimed trips received during the time period.
20. **MIS Web Based Reservations** - Reports NET requests submitted via NET Broker's online web portal.
21. **MIS Provider Report Cards** - Reports a summary of vendor performance for the operating period.
22. **MIS Network and Geographic Coverage** - Reports NET geographic coverage by county, and any network deficiencies.
23. **MIS Call Evaluation Report** - Reports the number of customer service representative calls audited for quality.
24. **MIS Meals and Lodging Report** - Reports the trips where cost for meals or lodging occurred.
25. **MIS On Site Report** - Reports number of on-premise inspections given by NET Broker.
26. **MIS Short Notice Trips** - Reports number of trips request less than two business days in advance of the appointment.
27. **MIS Provider Notification Report** - Contractor shall notify the NET Provider of the assignment at least two (2) business days prior to the trip.

SOURCE: NET broker deliverable reports required by or requested by DOM pursuant to 2018, 2023, and/or 2024 NET contracts.

Agency Response

OFFICE OF THE GOVERNOR

Walter Sillers Building | 550 High Street, Suite 1000 | Jackson, Mississippi 39201

October 1, 2024



MISSISSIPPI DIVISION OF
MEDICAID

Ted Booth
Executive Director
Joint Committee on Performance Evaluation and Expenditure Review
Woolfolk Building, Suite 301-A
501 N. West Street
Jackson, MS 39201

RE: A Review of the Division of Medicaid's Non-Emergency Transportation Program

Dear Mr. Booth:

Thank you for allowing the Division of Medicaid (DOM) an opportunity to review the 2024 draft PEER audit report of the Medicaid Non-Emergency Transportation (NET) program, which is mandated by Miss. Code Ann. § 43-13-117 (1972). Senate Bill 2836 (2018 Regular Session) requires PEER to conduct a review of DOM's NET program every two years.

DOM appreciates the time and effort the PEER review team dedicated to assessing the Medicaid NET program. Recommendations shared by PEER during past audits have proven useful to DOM. After reviewing the draft report, DOM concurs with the recommendation to consider a change in the review cycle to increase the effectiveness of the statutory review process.

DOM supports Option 2 of PEER's recommendation to consider changing the review cycle pursuant to Miss. Code Ann. § 43-13-117 (1972), to require the PEER Committee to conduct a performance evaluation of the DOM's NET program every two years after the implementation date of each new contract.

Sincerely,

A handwritten signature in blue ink, appearing to read "Drew L. Snyder".

Drew L. Snyder
Executive Director
Mississippi Division of Medicaid

Toll-free 800-421-2408 | Phone 601-359-6050 | Fax 601-359-6294 | medicaid.ms.gov

Responsibly providing access to quality health coverage for vulnerable Mississippians

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James F. (Ted) Booth, Executive Director

Reapportionment

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Gale Taylor

Quality Assurance and Reporting

Tracy Bobo

Hannah Jane Costilow

Performance Evaluation

Lonnie Edgar, Deputy Director

Jennifer Sebren, Deputy Director

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Emily Cloys

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Matthew Dry

Rucell Harris

Matthew Holmes

Drew Johnson

Chelsey Little

Billy Loper

Debra Monroe

Meri Clare Ringer

Sarah Williamson

Julie Winkeljohn

Ray Wright