

**205.5363 Nonemergency medical transportation services -- Annual report.**

- (1) The provision of nonemergency medical transportation services to eligible Medicaid enrolled beneficiaries in the Commonwealth shall comply with 42 U.S.C. sec. 1396a(a)(87), 42 C.F.R. sec. 431.53, 42 C.F.R. sec. 440.170, any other relevant federal law or regulation, and this section, except that this section shall not apply to any nonemergency medical transportation services, including transportation via stretcher, covered by a Medicaid managed care organization.
- (2) A nonemergency medical transportation service program administered under this section and relevant federal law shall:
  - (a) Be administered under a regional brokerage delivery model;
  - (b)
    1. Utilize a capitated payment model.
    2. Capitation payments made to regional brokers shall be:
      - a. Actuarially sound;
      - b. Set by an actuary contracted by the Department for Medicaid Services;
      - c. Calculated based only on the number of nonemergency medical transportation service eligible Medicaid enrollees, as determined by the Department for Medicaid Services in accordance with KRS 205.513(2)(c), within a given region and shall not be based on the total number of Medicaid enrollees; and
      - d. Calculated separately for each region with consideration given to each region's average trip time, average trip distance or average mileage per trip, and other region-specific factors, including but not limited to geography, terrain, and population density; and
  - (c) Require regional brokers to:
    1. Achieve an annual medical loss ratio for each state fiscal year as required under subsection (3) of this section;
    2. Provide a remittance to the state of any excess capitation payments for any state fiscal year in which the regional broker fails to achieve an annual medical loss ratio as required under subsection (3) of this section;
    3.
      - a. Ensure that all vehicles used to provide Medicaid-covered nonemergency medical transportation services are equipped with a global positioning system device that enables the broker to determine the precise location of the vehicle at all times when the vehicle is being operated to provide nonemergency medical transportation services.
      - b. Any cost that may be associated with the requirement to equip vehicles used to provide Medicaid-covered nonemergency medical transportation services with a global positioning system device shall be borne by the regional broker and not the Department for Medicaid Services or any other state agency; and
    4. Collaborate with the Department for Medicaid Services, or another

agency in state government or a private entity with which the department has contracted for the administration of a nonemergency medical transportation service program, to implement and execute a performance-based payment model that aligns incentives for Medicaid enrollees, drivers, regional brokers, and the Commonwealth to improve quality, reliability, and cost-effectiveness in the nonemergency medical transportation service program. The performance-based payment model required under this subparagraph shall include a two percent (2%) withhold from each regional broker's capitation amount that can be earned back in full or in part by the regional transportation broker through achievement of designated performance-based measures which shall:

- a. Be developed in a manner that reflects the unique circumstances of each region; and
  - b. Include but not be limited to:
    - i. Utilization rates;
    - ii. The number of nonemergency medical transportation service trips completed;
    - iii. The number of nonemergency medical transportation service trips canceled or rescheduled;
    - iv. The number of delayed nonemergency medical transportation service trips;
    - v. Average trip time;
    - vi. Average miles per trip;
    - vii. The amount of time required to schedule a nonemergency medical transportation service; and
    - viii. Rider satisfaction.
- (3) (a) For the state fiscal year beginning July 1, 2026, regional brokers shall be required to achieve a medical loss ratio of at least eighty-five percent (85%).
- (b) For the state fiscal year beginning July 1, 2027, regional brokers shall be required to achieve a medical loss ratio of at least eighty-seven percent (87%).
- (c) For the state fiscal year beginning July 1, 2028, regional brokers shall be required to achieve a medical loss ratio of at least eighty-nine percent (89%).
- (d) For the state fiscal year beginning July 1, 2029, and each state fiscal year thereafter, regional brokers shall be required to achieve a medical loss ratio of at least ninety percent (90%).
- (4) Utilization rates for nonemergency medical transportation services, including when calculated by an actuary under subsection (2) of this section, shall consider only nonemergency medical transportation service eligible Medicaid enrollees, as determined by the Department for Medicaid Services in accordance with KRS 205.513(2)(c), within a given region and shall not be based on the total number of Medicaid enrollees.
- (5) (a) A skilled nursing facility or hospital shall be permitted to provide

nonemergency medical transportation services for residents of the skilled nursing facility or patients of the hospital if the transportation service would be considered a Medicaid-covered service if provided by a driver contracted by a nonemergency medical transportation service regional broker.

- (b) A skilled nursing facility or hospital that provides nonemergency medical transportation services under this subsection shall be eligible for reimbursement by the locally contracted nonemergency medical transportation service regional broker at the same mileage rate as would be paid to a driver contracted by the regional broker for the same service.
  - (c) This subsection shall not establish or impose upon a skilled nursing facility or hospital any duty or responsibility to provide nonemergency transportation services to an individual who is not a resident of the facility or patient of the hospital.
- (6) When submitting data or reports to the Department for Medicaid Services or any other agency of state government with responsibility for oversight or administration of the nonemergency medical transportation services, the chief executive officer, chief financial officer, president, executive director, or another officer of a regional broker shall attest, to the best of his or her knowledge, to the truthfulness, accuracy, and completeness of all data or reports at the time of submission.
- (7) Beginning in 2027, the Department for Medicaid Services shall conduct an annual review of the nonemergency medical transportation service program and submit a report to the Legislative Research Commission for referral to the Interim Joint Committees on Health Services and Appropriations and Revenue and the Medicaid Oversight and Advisory Board by July 1 of each year. The review and report required by this subsection shall, at a minimum, include information and recommendations for the following:
- (a) Utilization rates;
  - (b) The number of nonemergency medical transportation service trips completed;
  - (c) The number of nonemergency medical transportation service trips cancelled or rescheduled, including the reason for cancellation or rescheduling;
  - (d) The number of delayed nonemergency medical transportation service trips;
  - (e) Average trip time;
  - (f) Average miles per trip;
  - (g) The amount of time required to schedule a nonemergency medical transportation service;
  - (h) Rider satisfaction; and
  - (i) The performance-based payment model required under subsection (2) of this section.

**Effective:** April 14, 2026

**History:** Created 2026 Ky. Acts ch. 179, sec. 14, effective April 14, 2026.

**Legislative Research Commission Note** (4/14/2026). 2026 Ky. Acts ch. 179, sec. 14, which created this statute, included a reference to the performance-based payment model required under "subsection (5) of this section" in subsection (7)(i). However, it is clear from the text of the Act that the reference was meant to be "subsection (2)

of this section" which contains the performance-based payment model provisions. This manifest clerical or typographical error has been corrected in codification under KRS 7.136.