

### **603 KAR 7:080. Human service transportation delivery.**

RELATES TO: KRS 96A.010-96A.370, 157.280, 163.470, 202B.010, 216.2925, 216.2927, 45 C.F.R. 164, 49 C.F.R. 655, 42 U.S.C. 12102, 49 U.S.C. 53

STATUTORY AUTHORITY: KRS 281.870, 281.875

NECESSITY, FUNCTION, AND CONFORMITY: KRS 281.870(3) requires the cabinet to promulgate administrative regulations specifying the duties and responsibilities of the Coordinated Transportation Advisory Committee (CTAC). KRS 281.875 requires the cabinet to promulgate administrative regulations concerning the human service transportation delivery program. This administrative regulation establishes procedures governing the human service delivery program on behalf of the CTAC and the procedures required to provide efficient, safe, and coordinated transportation delivery to clients of the human service transportation delivery program.

#### Section 1. Definitions.

- (1) "Ambulance stretcher transportation" means an ambulance service used for transporting sick or injured people who are also bedridden.
- (2) "Broker" is defined by KRS 281.014(8).
- (3) "Certificate type 07 and certificate type 08" means a classification type assigned to a recipient that meets the definition established in either KRS 281.873(1)(e) or 281.873(1)(f).
- (4) "CTAC" is defined by KRS 281.014(10).
- (5) "Delivery area" is defined by KRS 281.014(7).
- (6) "Eligible provider" means a transportation provider that has contracted with the regional broker, obtained a valid Medicaid provider number from the Department for Medicaid Services, and been approved by the cabinet to provide services to human service transportation delivery recipients upon verification of applicable transportation operating authority.
- (7) "Escort" means an individual attendant whose presence is required to assist a recipient during transport.
- (8) "Human service transportation delivery" is defined by KRS 281.014(6).
- (9) "Medical necessity" means that a covered benefit is determined to be needed in accordance with 907 KAR 3:130.
- (10) "Medical service area" means the Medicaid recipient's county of residence and contiguous counties.
- (11) "Mileage reimbursement" means a fixed rate set by the Commonwealth per mile that a motor vehicle is operated while the recipient is a passenger.
- (12) "Provider" means an individual with appropriate operating authority performing transportation operations for human service transportation delivery.
- (13) "Recipient" means a person who is receiving benefits under one (1) of the service programs listed in Sections 3, 5, or 6 of this administrative regulation and who complies with the criteria of the participating program.
- (14) "Safety sensitive person" means a person who has direct involvement in a recipient's trip, including:
  - (a) Scheduling;
  - (b) Dispatching;
  - (c) Driving; or
  - (d) Maintaining the vehicle fleet.
- (15) "Special circumstance" means an occasion for a broker to provide a trip after normal working hours, such as for a patient receiving dialysis, chemotherapy, or radiation treatment available only on nights and weekends, or TANF transportation for evening shift employment.

- (16) "Subcontractor" is defined by KRS 281.014(9).
- (17) "TANF" means the Temporary Assistance for Needy Families Program administered by the Cabinet for Health and Family Services.
- (18) "Urgent care" means an unscheduled episodic situation:
- (a) In which there is not a threat to life or limb, but the recipient needs to be seen within twelve (12) hours in order to avoid the likely onset of an emergency medical condition; and
  - (b) That does not include an emergency trip that is to be addressed by a qualified emergency service.
- (19) "Volunteer transportation" means transportation provided by a person or entity as a charitable act without the expectation of receiving a benefit or payment.

## Section 2. Program availability.

(1) Active human service transportation delivery programs shall be available to eligible recipients in all 120 counties of the Commonwealth of Kentucky as divided into geographically coordinated service regions. The regions shall be as follows:

(a) Region 1, which shall include the following counties:

1. Ballard;
2. Calloway;
3. Carlisle;
4. Fulton;
5. Graves;
6. Hickman;
7. Marshall; and
8. McCracken;

(b) Region 2, which shall include the following counties:

1. Caldwell;
2. Christian;
3. Crittenden;
4. Hopkins;
5. Livingston;
6. Lyon;
7. Muhlenberg;
8. Todd; and
9. Trigg;

(c) Region 3, which shall include the following counties:

1. Daviess;
2. Hancock;
3. Henderson;
4. McLean;
5. Ohio;
6. Union; and
7. Webster;

(d) Region 4, which shall include the following counties:

1. Breckinridge;
2. Grayson;
3. Hardin;
4. Larue;
5. Marion;
6. Meade; and
7. Nelson;

(e) Region 5, which shall include the following counties:

1. Adair;
2. Allen;
3. Barren;
4. Butler;
5. Edmonson;
6. Green;
7. Hart;
8. Logan;
9. Metcalfe;
10. Simpson;
11. Taylor; and
12. Warren;

(f) Region 6, which shall include the following counties:

1. Bullitt;
2. Henry;
3. Jefferson;
4. Oldham;
5. Shelby;
6. Spencer; and
7. Trimble;

(g) Region 8, which shall include the following counties:

1. Anderson;
2. Boyle;
3. Casey;
4. Franklin;
5. Garrard;
6. Jessamine;
7. Lincoln;
8. Mercer;
9. Scott;
10. Washington; and
11. Woodford;

(h) Region 9, which shall include the following counties:

1. Boone;
2. Campbell;
3. Carroll;
4. Gallatin;
5. Grant;
6. Kenton;
7. Owen; and
8. Pendleton;

(i) Region 10, which shall include Fayette County;

(j) Region 11, which shall include the following counties:

1. Bourbon;
2. Clark;
3. Estill;
4. Harrison;
5. Madison;
6. Montgomery;
7. Nicholas; and
8. Powell;

(k) Region 12, which shall include the following counties:

1. Bell;
2. Clinton;
3. Cumberland;
4. Knox;
5. Laurel;
6. McCreary;
7. Monroe;
8. Pulaski;
9. Rockcastle;
10. Russell;
11. Wayne; and
12. Whitley;

(l) Region 13, which shall include the following counties:

1. Breathitt;
2. Clay;
3. Harlan;
4. Jackson;
5. Knott;
6. Lee;
7. Leslie;
8. Letcher;
9. Owsley;
10. Perry; and
11. Wolfe;

(m) Region 14, which shall include the following counties:

1. Floyd;
2. Johnson;
3. Magoffin;
4. Martin; and
5. Pike;

(n) Region 15, which shall include the following counties:

1. Bath;
2. Boyd;
3. Carter;
4. Elliott;
5. Greenup;
6. Lawrence;
7. Menifee;
8. Morgan; and
9. Rowan; and

(o) Region 16, which shall include the following counties:

1. Bracken;
2. Fleming;
3. Lewis;
4. Mason; and
5. Robertson.

(2) If a company is awarded more than one (1) region, and those regions geographically touch, the regions shall be administratively combined and identified as one single region for operating and monitoring purposes.

Section 3. Service Programs. Excluding nonemergency ambulance stretcher transportation, nonemergency medical transportation provided to a Medicaid recipient as established in

KRS 205.6312, KRS 205.6314, and 907 KAR 3:066 shall be provided as established in this section.

- (1) A broker shall transport a Medicaid-eligible recipient, excluding a qualified Medicare beneficiary (QMB) or a Phase 3 KCHIP recipient, with a county code residence in the broker's delivery area.
- (2) The broker shall be responsible for transportation arrangements if the recipient:
  - (a) Is coded in the broker's delivery area but has moved or is living in another human service transportation delivery area;
  - (b) Has a county code of 121;
  - (c) Is physically residing in the broker's region; or
  - (d) Is a state guardianship case.
- (3) Services outside a recipient's medical service area shall require a referral from the recipient's:
  - (a) Licensed physician;
  - (b) Physician's assistant;
  - (c) Advanced practice registered nurse; or
  - (d) Qualified mental health professional as defined in KRS 202A.011(12).
- (4) If a referral pursuant to subsection (3) of this section cannot be obtained, services may be authorized by the contracting agency.
- (5) A referral shall be:
  - (a) To the closest appropriate medical service provider for the required service;
  - (b) Valid for six (6) months; and
  - (c) Made by using the Office of Transportation Delivery form entitled Kentucky Non-Emergency Medical Transportation Program Medicaid Medical Referral Form.
- (6) A recipient in the Medicaid Lock In program shall obtain a referral from the recipient's assigned lock-in medical provider prior to being transported to any other medical provider within or outside the medical service area.

#### Section 4. Nonemergency Medical Transportation.

- (1)
  - (a) Nonemergency medical transportation shall be available for a:
    1. Kentucky Medicaid eligible recipient; and
    2. Medically-necessary service as established in 907 KAR 3:066.
  - (b) A Kentucky Medicaid cardholder shall be transported to a Medicaid-covered service accompanied by a parent, guardian, or escort if required by KRS 281.873.
  - (c) A parent, guardian, or escort shall not be charged a fare.
- (2) If an operational motor vehicle is registered to a Medicaid eligible recipient or household member, the recipient shall be denied nonemergency medical transportation services unless:
  - (a) The recipient or a licensed driver in the recipient's home submits a licensed physician's statement to the Transportation Cabinet that he or she is medically unable to operate a motor vehicle;
  - (b) The recipient submits the statement of an automobile mechanic to the Transportation Cabinet certifying that the vehicle is mechanically inoperable;
  - (c) The recipient submits a statement to the Transportation Cabinet from an employer or a school indicating that the motor vehicle is used for work or school during the time the recipient needs to be transported to a medical appointment; or
  - (d) The recipient requires a special lift-equipped vehicle and none is available.
- (3) A physician's statement submitted to the Transportation Cabinet by a recipient shall be valid for six (6) months and may be renewed every six (6) months.
- (4)

- (a) A statement by an automobile mechanic submitted to the Transportation Cabinet by a recipient shall be valid for thirty (30) days.
- (b) A recipient may submit up to three (3) mechanic's statements per vehicle during a one (1) year time period for each vehicle owned by the recipient.
- (5) An employer statement submitted by the recipient to the Transportation Cabinet shall be valid for three (3) months and may be renewed every three (3) months.
- (6) A school statement submitted by a recipient to the Transportation Cabinet shall be valid only during a current school semester.
- (7) A motor vehicle in the recipient's home may be sold, junked, transferred, or cancelled out of the household through the services of the recipient's local county clerk's office.

#### Section 5. Kentucky Works Program.

- (1) Recipients participating in the Kentucky Works Program shall be transported to services or TANF component activities in the county of residence or contiguous county.
- (2) Transportation services covered by the Kentucky Works Program shall include:
  - (a) Employment;
  - (b) Child daycare centers;
  - (c) Job interviews; and
  - (d) Training.
- (3) Transportation shall be provided for training at vocational schools, community colleges, universities, and high schools within the recipient's county or human service transportation delivery area and contiguous to the human service delivery area.

#### Section 6. Programs.

- (1) Programs under the human service transportation delivery system shall include:
  - (a) The nonemergency medical transportation program;
  - (b) The Kentucky WORKS program;
  - (c) Vocational rehabilitation as established in KRS Chapter 151B or 157;
  - (d) Vocational rehabilitation for the blind as established in KRS Chapter 151B or 163;
  - (e) Mental health, mental retardation, development disabilities, comprehensive care, or substance abuse services as established in KRS Chapter 202A, 202B, 210, or 645; or
  - (f) The Office of Aging Services as established in KRS Chapter 205, 209, 216, or 273.
- (2) The Department for Medicaid Services shall provide to the Transportation Cabinet:
  - (a) A listing of persons eligible to receive human services transportation including special Medicaid recipient waiver eligibility;
  - (b) The address of each person on the list; and
  - (c) The program for which each person on the list is eligible.
- (3) A denial of human services transportation to a recipient shall be as established in KRS 281.872.

#### Section 7. Coordinated Advisory Transportation Committee (CTAC).

- (1) CTAC shall be composed of members designated by the:
  - (a) Cabinet for Health and Family Services;
  - (b) Education Cabinet; and
  - (c) Transportation Cabinet.
- (2) The Cabinet for Health and Family Services and the Transportation Cabinet shall each have two (2) voting members and the Education Cabinet shall have one (1) voting member.
- (3) CTAC duties and responsibilities shall include:
  - (a) Providing information and assistance to the Transportation Cabinet;
  - (b) Reviewing and recommending policies and operating procedures to the Transportation Cabinet; and
  - (c) Serving on broker evaluation committees.

## Section 8. Transportation Broker Selection Process.

(1) A request for proposal (RFP) and the process of awarding a brokerage contract for each region shall comply with KRS Chapter 45A. The RFP evaluation process for broker selection shall address areas that include the following:

- (a) Overall quality in transportation delivery;
- (b) Information regarding administration including:
  - 1. Human resources, including staffing and employee categories by classification, number, and experience;
  - 2. Insurance and risk management, types and levels of insurance coverage and emergency process, and training offered to reduce business risk;
  - 3. Billing and accounting practice and procedures; and
  - 4. Financial capability; and
- (c) Information regarding operations including:
  - 1. Scheduling and reservations;
  - 2. Fleet management;
  - 3. Dispatching and radio communications;
  - 4. Computer software and hardware;
  - 5. Reporting for both the broker and subcontractor;
  - 6. Vehicle inspection or maintenance programs; and
  - 7. Experience as established in KRS 281.875(2).

(2) An applicant shall demonstrate to the Commonwealth an ability to coordinate trips with:

- (a) Local community based governmental offices;
- (b) Training, educational, or medical centers; and
- (c) Other transportation providers.

(3) An applicant shall:

- (a) Maintain an office in the awarded regional area;
- (b) Have infrastructure and other resources including:
  - 1. Telephone and dispatching capability;
  - 2. Scheduling software; and
  - 3. A building to serve as a place of business;
- (c) Safely, securely, and confidentially store and maintain recipient and provider information;
- (d) Demonstrate the ability to cover the delivery area including information regarding hours, days, and operator's availability; and
- (e) Indicate if education and training programs are conducted on an ongoing basis.

## Section 9. Contractual Agreements.

(1) A contract between the Commonwealth and a broker shall be for one (1) year with four (4) one (1) year options to renew.

(2) Contracts shall be on a fiscal year basis, running July 1 through June 30.

(3) Except for a volunteer provider, each transportation provider shall have operating authority issued by the Transportation Cabinet pursuant to KRS Chapter 281 or 96A.

(4) A contract between the Commonwealth and the broker shall be subject to:

- (a) Revocation in accordance with KRS 281.879; and
- (b) Termination in accordance with 200 KAR 5:312.

## Section 10. Transportation Broker.

(1) A broker shall coordinate the human service transportation delivery program as provided in KRS 281.877.

(2) A broker shall make a report to the cabinet on traffic accidents and moving violations involving either the broker or subcontractor that occur in route to or while transporting a human service transportation passenger within twenty-four (24) hours of the occurrence.

- (3)
- (a) A broker shall have all completed reports for payment to the cabinet no later than the seventh day of each month following the reporting period.
  - (b) The cabinet shall reimburse the broker no later than the 15<sup>th</sup> day of each month if the broker has submitted the required reports, and if the Medicaid eligible count is received from the Department for Medicaid Services allowing adequate processing time through the Commonwealth's processing system.
  - (c) A broker shall reimburse a subcontractor or a Medicaid private auto provider as established in KRS 281.875(1)(f).
  - (d) A valid subcontractor or private auto provider invoice postdated after the first of the month shall be included in the next month's billing.
  - (e) A TANF private auto provider shall be paid by a broker within three (3) business days of receiving the TANF payment from the Transportation Cabinet.
  - (f) Payment shall be contingent upon a TANF recipient:
    - 1. Receiving written authorization from the broker to use his or her private automobile; or
    - 2. Having access to an automobile for training or employment activities.
- (4) A broker shall have an established operating office located within the awarded delivery area.
- (5) A broker shall employ a sufficient number of staff to accommodate:
- (a) Reservations;
  - (b) Oversight of timely pickup and delivery;
  - (c) Scheduling;
  - (d) Accounting;
  - (e) Complaint tracking;
  - (f) Safety compliance; and
  - (g) Reporting to the cabinet.
- (6)
- (a) A broker or subcontractor shall immediately report an allegation of criminal wrongdoing relating to the human service transportation program or Medicaid or an allegation of Medicaid fraud to the Transportation Cabinet.
  - (b) A broker shall immediately report recipient abuse or neglect to the Cabinet for Health and Family Services.
- (7) The cabinet shall utilize the peer-to-peer review process within the Department for Medicaid Services for any questionable documentation received from a medical provider during the delivery of transportation services.
- (8) A broker shall require a subcontracting transportation company to provide its drivers with name tags and company photo identification.
- (9) A broker that receives a complaint in writing from the Transportation Cabinet shall respond in writing:
- (a) Within twenty-four (24) business hours of the complaint; or
  - (b) Immediately if a complaint is marked urgent.

#### Section 11. Orientation Program.

- (1) A broker shall provide an orientation program for each subcontractor or potential subcontractor as established in KRS 281.875(1)(j).
- (2)
- (a) An orientation meeting between a broker and subcontractor shall be held before transportation services are provided.
  - (b) A subsequent meeting shall be held as needed or requested by the cabinet, broker, or subcontractor.



Section 12. Subcontractors and Volunteers.

- (1) A subcontractor who has signed a contract with a broker to provide human service transportation delivery within a specific delivery area shall meet human service transportation delivery requirements, including:
  - (a) Proper operating authority by state, county, or city; and
  - (b) The use of authorized and qualified vehicles.
- (2) A subcontractor shall not enter into an agreement with a broker without the prior approval of the Transportation Cabinet.
- (3) A broker shall submit and request approval of the cabinet for a potential subcontractor.
- (4) A subcontractor shall not assign a trip to any other provider.
- (5) A subcontractor shall submit the following documentation to the broker:
  - (a) A copy of the subcontractor's operating authority;
  - (b) Proof of insurance including the subcontractor, or independent contractor's vehicle liability insurance, and proof of Kentucky workers' compensation insurance coverage;
  - (c) A copy of the broker and subcontractor's agreement;
  - (d) A copy of all vehicle lease agreements; and
  - (e) A copy of the Medicaid provider's enrollment letter.
- (6) A contract shall include:
  - (a) Payment administration as established in KRS 281.875(1)(f);
  - (b) A copy of the hours of operation and other scheduling requirements;
  - (c) The rates for services;
  - (d) Pickup and delivery standards;
  - (e) Contract duration;
  - (f) Termination clause and compliance penalty provisions;
  - (g) Signed HIPAA confidentiality agreement statements for subcontractor or volunteer employees; and
  - (h) A current list of all safety sensitive persons within the subcontractor's company.
- (7) A broker or subcontractor shall provide documentation to the cabinet certifying that all drivers and escorts during employment shall:
  - (a) Be legally licensed by the Commonwealth of Kentucky to operate the transportation vehicle to which they are assigned;
  - (b) Be courteous, patient, and helpful;
  - (c) Be eighteen (18) years of age or older;
  - (d) Have no more than two (2) convictions for moving violations in the last three (3) years;
  - (e) Have no convictions of any sexual crime or crime of violence;
  - (f) Have had a pre employment drug test; and
  - (g) Have received orientation and safety training that includes:
    1. First aid training;
    2. Training regarding blood borne pathogens;
    3. Passenger assistance training; and
    4. Intellectual or developmental disability awareness training if offered by the cabinet.
- (8) A person who has been convicted of a misdemeanor or a felony during the last five (5) years shall drive or escort passengers only after review and approval by the broker, subcontractor, and the cabinet.
- (9) A volunteer transportation provider shall have:
  - (a) A valid driver's license;
  - (b) Proof of insurance and registration; and
  - (c) A vehicle that meets the safety needs of the recipient.

(10) In order to receive mileage reimbursement in the next billing cycle, a private auto provider shall submit a valid invoice to the broker by the first of each month to allow for payment within three (3) business days of payment received from the cabinet.

(11) A valid invoice postdated after the first day of the month shall be included in the next month's billing.

(12) A subcontractor or a private auto provider shall submit all valid invoices to the broker within six (6) months of the date of service for reimbursement by the broker.

(13) A subcontractor shall immediately report to the broker a moving violation or traffic accident that occurs in route or while transporting a human service transportation passenger.

(14) A subcontractor shall not participate in determining recipient eligibility or type of transport.

(15) A subcontractor shall not solicit for assignment of nonemergency Medicaid trips.

### Section 13. Vehicle Requirements.

(1) A broker shall assure that transportation providers maintain vehicles and vehicle equipment.

(2) A vehicle and its components shall comply with, or exceed, the manufacturer's, state, and federal safety and mechanical operating and maintenance standards for the particular vehicle and model used.

(3) A vehicle shall comply with the Americans With Disabilities Act of 1990, ADA, 42 U.S.C. 12102.

(4) A vehicle that is noncompliant with licensing requirements, operating authority requirements, or safety requirements shall be immediately removed from human service transportation delivery service by the broker.

(5)

(a) A transportation provider shall provide and use a communication system that links the dispatcher with the provider, and the provider with the dispatcher. A communication system shall be used:

1. In a manner that facilitates communication and minimizes time in replacing or repairing out-of-service vehicles; and

2. In a confidential manner adhering to 45 C.F.R. Part 164, the Health Insurance Portability and Accountability Act of 1996, HIPAA.

(b) A vehicle shall be equipped with adequate heating and air conditioning for driver and passengers. A vehicle with a nonfunctioning climate control system shall be placed out-of-service until appropriate corrective action is taken.

(c) A vehicle shall have functioning, clean, and accessible seat belts for each passenger seat.

(d) Seat belts shall be stored off the floor when not in use.

(e) A vehicle shall utilize child safety seats pursuant to KRS 189.125.

(f) A vehicle shall have at least two (2) seat belt extensions provided.

(g) A vehicle shall be equipped with a seat belt cutter mounted above the driver's door for use in emergency situations.

(h) A vehicle shall have a functioning speedometer and odometer.

(i) A vehicle shall have functioning interior lights within the passenger compartment.

(j) A vehicle shall have adequate sidewall padding and ceiling covering.

(k) A vehicle shall be smooth riding.

(l) A vehicle shall have two (2) exterior rear view mirrors, one (1) on each side of the vehicle.

(m) A vehicle shall be equipped with an interior mirror that:

1. Is used to monitor the passenger compartment; and

2. Shall be either clear-view laminated glass, or clear-view glass bonded to the back that retains the glass in the event of breakage.
- (n) A vehicle's interior and exterior shall be clean and free of:
1. Broken mirrors or windows;
  2. Torn upholstery or floor covering;
  3. Damaged or broken seats;
  4. Protruding or sharp edges;
  5. Dirt, oil, or grease; or
  6. Litter.
- (o) The vehicle floor shall be covered with commercial anti-skid, ribbed, rubber flooring, or carpeting. Ribbing shall not interfere with wheelchair movement between the lift and the wheelchair positions.
- (p) A vehicle shall have the transportation provider's name, vehicle number, and the program coordinator's customer service phone number prominently displayed within its interior. This information shall also be available in written form on each vehicle for distribution to a rider on request.
- (q) A vehicle shall have the following signs posted in the vehicle interior, easily visible to the passengers and driver:
1. "No Smoking, Eating or Drinking;" and
  2. "All passengers shall use seat belts".
- (r) A vehicle shall be equipped with a functional fire extinguisher and shall display a current inspection tag or sticker.
- (s) A vehicle with a floor threshold of greater than twelve (12) inches shall include a retractable step or a step stool to aid in passenger boarding. A step stool shall:
1. Be used to minimize ground-to-first-step height;
  2. Have four (4) legs with antiskid tips;
  3. Be made of sturdy metal with nonskid tread;
  4. Have a height of eight and one-fourth (8 1/4) inches, a width of fifteen (15) inches, and a depth of fourteen (14) inches; and
  5. Not be milk crate or similar substitute.
- (t) A vehicle shall have on board three (3) portable triangular reflectors mounted on stands.
- (u) A vehicle shall include a vehicle information packet to be stored in the driver compartment or securely stored on or in the driver's side visor. This packet shall include:
1. Vehicle registration;
  2. Insurance card;
  3. Bus or vehicle card; and
  4. Accident procedures and forms.
- (v) A vehicle shall be provided with a fully equipped first aid kit and a "spill kit" including:
1. Liquid spill absorbent;
  2. Latex gloves;
  3. Hazardous waste disposal bags;
  4. Scrub brush; and
  5. Disinfectant and deodorizer.
- (w) A vehicle shall contain maps or global positioning devices with sufficient detail to locate recipients and destinations.
- (x)
1. A vehicle shall have the transportation provider's company signage posted on the exterior of the vehicle identifying the company's legal name.

2. Signage shall be displayed on the driver and passenger side doors in two (2) inch block letters.

(6) A lift-equipped vehicle used to transport wheelchair passengers shall meet the requirements and specifications of the Americans with Disabilities Act of 1990, ADA.

#### Section 14. Scheduling.

(1)

(a) The recipient or his or her guardian shall call the regional broker of the coded county of the recipient's residence at least seventy-two (72) hours prior to the scheduled appointment to schedule a trip.

(b) If a recipient is not county coded to the county of residence, the broker shall assist with arranging service with the assigned county coded broker.

(c) Weekends and holidays shall be included in determining the seventy-two (72) hour period for scheduling.

(2)

(a) All brokers shall provide scheduling services between 8 a.m. and 4:30 p.m., Monday through Friday, and from 8 a.m. to 1 p.m. on Saturday.

(b) Transportation services shall be provided between 6 a.m. and 8 p.m., Monday through Friday, and from 8 a.m. to 1 p.m. on Saturday.

(c) Scheduling services, transportation services, and business functions shall be closed for:

1. New Year's Day;
2. Memorial Day;
3. July 4th;
4. Labor Day;
5. Thanksgiving Day; and
6. Christmas Day.

(3)

(a) The broker shall have paging services available after normal scheduling hours for urgent care transportation service.

(b) Urgent care transportation service shall be provided twenty-four (24) hours a day, seven (7) days a week, including any holiday.

(c) Urgent care transportation service may be requested at any time.

(d) TANF recipients may request immediate transportation from employment or training, including transport of a recipient's child from a daycare facility, due to an illness or a family emergency.

(e) In-patient discharges shall be provided during the human service transportation operating hours established in subsection (2)(b) of this section, and shall not require a seventy-two (72) hour notice of scheduling in advance.

(4)

(a) A broker may schedule and provide trips for recipients after the normal hours of operation for a special circumstance.

(b) The broker may contact the Transportation Cabinet for guidance.

(5) The broker shall collect the following information from each eligible recipient requesting transportation services:

- (a) Name of recipient;
- (b) Recipient's Medicaid identification number, if applicable;
- (c) Recipient's pickup and delivery address;
- (d) Date of appointment;
- (e) Time of appointment;
- (f) Program identification;
- (g) Telephone number;

- (h) Type of covered service; and
- (i) Special needs including:
  - 1. Child safety seats; or
  - 2. Lift-equipped vehicle.
- (6) The broker shall confirm the trip has been scheduled and shall provide the recipient with a reservation confirmation number.
- (7) In order to waive the seventy-two (72) hour notice requirement for urgent care, the cabinet shall receive verification from a:
  - (a) Physician;
  - (b) Physician's assistant;
  - (c) Advanced practice registered nurse; or
  - (d) Qualified mental health professional as defined in KRS 202A.011.
- (8) The verification required by subsection (7) of this section shall be transmitted by:
  - (a) Oral verification over a telephone;
  - (b) Written verification on the licensed medical provider's letterhead delivered in person to the broker; or
  - (c) Written verification transmitted electronically by computer or by facsimile on the licensed medical provider's letterhead and submitted from the licensed medical provider's office directly to the broker's office.
- (9) If verification is not submitted by the medical provider, the broker may initiate a telephone call to the licensed medical provider requesting oral verification that the recipient is required to be seen at the appointed time.
- (10) If the licensed medical provider initiates the call, the broker shall return the call if there is a question concerning the call's legitimacy.

#### Section 15. Eligibility.

- (1)
  - (a) With the Transportation Cabinet and Cabinet for Health and Family Service's assistance, a broker shall have direct computer access to all relevant data bases needed to determine eligibility.
  - (b) If there is a question regarding eligibility, the broker shall contact the cabinet for assistance in determining eligibility.
  - (c) The cabinet shall investigate all complaints regarding subcontractors and the broker for the area, and attempt to immediately resolve the problem to the satisfaction of all parties.
  - (d) The cabinet shall forward all complaints relating to Medicaid fraud or abuse to the Cabinet for Health and Family Services.
- (2) A trip for a nonemergency medical recipient who does not require a special-equipped vehicle may be by taxi, community or city bus, or private auto and shall be coordinated by the broker so that, if it is feasible, one (1) recipient may be transported with other recipients.
- (3)
  - (a) The broker shall ensure as established in KRS 281.873(6) that an escort accompanies all Certificate Type 07 and Certificate Type 08 recipients certified for an escort pursuant to the cabinet's specialty carrier form entitled Medical Transportation Classification Form.
  - (b) A Medical Transportation Classification Form shall be submitted by the broker directly to the physician and sent from the physician directly to the broker.
  - (c) One (1) escort shall be required for each recipient.
  - (d) A family member may serve as an escort.
  - (e) One (1) escort may serve several recipients if the recipients are grouped and have the same destination.

- (f) An escort shall not be charged a fare.
- (g) A transportation provider or a provider's employee shall not serve as a guardian's designee for a child twelve (12) years or under.

Section 16. Standards for Recipients.

- (1)
  - (a) A trip for a recipient may be coordinated with public transit.
  - (b) A recipient shall give all pertinent information needed to the broker, including a request for an escort required, or information regarding special needs.
- (2) If the recipient is under the TANF Program, the recipient shall convey to the broker the number of children to be transported.
- (3) Transportation to childcare shall not be provided under nonemergency medical transportation.
- (4) A recipient shall not be under the influence of alcohol or illegal drugs.
- (5) A recipient shall be ready at least fifteen (15) minutes before scheduled pickup.
- (6) Except for medical necessity, a recipient shall abide by signs in the vehicle and observe safety rules including seat belt requirements.
- (7) A recipient shall not hold a child in his or her lap during transport.
- (8) A recipient shall call seventy-two (72) hours in advance for the transport unless it is an urgent care situation.
- (9)
  - (a) A recipient shall cancel a trip as soon as possible, but no less than twenty-four (24) hours in advance. An emergency cancellation in which a twenty-four (24) hour notice is not possible shall be accepted by the broker or Cabinet upon review and determination of the cancellation reason.
  - (b) A recipient who fails to show for a scheduled transportation service shall receive a letter from the Transportation Cabinet informing the recipient of the recipient's responsibility in scheduling and cancelling trips.
- (10) A recipient that engages in abusive, violent, seriously disruptive, or illegal conduct or contact shall lose his or her transportation privileges with approval from the cabinet.
- (11) If a recipient poses an immediate danger to the driver or other passengers, the driver shall call for emergency assistance.
- (12) A recipient may call a broker or the cabinet's toll free complaint phone line to lodge a complaint.
- (13) Failure to abide by subsections (3) through (11) of this section shall be cause for trip denial as established in KRS 281.872.

Section 17. Program Coordinators. The cabinet shall employ program coordinators as established in KRS 281.872.

Section 18. Cabinet Performance Monitoring and Oversight.

- (1) A broker shall demonstrate operational readiness to the cabinet in an onsite inspection in the following areas:
  - (a) Hours of service and operation;
  - (b) Scheduling procedures;
  - (c) Pickup and delivery standards;
  - (d) Urgent care and immediate TANF transportation;
  - (e) Driver conduct, qualification, and training;
  - (f) Passenger requirements;
  - (g) Vehicle requirements, inspections, and vehicle inventory;
  - (h) Back-up service;
  - (i) Appeals and complaint procedures;
  - (j) Telephone systems and reporting procedures, including TTY;

- (k) Computer and technological capabilities;
  - (l) Driver manifest form procedures submittal and receipt;
  - (m) Roles and job descriptions of staff; and
  - (n) Educational and orientation procedures.
- (2) A broker shall develop a Transportation Cabinet approved operational procedures manual for each region. The manual shall:
- (a) Be developed by the broker to outline the basic operations procedure for that region;
  - (b) Include the procedure for reservations and dispatch, requirements for eligibility and intake, a call center, out of region services, coordination, and recipient classification levels; and
  - (c) Be reviewed by the cabinet each year during the broker's assessment while on-site. If there are changes made to the plan in between the annual on-site assessment, the broker shall notify the Cabinet.
- (3) Each broker shall set up toll free lines giving the human service transportation delivery recipients and the general public information about the availability of services.
- (4)
- (a) A broker shall be available for scheduled visits by the Transportation Cabinet twice a year to assess operations and performance, and discuss service issues.
  - (b) A subsequent meeting or visit may be held as needed or requested by the broker or the cabinet.
  - (c) One (1) meeting shall consist of a comprehensive assessment compliance review by the cabinet.
  - (d) A broker shall be available for periodic conference calls with the cabinet to discuss issues, policy, and procedures.
- (5)
- (a) A driver performing under the human service delivery network shall be subject to random drug and alcohol testing.
  - (b) A new hire safety-sensitive employee for a transportation provider shall be required to pass a preemployment drug test.
  - (c) A provider shall develop a drug and alcohol policy.
- (6)
- (a) Each broker shall submit the results of random drug and alcohol screenings to the Kentucky Transportation Cabinet on a monthly basis.
  - (b) All broker and subcontractor trips shall be reported and the dollar amount paid for each one (1) way trip.
  - (c) This information shall be reported in a computer ACCESS or Excel format pursuant to each broker's contract with the Finance and Administration Cabinet.
- (7)
- (a) The Transportation Cabinet shall compile a monthly report containing operating information on each program operated by the brokers including rural public transportation, and denoting fleet, miles, hours, fuel, revenues, and expenses.
  - (b) The statistics shall be used for analysis and reporting to other state agencies and to the Federal Transit Administration (FTA). The cabinet shall issue a standard monthly summary form to each broker pursuant to each broker's contract with the Finance and Administration Cabinet.
- (8) The broker shall submit line item invoice forms each month to the cabinet with the request for reimbursement and detail current month's expenses broken out by line item, including salaries, subcontractor payments, maintenance, and fuel.
- (9)
- (a) The broker, at its own expense, shall have an independent audit performed for the past fiscal year.

- (b) This audit shall be conducted in accordance with applicable federal and state law, and be delivered to the cabinet by March 31 of the following fiscal year of service.
- (10)
- (a) Formalized program integrity plans shall be submitted by the broker to the Transportation Cabinet that define the broker's program for identifying and deterring any suspected fraud or abuse activities within the human service transportation delivery program.
- (b) The Transportation Cabinet shall issue a statewide program integrity plan format for all brokers. The program integrity plan format shall identify ways each broker shall handle allegations of fraud, waste, and abuse of the program's resources.
- (11)
- (a) Each broker shall develop and maintain a quality assurance plan. The plan shall address the following:
1. The scheduling and delivery of transportation services;
  2. The broker's methodology for the identification and correction of problems relating to the scheduling and delivery of transportation services; and
  3. Subcontractor payment efficiency.
- (b) The Transportation Cabinet shall require the broker to compile and provide to the cabinet data that further tracks the broker's performance including:
1. Those items in Section 25(3) of this administrative regulation; and
  2. Drug and alcohol reports.
- (12)
- (a) Each broker shall have a disaster recovery plan that shall include the broker's plan to ensure continuous operations and services for recipients if there is an emergency.
- (b) The broker shall not transport in conditions that may negatively affect the health and safety of a driver or a passenger.
- (c) The broker shall establish and maintain an inclement weather transportation policy that has been approved by the Transportation Cabinet. The inclement weather transportation policy shall detail the broker's plans in response to inclement weather, including directions for drivers, notifications to recipients and the media, and a back-up plan to continue providing transportation.
- (d) If needed, the broker shall contact the National Guard or other emergency units to assist in the transport of dialysis clients or urgent care.
- (e) The broker shall operate on all routes or highways that are deemed safe, thereby offering limited services during inclement weather.
- (13) A broker shall submit monthly vehicle inventory data listing the number of vehicles used by each transportation provider in the delivery of human services transportation.

#### Section 19. Fines and Penalties.

- (1) A broker that fails to perform according to contractual obligations or statutory requirements and whose noncompliance causes a recipient to miss a scheduled appointment shall receive a written warning from the Transportation Cabinet outlining the provisions of noncompliance.
- (2) A broker that receives a second written warning from the cabinet within a thirty (30) day period shall submit a corrective action plan to the cabinet within ten (10) days of receipt of the written warning.
- (3) A broker that receives a third written notice from the cabinet within a thirty (30) day period shall:
- (a) Receive a written reprimand outlining the provisions of non-compliance;
  - (b) Receive notice in writing of a fine of \$1,000 as established in KRS 281.872(3).

#### Section 20. Broker Appeal Process.



- (1) A broker shall have fifteen (15) days to appeal the notice of a fine pursuant to KRS 281.872(3).
- (2) An appeal shall be in writing and mailed to: Kentucky Transportation Cabinet, Executive Quality Management Committee (EQMC), Office of Transportation Delivery, 200 Mero Street, Frankfort, Kentucky 40622.
- (3) The appeal of a fine shall be received ten (10) days prior to the next regularly scheduled EQMC meeting in order to be included on that agenda.
- (4) An imposed fine shall be deducted from the monthly capitated payment made to the broker prior to the issuance of the monthly invoice.

#### Section 21. Revocation.

- (1) A broker who is required to pay a fine pursuant to KRS 281.872(3) shall be subject to having his or her contract revoked by the Transportation Cabinet within ninety (90) days of:
  - (a) The notice of a fine if it is accepted by the broker and not appealed; or
  - (b) The date of the EQMC hearing decision.
- (2) A broker whose contract is revoked shall be prohibited from participating in the human service transportation delivery program for five (5) years.

#### Section 22. Recipient Appeal Process. A Medicaid recipient shall have the right to appeal a denial of transportation as established in 907 KAR 1:563.

#### Section 23. Right to Choose Transportation Provider.

- (1) A participant may select an eligible subcontractor or the broker for the area, if the broker also provides transportation services within the delivery area, as established by KRS 281.874.
- (2)
  - (a) The broker shall schedule the trip with a participating provider if the recipient does not express a preference.
  - (b) A person expressing a personal preference under this section shall contact the broker as established in KRS 281.874(2).
- (3) If the recipient allows the broker to choose a provider, the criteria for trip distribution shall include in order of priority:
  - (a) Coordination;
  - (b) Cost efficiencies; or
  - (c) If the first two (2) criteria are not met, rotating certificate type 07 and certificate type 08 trips among providers, including the broker.
- (4)
  - (a) The broker and transportation provider shall evaluate routes presently utilized by the eligible recipients.
  - (b) If the broker determines that a route is inefficient, the broker shall elect a more efficient route.
- (5) The Transportation Cabinet shall resolve any disputes regarding choice of transportation provider.

#### Section 24. Cabinet Responsibilities.

- (1)
  - (a) The Transportation Cabinet shall establish provider rates for each certificate type for each human service transportation delivery area.
  - (b) The rates shall be uniform for the same certificate types for all eligible providers, including the broker in each delivery area.
  - (c) The following factors shall be considered in determining the rates:
    1. Geographical terrain;
    2. Trip distance;

3. Recipient population;
4. Availability of medical and employment facilities;
5. Labor and economic factors; and
6. Utilization of services.

(2)

- (a) A forty-five (45) day notice shall be given to all brokers by the cabinet prior to any changes made to the subcontractor rates.
- (b) A broker may waive the forty-five (45) day notice requirement in writing to the cabinet.

#### Section 25. Safety and Accountability.

- (1) A broker or subcontractor shall maintain records for five (5) years.
- (2) Employees of a broker or subcontractor shall sign confidentiality statements regarding access to, or disclosure of, confidential information or records.
- (3) Collection and retention of records to be maintained by each broker or subcontractor pertaining to human service transportation delivery shall include:
  - (a) Encounter data;
  - (b) Complaint tracking;
  - (c) Monthly summary reports;
  - (d) Trip invoices;
  - (e) Phone reports;
  - (f) Subcontractor requests;
  - (g) Audits;
  - (h) Line-item budgets;
  - (i) Monthly pay document submittals; and
  - (j) Vehicle inventory reports.
- (4) Collection and retention of encounter data on each trip shall be made by the broker if the broker provides transportation services, and by each subcontractor.
- (5) Failure of a broker to timely record and report all data and broker trips as established in KRS 281.875 shall be grounds for the Commonwealth to terminate the broker's contract.
- (6) A transportation broker or subcontractor exempted in 601 KAR 1:005 shall comply with the provisions of 49 C.F.R. Part 655.
- (7)
  - (a) A transportation broker, provider, or subcontractor who operates a motor vehicle that is not subject to the provisions of 601 KAR 1:005 shall maintain each of the vehicles in a safe operating condition consistent with Section 13 of this administrative regulation.
  - (b) A motor vehicle being operated pursuant to the provisions of this administrative regulation that is not subject to the provisions of 601 KAR 1:005 shall be inspected on an annual basis by an automotive technician.
  - (c) Prior to a motor vehicle being operated pursuant to this administrative regulation, the transportation broker or provider shall obtain written proof that the motor vehicle has passed a safety inspection by an automotive technician.

#### Section 26. Incorporation by Reference.

- (1) The following items are incorporated by reference:
  - (a) "Medical Transportation Classification Form", June 2011; and
  - (b) "Kentucky Non-Emergency Medical Transportation Program Medicaid Medical Referral Form", June 2011.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Transportation Delivery, Transportation Cabinet Building, 200 Mero

Street, Frankfort, Kentucky 40622, Monday through Friday, 8:00 a.m. to 4:30 p.m. The telephone number is (502) 564-4733.  
(38 Ky.R. 313; 791; 1318; eff. 1-25-2012; Crt eff. 10-8-2018.)