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DATE: April 26, 2018

DUALS PLAN LETTER 18-001

TO: CAL MEDICONNECT MEDICARE-MEDICAID PLANS

SUBJECT: NON-EMERGENCY MEDICAL AND NON-MEDICAL TRANSPORTATION SERVICES

PURPOSE:

This Duals Plan Letter (DPL) provides Medicare-Medicaid Plans (MMPs) participating in the Duals Demonstration Project, referred to herein as Cal MediConnect, with guidance and clarification regarding Non-Emergency Medical Transportation (NEMT) and Non-Medical Transportation (NMT) services.

BACKGROUND:

In January 2012, Governor Brown announced his intent to enhance health outcomes and beneficiary satisfaction for low-income Seniors and Persons with Disabilities (SPDs) by shifting service delivery away from institutional care to home- and community-based settings. To implement that goal, the Legislature has passed, and Governor Brown has signed, Senate Bill (SB) 1008 (Chapter 33, Statutes of 2012),¹ SB 1036 (Chapter 45, Statutes of 2012),² SB 94 (Chapter 37, Statutes of 2013),³ and SB 97 (Chapter 52, Statutes of 2017),⁴ which authorize the Coordinated Care Initiative (CCI).

The CCI includes three major components:

1. A Duals Demonstration Project (Cal MediConnect) for dual-eligible (individuals eligible for Medicare and Medicaid) beneficiaries (Duals) that combines the full continuum of acute, primary, institutional, and home- and community-based

¹ SB 1008 is available at:

http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201120120SB1008

² SB 1036 is available at:

http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201120120SB1036

³ SB 94 is available at:

http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB94

⁴ SB 97 is available at:

http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB97

services into a single benefit package, delivered through an organized service delivery system.

2. Mandatory Medi-Cal managed care enrollment for Duals.
3. The inclusion of Long-Term Services and Supports as a Medi-Cal managed care benefit for SPD beneficiaries who are eligible for Medi-Cal only, and for SPD Duals.

CCI is implemented in the following seven counties: Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Mateo, and Santa Clara.

Multiple federal and state laws establish requirements and procedures for medically necessary transportation services. The Social Security Act (SSA) Section 1902(a)(70);⁵ Title 42 Code of Federal Regulations (CFR) Section 440.170;⁶ and California Code of Regulations (CCR) Title (Tit.) 22, Sections 51231.1,⁷ 51231.2,⁸ and 51323⁹ authorize NEMT services. Welfare and Institutions Code (WIC) Section 14132(ad)(1)¹⁰ provides that NMT is a covered Medi-Cal benefit, subject to utilization controls and permissible time and distance standards, for MMP members to obtain Medi-Cal covered medical, dental, mental health, and substance use disorder services. Additionally, in part to comply with Mental Health Parity Final Rule (CMS-2333-F),¹¹ and to have a uniform delivery system, MMPs must also provide NMT for services that are not covered under the three-way contract (Contract).

Per the Contract, without limitation, all applicable law, including federal and state law, and the regulations, policies, procedures, and instructions of the Centers for Medicare and Medicaid Services (CMS) and the Department of Health Care Services (DHCS), are incorporated into the Contract, all as existing now or during the term of the Contract; thereby, making them applicable to MMPs.

⁵ Section 1902 of the SSA is available at: https://www.ssa.gov/OP_Home/ssact/title19/1902.htm

⁶ CFR Section 440.170 is available at: https://www.ecfr.gov/cgi-bin/text-idx?SID=f370ca4d41e720d928aa64ac7c05be11&mc=true&node=pt42.4.440&rgn=div5#se42.4.440_1170

⁷ Cal. Code Regs., Tit. 22, Section 51231.1 is available at: [https://govt.westlaw.com/calregs/Document/I170691347D904114A64AC19B8D6407F8?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Document/I170691347D904114A64AC19B8D6407F8?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))

⁸ Cal. Code Regs., Tit. 22, Section 51231.2 is available at: [https://govt.westlaw.com/calregs/Document/IFB7D65586C034E09BA74EC56DB6F1F37?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Document/IFB7D65586C034E09BA74EC56DB6F1F37?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))

⁹ Cal. Code Regs., Tit. 22, Section 51323 is available at: [https://govt.westlaw.com/calregs/Document/I2A9F778A44D144329A43C30BF7798888?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Document/I2A9F778A44D144329A43C30BF7798888?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))

¹⁰ WIC Section 14132 is available at: http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=14132.&lawCode=WIC

¹¹ CMS-2333-F is available at: <https://s3.amazonaws.com/public-inspection.federalregister.gov/2016-06876.pdf>

REQUIREMENTS:

Non-Emergency Medical Transportation

NEMT services are a covered MMP benefit when a member needs to obtain medically necessary Medicare and/or Medi-Cal covered services and when prescribed in writing by a physician, dentist, podiatrist, or mental health or substance use disorder provider. NEMT services are subject to prior authorization, except when a member is transferred from an acute care hospital, immediately following an inpatient stay at the acute level of care, to a skilled nursing facility or an intermediate care facility licensed pursuant to Health and Safety Code Section 1250.¹²

MMPs must ensure that medical professionals' decisions regarding NEMT are unhindered by fiscal and administrative management, in accordance with the Contract and the Knox-Keene Health Care Service Plan Act of 1975. MMPs are also required to authorize, at a minimum, the lowest cost type of NEMT transportation (see modalities below) that is adequate for a member's medical needs.

MMPs must make their best effort to refer and coordinate NEMT to Medicare and Medi-Cal services that are not covered by the Contract. MMPs must ensure that there are no limits to members receiving NEMT when medical services are medically necessary and the member has attained prior authorization, when required, for the NEMT.

MMPs are required to provide medically appropriate NEMT services when the member's medical and physical condition is such that transport by ordinary means of public or private conveyance is medically contraindicated and transportation is required for obtaining medically necessary services.¹³ MMPs are required to provide NEMT for members who cannot reasonably ambulate or are unable to stand or walk without assistance, including those using a walker or crutches.¹⁴ MMPs shall also ensure door-to-door assistance for all members receiving NEMT services.

MMPs must provide the following four available modalities of NEMT in accordance with the Medi-Cal Provider Manual¹⁵ and state regulations¹⁶ when the member's medical

¹² Health and Safety Code Section 1250 is available at:

http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1250.&lawCode=HSC

¹³ Cal. Code Regs., Tit. 22, Section 51323(a)

¹⁴ Manual of Criteria for Medi-Cal Authorization, Chapter 12.1 Criteria for Medical Transportation and Related Services is available at: http://www.dhcs.ca.gov/formsandpubs/publications/Documents/Medi-Cal_PDFs/Manual_of_Criteria.pdf

¹⁵ NEMT is discussed in the Medi-Cal Provider manual at: [Medi-Cal Provider Manual: Medical Transportation – Ground](#)

¹⁶ Cal. Code Regs., Tit. 22, Section 51323(a) and (c)

and physical condition is such that transport by ordinary means of public or private conveyance is medically contraindicated and transportation is required for the purpose of obtaining needed medical care:

1. MMPs must provide **NEMT ambulance services** for the following:¹⁷
 - Transfers between facilities for members who require continuous intravenous medication, medical monitoring, or observation.
 - Transfers from an acute care facility to another acute care facility.
 - Transport for members who have recently been placed on oxygen (does not apply to members with chronic emphysema who carry their own oxygen for continuous use).
 - Transport for members with chronic conditions who require oxygen if monitoring is required.

2. MMPs must provide **litter van services** when the member's medical and physical condition does not meet the need for NEMT ambulance services, but meets both of the following:
 - Requires that the member be transported in a prone or supine position, because the member is incapable of sitting for the period needed to transport.¹⁸
 - Requires specialized safety equipment over and above that normally available in passenger cars, taxicabs, or other forms of public conveyance.¹⁹

3. MMPs must provide **wheelchair van services** when the member's medical and physical condition does not meet the need for litter van services, but meets any of the following:
 - Renders the member incapable of sitting in a private vehicle, taxi or other form of public transportation for the period of time needed to transport.²⁰
 - Requires that the member be transported in a wheelchair or assisted to and from a residence, vehicle, and place of treatment because of a disabling physical or mental limitation.²¹

¹⁷ Ambulance services are discussed in the Medi-Cal Provider Manual at: [Medi-Cal Provider Manual: Medical Transportation – Ground, page 9, Ambulance: Qualified Recipients](#)

¹⁸ Cal. Code Regs., Tit. 22, Section 51323 (a)(2)(A)(1)

¹⁹ Cal. Code Regs., Tit. 22, Section 51323 (a)(2)(B)

²⁰ Cal. Code Regs., Tit. 22, Section 51323 (a)(3)(A)

²¹ Cal. Code Regs., Tit. 22, Section 51323 (a)(3)(B)

- Requires specialized safety equipment over and above that normally available in passenger cars, taxicabs, or other forms of public conveyance.²²

Members with the following conditions may qualify for wheelchair van transport when their providers submit a signed Physician Certification Statement (PCS) form:²³

- Members who suffer from severe mental confusion.
- Members with paraplegia.
- Dialysis recipients.
- Members with chronic conditions who require oxygen but do not require monitoring.

4. MMPs must provide **NEMT by air** only under the following conditions:²⁴

- When transportation by air is necessary because of the member's medical condition or because practical considerations render ground transportation not feasible. The necessity for transportation by air shall be substantiated in a written order of a physician, dentist, podiatrist, or mental health or substance use disorder provider.

NEMT Physician Certification Statement Forms

MMPs and transportation brokers must use a DHCS-approved PCS form to determine the appropriate level of service for MMP members. Once a member's treating physician prescribes the form of transportation, MMPs cannot modify the authorization. To ensure consistency among all MMPs, all NEMT PCS forms must include, at a minimum, the following components:

- **Function Limitations Justification:** Physician's documentation of the member's limitations including specific physical and medical limitations that preclude the member's ability to reasonably ambulate *without* assistance or to be transported by public or private vehicles.
- **Dates of Service Needed:** Start and end dates for NEMT services; authorizations may be for a maximum of 12 months.

²² Cal. Code Regs., Tit. 22, Section 51323 (a)(3)(C)

²³ Wheelchair van support is discussed in the Medi-Cal Provider manual at: [Medi-Cal Provider Manual: Medical Transportation – Ground, page 11, Wheelchair Van](#)

²⁴ Further information on emergency air and ground ambulance services standards can be found in Cal. Code Regs., Tit. 22, Section 51323(c)(2) and Health and Safety Code Section 1371.5, available here: http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1371.5.&lawCode=HSC

- Mode of Transportation Needed: Mode of transportation that is to be used when receiving these services (ambulance/gurney van, litter van, wheelchair van, or air transport).
- Certification Statement: Prescribing physician's statement certifying that medical necessity was used to determine the type of transportation being requested.

Each MMP must have a mechanism to capture and submit data from the PCS form to DHCS. Members can request a PCS form from their physician by telephone, electronically, in person, or by another method established by the MMP.

Non-Medical Transportation

MMPs must provide NMT for their members to obtain medically necessary services, including those not covered by the Contract. Services not covered under the Contract include, but are not limited to, those delineated as excluded services in Section A.2 and Appendix A of the Contract.

NMT does not include transportation of sick, injured, invalid, convalescent, infirm, or otherwise incapacitated members who need to be transported by ambulances, litter vans, or wheelchair vans licensed, operated, and equipped in accordance with State and local statutes, ordinances, or regulations. MMPs may authorize NMT for a member who uses a wheelchair, but whose limitation is such that the member is able to ambulate without assistance from the driver. The NMT requested must be the least costly method of transportation that meets the member's needs.

At a minimum, MMPs must provide the following NMT services:²⁵

- Round-trip transportation for a member by passenger car, taxicab, bus, train, or any other form of public or private conveyance (including a private vehicle).²⁶ NMT also includes mileage reimbursement for medical purposes²⁷ when conveyance is in a private vehicle arranged by the member and not through a transportation broker, bus passes, taxi vouchers, or train tickets.
- Round-trip NMT is available for the following:
 - Medically necessary services, including those not covered under the Contract.

²⁵ WIC Section 14132(ad)

²⁶ Per California Vehicle Code (VEH) Section 465. VEH is available at:

<http://leginfo.legislature.ca.gov/faces/codesTOCSelected.xhtml?tocCode=VEH&tocTitle=+Vehicle+Code+-+VEH>

²⁷ IRS Standard Mileage Rate for Business and Medical Purposes is available at:

<https://www.irs.gov/newsroom/2017-standard-mileage-rates-for-business-and-medical-and-moving-announced>

- Members picking up drug prescriptions that cannot be mailed directly to the member.
- Members picking up medical supplies including prosthetics, orthotics, or other equipment.
- MMPs must provide NMT in a form and manner that is both physically and geographically accessible for the member and is consistent with applicable State and federal disability rights laws.

Conditions for Non-Medical Transportation Services:

- MMPs may use prior authorization processes for approving NMT services and for re-authorizing services every 12 months, when necessary.
- NMT coverage includes transportation costs for the member and one attendant, such as a parent, guardian, or spouse, to accompany the member in a vehicle or on public transportation, subject to prior authorization at the time of the initial NMT authorization request.
- NMT does not cover trips to non-medical locations or for appointments that are not medically necessary.

Non-Medical Transportation Private Vehicle Authorization Requirements

MMPs must authorize the use of a private conveyance (private vehicle)²⁸ when no other methods of transportation are reasonably available to the member or provided by the MMPs.

Members may not drive themselves under the private conveyance policy. Prior to receiving approval for use of a private vehicle, the member must exhaust all other reasonable options and provide an attestation to the MMP in person, electronically, or over the phone, stating that all other transportation resources have been reasonably exhausted. The attestation may include confirmation that the member:

- Has no valid driver's license.
- Has no working vehicle available in the household.
- Is unable to travel or wait for medical or dental services alone.
- Has a physical, cognitive, mental, or developmental limitation.

MMPs are only required to reimburse the driver for gas mileage consistent with the Internal Revenue Service's standard mileage rate for medical transportation.²⁹ In order to receive gas mileage reimbursement for use of a private vehicle, the driver must be

²⁸ VEH Section 465

²⁹ IRS Standard Mileage Rate for Business and Medical Purposes

compliant with all California driving requirements, which include the driver holding all of the following:³⁰

- Valid driver's license.
- Valid vehicle registration.
- Valid vehicle insurance.

Non-Medical Transportation Authorization

MMPs may apply prior authorization requirements to NMT services. If an MMP chooses to require prior authorization for NMT services, then it is responsible for developing a process to ensure that members can request authorization and be approved for NMT in a timely manner. The MMP's prior authorization process must be consistently applied to medical/surgical, mental health, and substance use disorder services as required by CMS-2333-F.

Non-Medical Transportation and Non-Emergency Medical Transportation Access Standards

MMPs are contractually required to meet Access to Care Standards contained in the Contract. MMPs that have a Knox-Keene license are also required to meet the Timely Access Standards contained in Cal. Code Regs., Tit. 28, Section 1300.67.2.2.³¹ A member's need for NMT and NEMT services does not relieve the MMP from complying with Timely Access Standard obligations.

MMPs are contractually required to provide MMP members, consistent with Medicare-Medicaid marketing guidance, and annually thereafter, with information explaining how and where members can access any benefits that are available under the California State Plan, but are not covered under the Contract, including any cost sharing requirements and how transportation is to be provided.

MMPs are responsible for ensuring that their delegated entities and subcontractors (including transportation brokers and providers) comply with all applicable state and federal laws and regulations, contractual requirements, and other requirements set forth in DHCS guidance, including DPLs. MMPs must communicate these requirements

³⁰ VEH Sections 4000, 12500, and 16020

³¹ Cal. Code Regs., Tit. 28, Section 1300.67.2.2 is available at:

[https://govt.westlaw.com/calregs/Document/IAEB5B380101711DFBF14F83A306F765F?originationContext=Search+Result&listSource=Search&viewType=FullText&navigationPath=Search%2fv3%2fsearch%2fresults%2fnavigation%2fi0ad62d330000015f78fa8d26952160d7%3fstartIndex%3d1%26Nav%3dREGULATION_PUBLICVIEW%26contextData%3d\(sc.Default\)&rank=1&list=REGULATION_PUBLICVIEW&transitionType=SearchItem&contextData=\(sc.Search\)&t_T1=28&t_T2=1300.67.2.2&t_S1=CA+ADC+s](https://govt.westlaw.com/calregs/Document/IAEB5B380101711DFBF14F83A306F765F?originationContext=Search+Result&listSource=Search&viewType=FullText&navigationPath=Search%2fv3%2fsearch%2fresults%2fnavigation%2fi0ad62d330000015f78fa8d26952160d7%3fstartIndex%3d1%26Nav%3dREGULATION_PUBLICVIEW%26contextData%3d(sc.Default)&rank=1&list=REGULATION_PUBLICVIEW&transitionType=SearchItem&contextData=(sc.Search)&t_T1=28&t_T2=1300.67.2.2&t_S1=CA+ADC+s)

timely to all delegated entities and subcontractors (including transportation brokers and providers) to ensure compliance.

If you have any questions regarding this DPL, please contact your Managed Care Operations Division Contract Manager.

Sincerely,

Original signed by Nathan Nau

Nathan Nau, Chief
Managed Care Quality and Monitoring Division
Department of Health Care Services