

**Joint Legislative Committee on Performance
Evaluation and Expenditure Review (PEER)**

Report to
the Mississippi Legislature



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

MISS. CODE ANN. Section 43-13-117 (1972) makes the Office of the Governor, Division of Medicaid responsible for the Non-Emergency Transportation Services (NET) program, a federally mandated program for providing non-emergency transport to approved medical services for Medicaid beneficiaries who have no other means of transportation. In November 2006, the Division of Medicaid outsourced the NET program to LogistiCare Solutions LLC, a private, for-profit corporation. Subsequently, during the 2007 Regular Session, the Legislature mandated that PEER determine the impact of this new method of service delivery on the NET program's costs and service quality.

Using a conservative method of estimation, PEER projects that the Division of Medicaid's brokered contract yielded \$1.1 million in cost avoidance during the last eight months of FY 2007. In the future, such a contract should achieve at least a comparable amount annually.

PEER found no basis for concern that service delivery of the NET program has suffered under the brokered contract between the Division of Medicaid and LogistiCare. Beneficiaries should experience no detectable changes in program operation. However, PEER notes minor administrative deficiencies regarding the accurate coding of denials and the validity of timeliness data that have not affected the delivery of services.

PEER: The Mississippi Legislature's Oversight Agency

The Mississippi Legislature created the Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER Committee) by statute in 1973. A joint committee, the PEER Committee is composed of seven members of the House of Representatives appointed by the Speaker and seven members of the Senate appointed by the Lieutenant Governor. Appointments are made for four-year terms with one Senator and one Representative appointed from each of the U. S. Congressional Districts. Committee officers are elected by the membership with officers alternating annually between the two houses. All Committee actions by statute require a majority vote of four Representatives and four Senators voting in the affirmative.

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PEER provides a variety of services to the Legislature, including program evaluations, economy and efficiency reviews, financial audits, limited scope evaluations, fiscal notes, special investigations, briefings to individual legislators, testimony, and other governmental research and assistance. The Committee identifies inefficiency or ineffectiveness or a failure to accomplish legislative objectives, and makes recommendations for redefinition, redirection, redistribution and/or restructuring of Mississippi government. As directed by and subject to the prior approval of the PEER Committee, the Committee's professional staff executes audit and evaluation projects obtaining information and developing options for consideration by the Committee. The PEER Committee releases reports to the Legislature, Governor, Lieutenant Governor, and the agency examined.

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.

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January 7, 2008

Honorable Haley Barbour, Governor
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Honorable Billy McCoy, Speaker of the House
Members of the Mississippi State Legislature

On January 7, 2008, the PEER Committee authorized release of the report entitled **A Review of the Mississippi Division of Medicaid's Non-Emergency Transportation Program.**

A handwritten signature in cursive script that reads "Harvey Moss". The signature is written in black ink and is positioned above a horizontal line.

Representative Harvey Moss, Chair

This report does not recommend increased funding or additional staff.

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

Executive Summary

Introduction

MISS. CODE ANN. Section 43-13-117 (1972) makes the Office of the Governor, Division of Medicaid responsible for providing non-emergency transportation (NET) for approved medical services to Medicaid beneficiaries who have no other means of transportation available.

In November 2006, the Division of Medicaid (DOM) outsourced the provision of non-emergency transportation services to LogistiCare Solutions LLC, a private, for-profit corporation. Subsequently, during the 2007 Regular Session, the Legislature mandated that PEER determine the impact of this new method of service delivery on the NET program's costs and service quality.

Fieldwork Constraints

During the course of this review, PEER was confronted with two atypical problems that resulted in delays of the project's completion:

- the Division of Medicaid's inability to share with PEER the information regarding the execution and performance of the contract with LogistiCare, due to a court order obtained by LogistiCare (but not directly related to this project); and,
- initial lack of cooperation on the part of LogistiCare.

Apparently, contractors who are concerned about their competitors obtaining their companies' confidential information sometimes obtain protecting orders such as the one that affected progress of this project.

After PEER's discussions with staff of both the Division of Medicaid and LogistiCare, involvement of the Attorney

General's Office, and PEER's issuance of subpoenas for personal appearances and documents, LogistiCare expressed its willingness to work with PEER to provide an understanding of its contract with the division. PEER agreed to treat all protected health information as confidential and not to report any such information.

What is the Non-Emergency Transportation Services Program and how has service delivery changed since November 2006?

The Non-Emergency Transportation Services (NET) program is a federally mandated program for providing non-emergency transport to approved medical services for Medicaid beneficiaries who have no other means of transportation. Since November 2006, a private, for-profit organization has operated Mississippi's NET program. This brokered arrangement offers the potential for greater cost stability, improved risk avoidance in a volatile operating environment, reduction in administrative costs, and improved fraud prevention procedures. Beneficiaries should experience no detectable changes in program operation.

To obtain the answer to this question, PEER addressed two related, more specific questions, each addressed below.

What is the Non-Emergency Transportation Services Program and who is eligible to receive services?

The Non-Emergency Transportation Services is a federally mandated program for providing non-emergency transportation for approved medical services to Medicaid beneficiaries who have no other means of transportation available.

Federal regulations allow states flexibility concerning how they will operate their NET programs. The Mississippi Division of Medicaid's NET provider manual defines NET services as:

. . .medically necessary transportation for any beneficiary who has no other means of transportation available to any Medicaid-reimbursable service for the purpose of receiving treatment, medical evaluation, obtaining prescription drugs or medical equipment.

In Mississippi, to be eligible for NET services, a Medicaid beneficiary must be receiving covered services from a Medicaid-approved provider; have no other means of getting to and/or from the provider for a Medicaid-covered service; not have exceeded any service limits associated with the covered service; and not receive transportation

services to medical services from any other source. Individuals in certain Medicaid-eligible categories (such as individuals with Medicare dual eligibility) are excluded from NET eligibility. As of June 2007, the number of eligible beneficiaries for the NET program in Mississippi was approximately 460,000.

What changes have occurred in service delivery since November 2006 and why did they occur?

From May 1998 to November 1, 2006, the Division of Medicaid operated the NET program as an in-house program. Since that time, LogistiCare Solutions, a for-profit corporation, has served as broker for the program.

The Division of Medicaid's Previous In-House Operation of the NET Program

Under the Division of Medicaid's in-house NET program, division officials established eligibility for service, retained service providers, scheduled trips, paid providers through a fiscal agent on a fee-for-service basis, and ensured service quality. The division operated the program under a 1915(b) waiver* that allowed the state to claim transportation costs (payments to providers) at the Federal Medical Assistance Percentage (FMAP) match rate (the rate in Fiscal Year 2007 was 75.89%) and the costs of administering the program could be matched at the administrative match rate of 50%.

Factors Influencing the Division's Change in Method of Service Delivery

Higher Federal Match Rate

Because of changes in federal law, by contracting with a broker to operate the NET program, the DOM is now able to claim administrative expenses for the NET program at a higher federal match rate than was previously available when the division operated the program in-house. The DOM can now claim all expenses at the higher FMAP rate, which for Mississippi for Fiscal Year 2008 is 76.29%.

* Under Section 1915(b) of the Social Security Act, the Health Care Financing Administration [now CMS] may grant waivers to allowed states to restrict freedom of choice of providers, selectively contract with certain providers, and operate their programs differently in different areas of the state. States can claim a 1915 (b) waiver to operate all or part of the NET program under the state's plan as a medical expense and restrict statewide scope, comparability, and freedom of choice.

Recommendations of Inspector General's and PEER Committee's Reports

A 1997 report by the federal Office of the Inspector General for the Department of Health and Human Services recommended that the states implement a brokered NET program. Also, a 2002 PEER Committee report recommended that the DOM make changes in the NET program to control costs.

Anticipated Opportunities to Stabilize or Reduce Costs and Improve Data Management

Although the division did not conduct a formal needs assessment or cost analysis prior to its decision to change the service delivery method, the Division of Medicaid asserts that contracting NET services to a private broker yields greater achievement of cost stability, a degree of risk avoidance in a volatile operating environment, a reduction in administrative costs, and an improved system for preventing fraud.

LogistiCare's Provision of NET Services

LogistiCare is responsible for operating a NET call center, authorizing and coordinating medical transportation for qualified Medicaid beneficiaries; ensuring that the most economical mode of transportation is used and is appropriate to meet the medical needs of the beneficiary; contracting with and paying providers of transportation; monitoring providers; and assisting beneficiaries and providers with complaints or other issues regarding transportation.

The DOM pays the broker through a capitated arrangement, as the broker is paid a fixed rate for each eligible beneficiary, with a cap on the total program cost for each year. The broker pays the transportation providers from the funds it receives from the DOM (i. e., from the capped amount).

Comparison of In-House and Brokered Service Delivery Models for NET Services

The purpose and goal of the Medicaid NET program and Mississippi's operation of it have not changed. Most beneficiaries would not notice a change in how the program is operated. A qualifying individual who needs the service still contacts the call center, is picked up by a contracted transportation provider and delivered to the

medical service appointment, and is returned home by a provider.

The most notable difference in the two models is that under the previous arrangement, the DOM contracted with transportation providers directly and paid, through a fiscal agent, a fee-for-service amount. Now, the broker contracts with and negotiates the payment rate. The broker is responsible for obtaining transportation (rather than the DOM). Also, transportation providers do not have exclusive regions of service and must compete with other providers to contract with the broker.

How have the costs of providing NET services changed under brokered service delivery?

Using a conservative method of estimation, PEER projects that the Division of Medicaid's brokered contract yielded \$1.1 million in cost avoidance during the last eight months of FY 2007. In the future, such a contract should achieve at least a comparable amount annually.

To determine the difference in cost between the DOM's in-house service delivery and the brokered method of service delivery, PEER compared actual costs of the brokered program to estimated costs the DOM would have incurred under the in-house program. PEER analyzed actual payments for the period November 1, 2006, to June 30, 2007, during which LogistiCare provided NET services. During this period, LogistiCare provided 471,258 trips to eligible NET beneficiaries. To establish an in-house basis for comparison, the DOM estimated the costs that the division would have incurred if it had paid transportation providers for the same number of trips at the in-house rates.

Exhibit A, page xii, summarizes the cost comparison of the two service delivery models. As shown in Exhibit A, payments to LogistiCare for NET services were greater than payments to NET providers would have been under the DOM in-house program. However, significant cost avoidance was realized by the elimination of the DOM's NET administrative costs. As a result of contracting to broker NET services, the DOM avoided costs of approximately \$1.1 million for the period November 2006 to June 2007.

PEER believes that annual cost avoidance at least comparable to that amount should be achievable in the future. Future years' cost avoidance would not include the one-time implementation costs, but would be reduced by

the DOM's contract monitoring costs, which PEER estimates to be at least \$7,000 annually.

Exhibit A: LogistiCare's Actual Costs for Provision of NET Services Compared to the Division of Medicaid's Estimated Costs for Provision of NET Services, November 2006 through June 2007

	Actual Costs under LogistiCare-Administered NET Program	Estimated Costs under the DOM's In-House Program	Estimated Cost Avoidance
NET Transportation Payments	\$18,445,984	\$18,155,588	\$ (290,396)
Administration Costs	\$ 0	\$ 1,534,605	\$1,534,605
One-Time Implementation Costs	\$ 180,000	\$ 0	\$ (180,000)
Total	\$18,625,984	\$19,690,193	\$1,064,209

SOURCE: PEER analysis of information provided by the Division of Medicaid.

NOTE: This exhibit shows the total of actual payments from the DOM to LogistiCare for operating the NET program from November 2006 through June 2007 and the estimate of what the DOM would have paid to transportation providers from November 2006 through June 2007 had the NET program remained in-house at the DOM, as well as the DOM's estimates of administrative costs of the NET program during the eight-month period.

Is the broker rendering appropriate services under the current method of service delivery?

PEER found no basis for concern that service delivery of the NET program has suffered under the brokerage contract between the Division of Medicaid and LogistiCare. However, PEER notes minor administrative deficiencies regarding the accurate coding of denials and the validity of timeliness data that have not affected the delivery of services.

To obtain the answer to this question, PEER addressed several related, more specific questions, each addressed below. LogistiCare's data system was able to provide reports directly targeted at the questions PEER posed. PEER's analytic task was to determine whether it could sufficiently replicate these reports by using a sample of source data.

Due to time constraints, PEER chose exploratory purposive sampling as the most efficient method to test the reliability of LogistiCare's data system. Purposive sampling is a sampling methodology by which items are selected based on the purpose of the study. Although purposive sampling does not allow researchers to project the sample's findings to the body of information sampled, it does allow researchers to study aspects of the sampled material. In this case, the use of purposive sampling allowed PEER to review information relating to denials, timeliness of services, provider payment, and complaints to ensure that LogistiCare's stated policies and procedures were in fact in place and operational. PEER utilized varying ranges of dates chosen to yield the most viable information for the records under analysis.

Does LogistiCare arbitrarily deny transportation services to NET beneficiaries?

PEER found no evidence of arbitrary denial of transportation services to NET beneficiaries.

From November 2006 to August 2007, LogistiCare approved 98.2% of the trips requested. The remaining trips were denied based on reasons authorized in the DOM's provider manual.

PEER's exploratory sample provided no basis for challenging LogistiCare's reported adherence to provisions of the Division of Medicaid's NET provider manual regarding service denial. However, PEER noted problems with LogistiCare's data system coding that did not affect eligibility or cause denials of service (see page 21 of the report).

Does LogistiCare provide transportation services in a timely manner?

Based on PEER's exploratory sample, LogistiCare's providers have delivered beneficiaries to appointments for approved medical services in a timely manner. However, ambiguities in the provider manual and in LogistiCare's procedures allow for the possibility that reported timeliness information might not be accurate.

Although PEER's exploratory sample found that LogistiCare's providers were not as timely in picking up beneficiaries as in dropping them off for their appointments for approved medical services, the sample rates were generally comparable. Since drop-offs represent the time the beneficiary arrived at the approved

destination, PEER chose not to challenge LogistiCare's reported adherence to policy regarding service timeliness.

However, LogistiCare's requirement that the beneficiary sign a transportation log does not clearly constitute a certification that services were rendered at the times recorded on the log (see page 24 of the report).

Does LogistiCare pay transportation providers in a timely manner to help assure adequate provider participation?

PEER's exploratory sample found no basis for challenging LogistiCare's reported adherence to the provider manual regarding timely payments to transportation providers.

In addition to providing reasonable customer service to beneficiaries, prompt payment of transportation providers is necessary to ensure an adequate number of providers, which in turn is necessary for operating an effective statewide program.

Under the DOM's NET Provider Policy Manual, the broker is to pay ninety-nine percent of all "clean claims" within ninety days following receipt. A "clean claim" is one that can be processed without additional information from the provider or a third party.

From November 2006 through August 2007, LogistiCare paid over 484,000 clean claims to transportation providers. According to information provided by LogistiCare, the company exceeded the requirements of the provider manual by paying 99.997% of clean claims within ninety days of receipt.

Does the complaints process reveal any problems with service quality not revealed by LogistiCare's reports or PEER's exploratory review of records?

PEER's analysis of the complaints process does not reveal any concerns regarding service quality that conflict with LogistiCare's reports or PEER's exploratory sample.

As with all services, complaints are received regarding the NET program. From January 2007 through July 2007, LogistiCare's complaint rate regarding the NET program was approximately three-tenths of one percent for all trips.

According to PEER's review of the records of complaints received between May and August 2007, LogistiCare maintained adequate records to investigate complaints

and followed appropriate procedures in receiving and investigating complaints.

How has the Division of Medicaid assured that the broker has provided appropriate and timely service delivery?

Although the DOM's state plan for the NET program notes that the broker will be subject to regular auditing and oversight to ensure the quality of transportation services provided and the adequacy of beneficiary access to medical care and services, the Division of Medicaid did not implement formal, documented quality assurance processes until the contract had been in effect for a full year.

Federal requirements mandate that the states ensure the quality of NET services through auditing and oversight. When questioned by PEER, DOM officials stated they were performing informal monitoring procedures (e. g., reviewing LogistiCare-generated management reports and noting areas of concern).

Recommendations

1. The Legislature should amend MISS. CODE ANN. Section 25-61-9 (1972) to exclude PEER and other investigative bodies from the scope of any protective order limiting public access to documents in the possession of state agencies. Additionally, the Legislature should adopt legislation that would clearly authorize legislative enforcement of subpoenas through the court system if a committee deems such enforcement necessary to carry out its prerogatives. The Legislature should also define in law the criminal offense of contempt of the Legislature and establish a penalty for such.
2. When making future decisions regarding contracting for services with a private, for-profit company, the Division of Medicaid should engage in a formal needs assessment process to determine what tasks and services are needed, whether current staff can perform these tasks and provide the services, and the estimated cost of these tasks and services.
3. The Division of Medicaid should require LogistiCare to make the programming changes necessary to LogistiCare's NET program to ensure that accurate codes are captured regarding denial of NET services.
4. The broker's log sheets should require that beneficiaries or responsible parties certify by

signature that they not only received the service, but that the times denoted by the driver are true and correct. If the times are not correct, the log should provide a place for the beneficiary to note the actual times of service.

5. The Division of Medicaid should require LogistiCare to implement necessary system modifications that would allow LogistiCare to identify and exclude from denial reports any requests for NET services that were initially denied due to incomplete information/documentation or inadequate notice, but that are ultimately approved for NET service after the information/documentation is supplied or the appointment is rescheduled.
6. The Division of Medicaid should continue with its plan to implement formal, quarterly, and continuous monitoring procedures for the NET program. The division should use its monitoring procedures to verify documentation submitted by LogistiCare and any discrepancies should be resolved and corrective action taken before the end of the next quarterly or monthly reporting cycle. The division should also use these monitoring procedures to ensure that appropriate NET services are provided to Medicaid beneficiaries and detect patterns that might indicate a decline in service or inappropriate denials of service.

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

Introduction

Authority

MISS. CODE ANN. Section 43-13-117 (1972) makes the Office of the Governor, Division of Medicaid responsible for providing non-emergency transportation (NET) for approved medical services to Medicaid beneficiaries who have no other means of transportation available. Section 2, Chapter 553, *Laws of 2007*, amended existing law regarding the provision of this service and directs the PEER Committee to:

. . .conduct a performance evaluation of the nonemergency transportation program to evaluate the administration of the program and the providers of transportation services to determine the most cost effective ways of providing nonemergency transportation services to the patients served under the program. . . .

The amendment requires the review to be completed by January 15, 2008.

PEER conducted the review pursuant to the authority granted by MISS. CODE ANN. §5-3-51 et seq. (1972).

Problem Statement

In November 2006, the Division of Medicaid chose to outsource the provision of non-emergency transportation services to LogistiCare Solutions LLC, a private, for-profit corporation. Subsequently, the Legislature mandated that PEER determine the impact of this new method of service delivery on the NET program's costs and service quality.

Scope and Purpose

To fulfill the legislative mandate to conduct a performance evaluation of the program, PEER set the following objectives for this review:

- determine and describe the scope and bounds of the Medicaid non-emergency transportation program;
- determine the cost components of the provision of the non-emergency transportation program; and,
- determine whether Medicaid beneficiaries receive appropriate and timely services under the current non-emergency transportation program.

In meeting these objectives, PEER compared the previous in-house method of providing NET services to the current brokered program.¹

Fieldwork Constraints

During the course of this review, PEER was confronted with two atypical problems that resulted in delays of the project's completion:

- the Division of Medicaid's inability to share with PEER the information regarding the execution and performance of the contract with LogistiCare; and,
- initial lack of cooperation on the part of LogistiCare.

¹ According to the Health Care Financing Administration (now CMS) and the National Association of State Medicaid Directors' Non-Emergency Transportation Technical Advisory Group, *brokerages* are organizations with which states contract to perform administrative responsibilities related to the provision of transportation services. Brokers usually enroll and pay providers, determine the most appropriate type of transportation service for a client, authorize services, and arrange and schedule rides.

The Division of Medicaid's Inability to Share Certain Information with PEER

After commencing the review, the PEER Committee's staff made several requests for information to the Division of Medicaid. The division's staff provided only part of the information requested, citing a court order obtained by LogistiCare, but not directly related to this project, as the basis for denying several PEER requests.

On February 26, 2007, LogistiCare had filed a complaint for injunctive relief in the Chancery Court for the First Judicial District of Hinds County. In this complaint, LogistiCare pleaded the following:

- On or about January 19, 2007, a law firm requested certain contract attachments from the Division of Medicaid pertinent to the LogistiCare contract. Earlier, the division had provided the same firm with a copy of the contract without attachments. The firm also requested copies of LogistiCare's bidder questions and answers and its oral presentation to the division.
- The division notified LogistiCare of the subsequent document request and provided LogistiCare time to contest the document request by obtaining a court order.
- The plaintiff cited the provisions of MISS. CODE ANN. Section 25-61-9 (1) (1972) as a basis for a permanent injunction barring the release of confidential information, financial information, and trade secrets. (This CODE section allows concerned parties to seek judicial protection for confidential information or trade secrets.)

The Division of Medicaid did not file an answer to the complaint but entered an entry of appearance and waiver of service of process. On February 26, 2007, an order granting a permanent injunction barred the division from releasing any documents or the contents thereof by LogistiCare to the division or any contract entered into by LogistiCare in response to any of the division's requests for proposals. The order further directs the division to redact any trade secrets or confidential commercial or financial information of LogistiCare from any documents that are not exempt from disclosure prior to their release. The division took the position that this order barred it from providing PEER with certain requested information.

LogistiCare's Initial Lack of Cooperation

After experiencing difficulties in obtaining information from the Division of Medicaid, PEER sought information from LogistiCare. PEER assumed that LogistiCare could either provide the information requested that the division could not provide or might authorize the division to release certain information covered by the court order. On September 10, 2007, LogistiCare denied PEER's request and stated that all requests must be directed through the Division of Medicaid.

In response, PEER issued subpoenas to the Division of Medicaid and LogistiCare on October 11, 2007. The subpoenas called for personal appearances by selected division employees and the local manager of LogistiCare and required the production of documents in LogistiCare's possession to assist in the fieldwork process. PEER worked with the Attorney General's Office concerning possible judicial remedies should any party fail to appear or comply in producing documents.

All subpoenaed parties appeared before the PEER Committee at its November 13, 2007, meeting. At that meeting, LogistiCare expressed its willingness to work with PEER to provide an understanding of its contract with the division. PEER agreed to treat all protected health information as confidential and not to report any such information.

Implications for Future PEER Projects

Apparently, contractors who are concerned about their competitors obtaining their companies' confidential information sometimes obtain protecting orders such as the one described above. In the future, such orders could impair PEER's ability to perform its legislative oversight function. PEER makes a recommendation on page 30 of this report to protect against such orders barring legislative bodies from obtaining information needed to support the policymaking activities of state government. Also, PEER recommends clarification regarding the enforcement of legislative subpoena power.

Method

In conducting this review, PEER:

- reviewed applicable state and federal laws directing the implementation of a NET program at the state level;

- reviewed the request for proposals (RFP) the Division of Medicaid used to procure the services of a broker for non-emergency transportation services;
- reviewed the Division of Medicaid's and LogistiCare's applicable policies and procedures regarding the NET program;
- reviewed documents from the federal Center for Medicaid and Medicare services (CMS) pertaining to the DOM's operation of NET services;
- reviewed source documentation for services provided by LogistiCare;
- reviewed professional and scholarly reports and articles; and,
- interviewed personnel at the Mississippi Division of Medicaid, LogistiCare, CMS, Medicaid agencies in other states, and practitioners in the field of non-emergency transportation.

Also, PEER conducted a series of exploratory purposive samples from relevant program records. Purposive sampling is a sampling methodology by which items are selected based on the purpose of the study. Although purposive sampling does not allow researchers to project the sample's findings to the body of information sampled, it does allow researchers to study aspects of the sampled material. In this case, the use of purposive sampling allowed PEER to review information relating to denials, timeliness of services, provider payment, and complaints to ensure that LogistiCare's stated policies and procedures were in fact in place and operational.

Chapter 1: What is the Non-Emergency Transportation Services Program and how has service delivery changed since November 2006?

The Non-Emergency Transportation Services (NET) program is a federally mandated program for providing non-emergency transport to approved medical services for Medicaid beneficiaries who have no other means of transportation. Since November 2006, a private, for-profit organization has operated Mississippi's NET program. This brokered arrangement offers the potential for greater cost stability, improved risk avoidance in a volatile operating environment, reduction in administrative costs, and improved fraud prevention procedures. Beneficiaries should experience no detectable changes in program operation.

To obtain the answer to this question, PEER addressed two related, more specific questions in the following sections:

- What is the Non-Emergency Transportation Services Program and who is eligible to receive services?
- What changes have occurred in service delivery since November 2006 and why did they occur?

What is the Non-Emergency Transportation Services Program and who is eligible to receive services?

The Non-Emergency Transportation Services is a federally mandated program for providing non-emergency transportation for approved medical services to Medicaid beneficiaries who have no other means of transportation available.

Federal regulations allow the states flexibility concerning how they will operate their NET programs.

Medicaid is a federal program designed to provide health care to qualifying beneficiaries in low-income households. According to a guidebook for state Medicaid agencies entitled *Designing and Operating Cost-Effective Medicaid Non-Emergency Transportation Programs: A Guidebook for State Medicaid Agencies*, published in 1998 by the Health Care Financing Administration (now CMS) and the National Association of State Medicaid Directors' Non-Emergency Transportation Technical Advisory Group, it is not unusual for these low-income individuals to lack transportation, which is vital to obtaining medical care. Thus federal requirements (42 CFR 431.53) mandate that the states provide assistance with transportation, if requested, to individuals who qualify for Early and Periodic Screening, Diagnosis, and Treatment services. These services are

commonly referred to as Non-Emergency Transportation (NET) services. 42 CFR 431.53 allows a state flexibility concerning how it will operate its NET program.

Section 12.01 of the DOM's NET provider manual defines NET services as:

. . .medically necessary transportation for any beneficiary who has no other means of transportation available to any Medicaid-reimbursable service for the purpose of receiving treatment, medical evaluation, obtaining prescription drugs or medical equipment.

As of June 2007, the number of eligible beneficiaries for the NET program in Mississippi was approximately 460,000.

In Mississippi, to be eligible for NET services, a Medicaid beneficiary must be receiving covered services from a Medicaid-approved provider; have no other means of getting to and/or from the provider for a Medicaid-covered service; not have exceeded any service limits associated with the covered service; and not receive transportation services to medical services from any other source. Individuals in some Medicaid-eligible categories (such as certain individuals with Medicare dual eligibility) are excluded from NET eligibility. As of June 2007, the number of eligible beneficiaries for the NET program in Mississippi was approximately 460,000. The number of individuals eligible for NET services is subject to frequent change due to the addition of new enrollees or changes in individuals' eligibility status.

What changes have occurred in service delivery since November 2006 and why did they occur?

From May 1998 to November 1, 2006, the Division of Medicaid operated the NET program as an in-house program. Since that time, LogistiCare Solutions, a for-profit corporation, has served as broker for the program.

The Division of Medicaid's Previous In-House Operation of the NET Program

Under the DOM's in-house NET program, division officials established eligibility for service, retained service providers, scheduled trips, paid providers through a fiscal agent on a fee-for-service basis, and ensured

service quality. The federal government matched costs of administering the program at a 50% match rate.

From July 1995 to May 1998, the Mississippi Department of Human Services operated the NET program. From May 1998 to November 1, 2006, the DOM operated the NET program in-house. Toward the end of the period during which the DOM operated the NET program in-house, beneficiaries that needed transportation services contacted a NET coordinator in the centralized call center located in Jackson. When the beneficiary called in for transportation, the NET coordinator determined whether the beneficiary was eligible and was requesting a ride to a covered medical service. The NET coordinator inquired whether the beneficiary had special needs.

During the time that the Division of Medicaid operated the NET program in-house, the state was divided into thirty regions and the division awarded each transportation provider with a contract for a region containing one or more counties.

The division's goal was to arrange transportation with the least expensive, most appropriate provider. The state was divided into thirty regions and the division awarded each transportation provider with a contract for a region containing one or more counties. Contract obligations required primary providers to fill in for providers in other regions on an as-needed basis and to supply additional drivers and mass transit providers as alternatives.

NET providers had to meet contract standards regarding travel time; ensure that they had sufficient drivers and vehicles to service each region; transport the beneficiary regardless of the number of miles involved and could not cancel the ride for their own convenience. The Division of Medicaid paid providers a fee for service rate per trip regardless of the number of miles of the trip. According to the division's staff, the division ensured quality of services through on-site reviews; beneficiary satisfaction surveys; data analysis regarding appeals and grievances; independent assessment of program impact, access, quality, and cost effectiveness; and investigation of complaints.

Regarding funding of the NET program, the Division of Medicaid (DOM) operated the NET program under a 1915(b) waiver² that allowed the state to claim transportation costs (payments to providers) at the Federal Medical Assistance Percentage (FMAP) match rate (the rate in Fiscal Year 2007 was 75.89%) and the costs of administering the program could be matched at the administrative match rate of 50%. The DOM had to

² Under Section 1915(b) of the Social Security Act, the Health Care Financing Administration [now CMS] may grant waivers to allowed states to restrict freedom of choice of providers, selectively contract with certain providers, and operate their programs differently in different areas of the state. States can claim a 1915 (b) waiver to operate all or part of the NET program under the state's plan as a medical expense and restrict statewide scope, comparability, and freedom of choice.

reapply every two years for renewal of the waiver and had to reassure that it would not adopt any policies that would negatively impact the delivery of medically necessary services.

Factors Influencing the Division's Change in Method of Service Delivery

Higher Federal Match Rate

By contracting with a broker to operate the NET program, the DOM can now claim administrative expenses for the NET program at a higher federal match rate than was previously available.

Because of changes in federal law, the division can now claim all expenses of the program, including administrative expenses, at the higher FMAP rate. For Fiscal Year 2008, the FMAP for Mississippi is 76.29%.

By contracting with a broker to operate the NET program, the DOM is now able to claim administrative expenses for the NET program at a higher federal match rate than was previously available when the division operated the program in-house. Under the in-house service delivery model, federal law allowed the division to claim direct payments to transportation providers at the Federal Medical Assistance Percentage match rate (which was 75.89% in Fiscal Year 2007) and the costs of administering the program at the 50% administrative match rate. Because of changes in federal law, now under a brokered NET program the DOM can claim all expenses at the higher FMAP rate. For Fiscal Year 2008, the FMAP for Mississippi is 76.29%.

Recommendations of Inspector General's and PEER Committee's Reports

A 1997 report by the federal Office of the Inspector General recommended that the states implement a brokered NET program. Also, a previous PEER Committee report recommended that the DOM make changes in the NET program that would assist the division in controlling costs.

Inspector General Report's Recommendations

An April 1997 report by the federal Office of the Inspector General, Department of Health and Human Services, entitled *Controlling Medicaid Non-Emergency Transportation Costs* attempted to identify cost saving measures for states to use so that they could save money on NET programs. One of these measures was implementing brokered programs.

The report cited the following advantages to using a broker for a state's NET program:

- brokers are intermediaries to assure that transportation is necessary;
- brokers who manage at the local levels typically know the transportation resources, conditions, and beneficiary needs;
- brokers usually have expertise in providing transportation services and are able to determine the most cost-effective services; and,
- brokers have flexibility to develop cost-saving ways of providing transportation

The Health Care Financing Administration (now CMS) agreed with the report's recommendations.

PEER Committee Report's Recommendations

A June 2002 PEER Committee report entitled *A Review of Administrative Expenditures and Selected Administrative Functions of Mississippi's Division of Medicaid* recommended that for the NET program, the Division of Medicaid should take the following actions:

- eliminate unnecessary staff;
- implement a retrospective review of claims;
- establish monthly reporting requirements;
- build relationships with other transportation entities such as public transportation companies and community transportation resources;
- identify new methods of provider reimbursement;
- enhance NET system capabilities so that management can track information that would assist the division in controlling costs and formulating policy; and,
- eliminate the DOM's policy that allows providers twelve months to file a transportation claim.

In implementing the brokered program, the DOM has addressed many of these recommendations to some degree.

Anticipated Opportunities to Stabilize or Reduce Costs and Improve Data Management

Although the division did not conduct a formal needs assessment or cost analysis prior to its decision to change the service delivery method, the Division of Medicaid asserts that contracting NET services to a private broker yields greater achievement of cost stability, a degree of risk avoidance in a volatile operating environment, a reduction in administrative costs, and an improved system for preventing fraud.

The division asserts that under the current arrangement, the broker assumes the risk of rising transportation and operational costs and the division has an opportunity to eliminate some administrative costs and improve management of provider service and cost data.

When questioned by PEER concerning the division's basis for the change to a brokered model of service delivery for the NET program, the DOM did not provide evidence of a formal needs assessment or cost analysis that the division had conducted prior to its change to a brokered model of service delivery. However, in addition to the opportunity for receiving a higher match rate (discussed on page 9), the division asserted that the change to a brokered model could stabilize or reduce costs and improve the division's ability to verify provision of services and costs (thus reducing the opportunities for fraud).

The following summarizes the division's position on the benefits of a brokerage arrangement relative to its experience with an in-house program.

- *Broker assumes transportation costs--*The provision of NET services is a potentially volatile cost environment, since NET service eligibility numbers change frequently and the NET program is demand-based. The DOM asserts that in this environment, a capitated payment arrangement, such as the one negotiated with the private broker, provides a known annual cost for the NET program rather than having the uncertainty of transportation costs of in-house program. Under the capitated system, the broker assumes the risk for the cost of services provided beyond the estimates used as the basis for its bid amount. To ensure this benefit for the state, the division is obligated to engage in a careful contract negotiation process that produces a fair, efficient program at less cost than the state could produce for itself.
- *Broker assumes risk of rising operational costs during a contract year--*Because of the rising costs of operation, such as fuel and insurance costs, service providers had often petitioned the division for increases in transportation provider rates under the in-house program. Under the brokerage contract, responsibility for managing the risks associated with

operating a NET program during a program year shift from the state to the broker. Again, the obligation of the division is to ensure that the broker has the financial latitude to manage these risks under the terms of the contract without setting the stage for windfall profits.

- *Opportunity to eliminate administrative costs--* By going to a private contract, the DOM was able to eliminate the administrative cost of running a call center. The division eliminated fifty-four positions, terminated charges paid to the Department of Information Technology Services, and eliminated office space rental fees. These administrative cost reductions are offset by contract costs, but do provide the potential for savings if aggressively managed.
- *Opportunity for improving management of provider service and cost data--* LogistiCare has software that calculates reimbursement to transportation providers based on the distance of the trip rather than allowing a fixed rate per trip regardless of mileage. This represents a significant improvement in opportunities for cost management and is in concert with the 2002 PEER report that recommended that the DOM identify ways to improve its method of NET provider reimbursement. (See page 10.)

LogistiCare's Provision of NET Services

Since November 1, 2006, LogistiCare Solutions, LLC, has operated the state's NET program. LogistiCare is a for-profit corporation that provides transportation broker services to the Division of Medicaid.

The division pays the broker through a capitated arrangement, as the broker is paid a fixed rate for each eligible beneficiary with a cap on the total program cost for each year.

The DOM outsourced administration of the NET program to LogistiCare Solutions, LLC (hereafter referred to as the LogistiCare or the broker) effective November 1, 2006. LogistiCare is responsible for operating a NET call center, authorizing and coordinating medical transportation for qualified Medicaid beneficiaries; ensuring that the most economical mode of transportation is used and is appropriate to meet the medical needs of the beneficiary; contracting with and paying providers of transportation; monitoring providers; and assisting beneficiaries and providers with complaints or other issues regarding transportation.

The DOM pays the broker through a capitated arrangement, as the broker is paid a fixed rate for each

eligible beneficiary with a cap on the total program cost for each year. The broker pays the transportation providers from the funds it receives from the DOM (i. e., from the capped amount).

Comparison of In-House and Brokered Service Delivery Models for NET Services

Similarities Between the In-House and Brokered Service Delivery Models

The purpose and goal of the Medicaid NET program and Mississippi's operation of it have not changed.

The purpose and goal of the Medicaid NET program and Mississippi's operation of it have not changed. The purpose is still to provide timely, appropriate non-emergency transportation for approved medical services to Medicaid beneficiaries who have no other means of transportation available.

Most beneficiaries would not notice a change in how the program is operated. A qualifying individual who needs the service still contacts the call center, is picked up by a contracted transportation provider and delivered to the medical service appointment, and is returned home by a provider.

Differences Between the In-House and Brokered Service Delivery Models

The most notable difference in the two service delivery models is the method of paying service providers and the fact that the broker is responsible for obtaining transportation, rather than the division.

The most notable difference in the two models is that, as noted on page 8, under the previous arrangement, the DOM contracted with transportation providers directly and paid, through a fiscal agent, a fee-for-service amount. Now, the broker contracts with and negotiates the payment rate. The broker is responsible for obtaining transportation (rather than the DOM). Also, transportation providers do not have exclusive regions of service and must compete with other providers to contract with the broker.

Chapter 2: How have the costs of providing NET services changed under brokered service delivery?

Using a conservative method of estimation, PEER projects that the Division of Medicaid's brokered contract yielded \$1.1 million in cost avoidance during the last eight months of FY 2007. In the future, such a contract should achieve at least a comparable amount annually.

To determine how much Medicaid paid LogistiCare for NET services, PEER analyzed actual payments for the period November 1, 2006, to June 30, 2007, the only months that LogistiCare provided services during FY 2007. During this period, LogistiCare provided 471,258 trips to eligible NET beneficiaries.

Method of Estimation

PEER compared actual costs of the brokered program (from November 1, 2006, to June 30, 2007) to estimated costs the division would have incurred under the in-house program.

To determine the difference in cost between the DOM's in-house service delivery and the brokered method of service delivery, PEER compared actual costs of the brokered program to estimated costs the DOM would have incurred under the in-house program. PEER analyzed actual payments for the period November 1, 2006, to June 30, 2007, during which LogistiCare provided NET services. During this period, LogistiCare provided 471,258 trips to eligible NET beneficiaries. To establish an in-house basis for comparison, the Division of Medicaid estimated the costs that the division would have incurred if it had paid transportation providers for the same number of trips at the in-house rates.

The Exhibit, page 15, summarizes the cost comparison of the two service delivery models. The following sections of this chapter provide additional detail.

Exhibit: LogistiCare’s Actual Costs for Provision of NET Services Compared to the Division of Medicaid’s Estimated Costs for Provision of NET Services, November 2006 through June 2007

	Actual Costs under LogistiCare-Administered NET Program	Estimated Costs under the DOM’s In-House Program	Estimated Cost Avoidance
NET Transportation Payments	\$18,445,984	\$18,155,588	\$ (290,396)
Administration Costs	\$ 0	\$ 1,534,605	\$1,534,605
One-Time Implementation Costs	\$ 180,000	\$ 0	\$ (180,000)
Total	\$18,625,984	\$19,690,193	\$1,064,209

SOURCE: PEER analysis of information provided by the Division of Medicaid.

NOTE: This exhibit shows the total of actual payments from the DOM to LogistiCare for operating the NET program from November 2006 through June 2007 and the estimate of what the DOM would have paid to transportation providers from November 2006 through June 2007 had the NET program remained in-house at the DOM, as well as the DOM’s estimates of administrative costs of the NET program during the eight-month period.

Estimated Costs (November 2006-June 2007) Under the Brokered Model

From November 2006 to June 2007, the Division of Medicaid paid a total of approximately \$18.6 million for LogistiCare to implement and administer the state’s NET program.

As shown in the Exhibit, during the eight-month period in FY 2007 during which LogistiCare brokered the NET program, the DOM paid LogistiCare approximately \$18.4 million to provide 471,258 trips for eligible beneficiaries. From this amount, the broker paid transportation providers a contracted amount to provide rides. The broker will realize profits after paying the NET transportation providers.

As also noted in the Exhibit, in addition to direct transportation costs, the DOM paid LogistiCare a one-time implementation fee of \$180,000. In total, the division paid LogistiCare \$18.6 million for the implementation and operation of the NET program for the eight-month period.

Estimated Costs (November 2006-June 2007) Under the In-House Model

Had the Division of Medicaid continued to operate the NET program in-house, PEER estimates that the division would have incurred costs of approximately \$19.7 million for this same eight-month period.

To estimate what it would have cost the division to provide the same level of service in-house during this eight-month period that LogistiCare operated the NET program, PEER obtained from the DOM the rates that the division paid each transportation provider per trip as of June 1, 2006.

Under the in-house model, each transportation provider operated in designated counties. Using the number of trips provided by LogistiCare by county for the November 2006 to June 2007 time frame and multiplying that number by the rate that each individual provider was paid by the agency, the DOM estimated that it would have paid approximately \$18.2 million to provide these trips. (See the Exhibit, page 15.)

Although payments to LogistiCare for NET services during the review period were greater than payments to NET providers would have been under the division's in-house program, significant cost avoidance was realized by elimination of the division's NET administrative costs.

Also, for the eight-month period, the DOM estimated that administrative costs to operate an in-house program would have been approximately \$1.5 million. (See the Exhibit.) Of this amount, approximately \$1.3 million would have represented personnel costs necessary to coordinate NET services at the DOM and \$200,000 for rent, telephone charges, and training.

Had the DOM continued to operate the NET program in-house, total estimated costs for November 2006 through June 2007 would have been approximately \$19.7 million, the sum of the approximately \$18.2 million in estimated direct payments to transportation providers plus approximately \$1.5 million in administrative costs. (See the Exhibit.)

Conclusion Regarding Cost Comparison

As a result of contracting to broker NET services, the DOM avoided costs of approximately \$1.1 million for the period November 2006 to June 2007. PEER believes that annual cost avoidance at least comparable to that amount should be achievable in the future.

As discussed above and shown in the Exhibit, payments to LogistiCare for NET services were greater than payments to NET providers would have been under the DOM in-house program. However, significant cost avoidance was

realized by the elimination of the DOM's NET administrative costs. Future years' cost avoidance would not include the one-time implementation costs, but would be reduced by the DOM's contract monitoring costs, which PEER estimates to be at least \$7,000 annually.

Chapter 3: Is the broker rendering appropriate services under the current method of service delivery?

PEER found no basis for concern that service delivery of the NET program has suffered under the brokerage contract between the Division of Medicaid and LogistiCare. However, PEER notes minor administrative deficiencies regarding the accurate coding of denials and the validity of timeliness data that have not affected the delivery of services.

To develop the needed perspective on service delivery for the NET program and answer the above-stated question, PEER chose to focus on the following related, more specific questions:

- Does LogistiCare arbitrarily deny transportation services to NET beneficiaries?
- Does LogistiCare provide transportation services in a timely manner?
- Does LogistiCare pay transportation providers in a timely manner to help assure adequate provider participation?
- Does the complaints process reveal any problems with service quality not revealed by LogistiCare reports or PEER's exploratory review of records?
- How has the Division of Medicaid assured that the broker has provided appropriate and timely service delivery?

PEER chose an exploratory purposive sample as the most efficient way to verify the general reliability of the data system LogistiCare uses to ensure conformity with the terms of the division's NET provider manual.

LogistiCare's data system was able to provide reports directly targeted at these questions. PEER's analytic task was to determine whether it could sufficiently replicate these reports by using a sample of source data. Due to time constraints, PEER chose an exploratory purposive sample as the most efficient way to test the reliability of LogistiCare's data system. Using this approach, PEER did not attempt to establish actual error rates for compliance; rather, the exploratory rates were used to verify the general reliability of the data system LogistiCare uses to ensure conformity with the terms of the division's NET provider manual.

PEER performed exploratory samples of LogistiCare's records concerning denials of service, timeliness of

transportation, provider payments, and complaints regarding the NET program. PEER performed the exploratory samples to determine whether:

- beneficiaries were denied in accordance with reasons specified in the provider manual;
- beneficiaries were delivered to appointments for approved services in a timely manner;
- providers received timely payments in accordance with the payment requirements of the provider manual; and,
- the complaint process manifested any areas of poor service.

PEER utilized varying ranges of dates chosen to yield the most viable information for the records under analysis.

During the review, PEER utilized varying ranges of dates chosen to yield the most viable information for the records under analysis. For example, to determine total denial rates, PEER selected denial information for the entire eight months the contract was in effect for FY 2007. To determine LogistiCare's adherence to contractual provisions regarding denial of service, PEER chose the period of May 2007 through August 2007 because such information would provide the best indication of LogistiCare's compliance with policies governing performance of obligations during the most recent operating periods available.

The following sections contain discussions addressing the issues noted above.

Does LogistiCare arbitrarily deny transportation services to NET beneficiaries?

PEER found no evidence of arbitrary denial of transportation services to NET beneficiaries.

Criteria for Denial of Transportation Services to Beneficiaries

In order to determine whether NET beneficiaries have been improperly denied services, PEER used as criteria Section 12.04 of the DOM's NET Provider Policy Manual, which requires LogistiCare to confirm eligibility by establishing the following four conditions:

- the beneficiary is eligible for NET services;
- the beneficiary has a medical need that requires NET services;

- the medical service for which NET service is requested is a covered medical service; and,
- the beneficiary does not have access to available transportation.

Also, the DOM's NET Provider Manual sets conditions under which requests for services will be denied. The reasons for denial of service include the following:

- the beneficiary is not eligible for NET services on the date of service;
- the medical service for which NET service is requested is not a covered medical service;
- the beneficiary has access to available transportation; or,
- the trip was not requested in a timely manner (i. e., by giving seventy-two hours' notice).

LogistiCare's Reported Adherence to Criteria for Denial of Transportation Services

From November 2006 to August 2007, LogistiCare approved 98.2% of the trips requested. The remaining trips were denied based on reasons authorized in the DOM's provider manual.

According to LogistiCare's records, from November 2006 to August 2007, 763,251 trips were requested. Of these trips, the broker approved 98.2% of these trips and initially denied 1.8%.

Of those trips denied, reasons given for ninety-six percent of denials included:

- either the information was incomplete or documentation was insufficient to verify eligibility of beneficiary and/or service;
- lack of three days' notice for a trip;
- the person was not eligible for NET services; or,
- the appointment was for a service not covered.

Reasons for the other four percent were from those authorized under the DOM's provider manual.

Since LogistiCare does not track denials that might be subsequently approved, the actual number of denials for which service was never rendered during the review period is unknown, but would be less than 1.8%.

Requests that are initially denied because of incomplete information or documentation or because of less than three days' notice may subsequently be granted if complete information or documentation is provided by the beneficiary or the service provider or if the appointment is rescheduled to provide at least three days' notice. Since LogistiCare does not track denials that might be subsequently approved, the actual number of denials for which service was never rendered is unknown, but would be less than 1.8% for the above-described period.

PEER's exploratory sample provided no basis for challenging LogistiCare's reported adherence to provisions of the Division of Medicaid's NET provider manual regarding service denial. However, PEER noted problems with LogistiCare's data system coding that did not affect eligibility or cause denials of service.

PEER selected twenty denials during the period May 2007 to August 2007. PEER does not represent the selection of these denials to be a statistically valid sample intent on validating the reasons for denial of service. Rather, PEER's purpose for the review was to test LogistiCare's ability to provide documentation for denials and determine LogistiCare's compliance with requirements of the provider manual for denial of service. LogistiCare provided copies of audio recordings of each selected denial and each denial was in compliance with requirements of the provider manual for denial of service.

PEER selected twenty service denials for the period May through August 2007 to review. LogistiCare provided copies of audio recordings of each selected denial and each denial was in compliance with requirements of the provider manual.

PEER noted that four denials had discrepancies when compared to LogistiCare's prepared reports. Although all of the requests should have been denied, three of the denials were coded with incorrect denial codes and one did not have documentation of a follow-up call. PEER discussed these issues with LogistiCare representatives, who explained that once a denial is coded, it cannot be changed in the system. Concerning the follow-up call, LogistiCare officials stated that the call might have been made under a different case number or the person returning the call did not have security clearance to access the beneficiary's file to log the call. LogistiCare officials stated they would review these situations to determine whether changes in the system are needed to ensure a accuracy in encoding denial reasons.

For four of these denials, although LogistiCare was correct by not granting the requests, the denial codes were incorrect.

Correcting any data accuracy problems that might exist in LogistiCare's management information system would be an important step for the broker so that the Division of Medicaid could be assured that the management information reports it obtains are accurate and may be utilized in making decisions regarding the program. Also, the broker would need proper coding of denials to know whether and how to educate customer service representatives and beneficiaries regarding denials of services.

Does LogistiCare provide transportation services in a timely manner?

Based on PEER's exploratory sample, LogistiCare's providers have delivered beneficiaries to appointments for approved medical services in a timely manner. However, ambiguities in the provider manual and in LogistiCare's procedures allow for the possibility that reported timeliness information might not be accurate.

Criteria for Timeliness of Transportation Services

An important element of the NET program is timely transport of beneficiaries from their homes to their appointments for approved medical services. Section 12.04 of the DOM's NET Provider Manual states that beneficiaries' average wait time for pick-up should not exceed fifteen minutes and that beneficiaries should arrive in time for their appointments for approved medical services. Section 12.05 addresses on-time arrival by requiring transportation providers to make their presence known to the beneficiary and waiting at least five minutes after the scheduled pick-up time before leaving. This section also requires that no more than two percent of the scheduled trips be late (by more than fifteen minutes) or missed.

The provider manual is not clear as to whether the ninety-eight percent on-time requirement is the requirement for picking up beneficiaries at their residences or for delivering them to their appointments for approved medical services.

However, the provider manual is not clear as to whether the ninety-eight percent on-time requirement is the requirement for picking up beneficiaries at their residences or for delivering them to their appointments for approved medical services. LogistiCare officials stated their belief that the most critical event associated with NET services is ensuring that beneficiaries arrive on time for their medical appointments and PEER elected to apply this on-time standard to delivery of beneficiaries to their medical appointments.

LogistiCare's Reported Adherence to Criteria for Timeliness of Transportation Services

Although PEER's exploratory sample found that LogistiCare's providers were not as timely in picking up beneficiaries as in dropping them off for their appointments for approved medical services, the sample rates were generally comparable. Since drop-offs represent the time the beneficiary arrived at the approved destination, PEER chose not to challenge LogistiCare's reported adherence to policy regarding service timeliness.

In accounting for pick-up and drop-off times, LogistiCare and the transportation provider consider the pick-up and drop-off of the beneficiary to the destination for approved medical services to be the "A-leg trip" and the return from the destination to the beneficiary's residence to be the "B-leg trip."

LogistiCare reported that 97% of beneficiaries' drop-offs to appointments were on time or within fifteen minutes of the scheduled drop-off times. PEER's exploratory sample yielded a 95% compliance rate.

LogistiCare produces monthly reports detailing the percentage of A-leg pick-ups that were on time or late and the percent of A-leg drop-offs that were on time or late. Per LogistiCare's reports, 87% of A-leg pick-ups from January 2007 to June 2007 were on time or within fifteen minutes of the scheduled pick-up time and 97% of A-leg drop offs were on time or within fifteen minutes of the scheduled drop-off time.

PEER reviewed 240 A-leg trips that occurred between January and June 2007 to determine the percent of A-leg pick-ups and drop-offs that were on time. For the purpose of PEER's review, "on time" was considered to be on or before the scheduled time and no later than fifteen minutes after the scheduled time. PEER's exploratory sample does not verify reported performance rates and inferences to overall on-time performance should not be made. PEER's review was undertaken to determine that supporting documentation for pick-up and delivery times existed and that such information was comparable to LogistiCare's reported information.

Although the times given in LogistiCare's reports and PEER's review do not meet the 98% requirement, a 95% to 97% on-time delivery represents a reasonable level of customer service.

For the trips reviewed by PEER, 78% of A-leg pick-ups were on time compared to 87% reported by LogistiCare and 95% of A-leg drop-offs were on time compared to 97% reported by LogistiCare.

Although the provider manual calls for a 98% on-time performance, as noted previously, the provider manual was not clear as to whether this performance standard applies to pick-ups or drop-offs. Given the importance of arriving on-time for appointments for approved services, it is reasonable to apply this standard to delivery of beneficiaries for medical services. Although the times given in LogistiCare's reports and PEER's review do not

meet the 98% requirement, a 95% to 97% on-time delivery represents a reasonable level of customer service.

LogistiCare's requirement that the beneficiary sign a transportation log does not clearly constitute a certification that services were rendered at the times recorded on the log.

LogistiCare requires that the beneficiary sign a log prepared by the transportation provider. On the log, the provider records the times at which the beneficiary was picked up at home and the time at which the recipient was delivered to the destination for approved medical services (i. e., the A-leg trip). Times are also recorded for the B-leg trip (i. e., from the destination back to the beneficiary's residence).

PEER concluded that it is not clear whether the signature of the beneficiary on the log is intended to constitute a certification that the beneficiary was delivered to the planned destination or whether it constitutes a certification that all information recorded on the log is true and correct.

After reviewing the log sheets, PEER concluded that it is not clear whether the signature of the beneficiary is intended to constitute a certification that the beneficiary was delivered to the planned destination or whether it constitutes a certification that all information recorded on the log is true and correct. PEER notes that while the log does require that the provider's driver certify the correctness of the information, no such certification requirement is explicitly provided for the beneficiary.

Of the 240 trips reviewed, PEER noted that sixty-four of the trips reported pick-up times exactly "to-the-minute" on time and only three trips that were one minute late. The likelihood that these were the actual pick-up times for this number of trips might be questioned. Without an independent certification as to times of pick-up and drop-off, there is no check on the accuracy of the service provider's driver. However, because complaints concerning the NET transportation system occurred for only three-tenths of one percent for all trips, timely pick-up of beneficiaries does not appear to represent a significant problem.

Does LogistiCare pay transportation providers in a timely manner to help assure adequate provider participation?

PEER's exploratory sample found no basis for challenging LogistiCare's reported adherence to the provider manual regarding timely payments to transportation providers.

Criteria for Timeliness of Payments to Transportation Providers

Under the DOM's NET Provider Policy Manual, the broker is to pay ninety-nine percent of all "clean claims" within

ninety days following receipt. A “clean claim” is one that can be processed without additional information from the provider or a third party.

LogistiCare’s Reported Adherence to Criteria for Timeliness of Payments to Transportation Providers

According to information provided by LogistiCare, during the review period the company exceeded the requirements of the provider manual by paying 99.997% of clean claims (i. e., claims needing no additional information in order to be processed) within ninety days of receipt.

In addition to providing reasonable customer service to beneficiaries, prompt payment of transportation providers is necessary to ensure an adequate number of providers, which in turn is necessary for operating an effective statewide program. From November 2006 through August 2007, LogistiCare paid over 484,000 clean claims to transportation providers. According to information provided by LogistiCare, the company exceeded the requirements of the provider manual by paying 99.997% of clean claims within ninety days of receipt.

Ninety-one percent of claims submitted by providers to LogistiCare are paid initially. For the other nine percent, reasons for denial include:

- incomplete information, such as missing signature of the driver or beneficiary or an incorrect trip number; and,
- the driver or vehicle had not been approved by LogistiCare.

LogistiCare notifies providers when a submitted claim is denied and the reason(s) for denial. Providers may resubmit claims that had incomplete or incorrect information after the missing information is obtained or corrected. However, if a trip’s driver or vehicle has not been approved, LogistiCare denies payment of the claim and such claims may not be resubmitted.

During the period of PEER’s review, LogistiCare remitted payments to providers on a timely basis and denied claims for provider payments in accordance with guidelines specified in the provider manual.

PEER reviewed eighty-four invoices submitted by providers for payment to determine whether payment was made within specified guidelines and whether denials were for appropriate reasons. PEER found LogistiCare remitted payments on a timely basis and denied claims for provider payments in accordance with guidelines specified in the provider manual.

LogistiCare could not provide PEER with the number of initially denied provider claims that were ultimately paid because claims with incorrect trip numbers cannot be entered into the system due to the system’s lack of a trip to which the claim could be attached and thus later noted if the claim is ultimately paid.

Does the complaints process reveal any problems with service quality not revealed by LogistiCare's reports or PEER's exploratory review of records?

PEER's analysis of the complaints process does not reveal any concerns regarding service quality that conflict with LogistiCare's reports or PEER's exploratory sample.

As with all services, complaints are received regarding the NET program. LogistiCare is responsible for receiving, investigating, and responding to all complaints regarding the NET program. If the Division of Medicaid receives complaints about the NET program, the division refers these to LogistiCare.

Complaints Process for the NET Program

From January 2007 through July 2007, LogistiCare's complaint rate regarding the NET program was approximately three-tenths of one percent for all trips.

LogistiCare receives most complaints by telephone and assigns quality assurance representatives to investigate the validity of the complaint. If possible, the quality assurance representative resolves the complaint during the call. If the quality assurance representative is unable to resolve the complaint immediately, the representative ends the call, attempts to resolve the complaint, and calls the complainant back regarding the complaint's resolution.

LogistiCare reviews complaints to determine whether any particular facility is frequently the subject of complaints. LogistiCare also uses the complaints information to monitor the quality of each transportation provider's quality of service by determining each provider's proportion of complaint-free trips and that provider's relative share of complaints compared to the volume of trips. (For example, a provider supplying one percent of trips should not generate five percent of complaints.)

Since all complaints relating to the transportation provider being late represented less than two-tenths of one percent, PEER does not believe that the timeliness of transportation providers warrants further investigation.

According to the DOM, the division receives a monthly summary of complaints and the resolutions of the complaints and analyzes the report to determine trends or problems with service issues. DOM staff members state that they specifically review complaints regarding LogistiCare to determine whether problems with service quality exist.

From January 2007 through July 2007, approximately 410,000 trips were completed and 1,225 complaints were received by LogistiCare regarding the NET program. This represents a complaint rate of approximately three-tenths

of one percent. The subject of the complaint might be the transportation provider (92% of total complaints), LogistiCare (5% of total complaints), issues regarding the medical facility (1.6% of total complaints), or beneficiary injury or incident (1.4% of total complaints). Of the complaints related to transportation providers, 48% of those complaints related to the transportation provider being late. The complaints did not specify whether the provider was late for picking up the beneficiary or if the provider was late in dropping off the beneficiary. However, since all complaints relating to the transportation provider being late represented less than two-tenths of one percent, PEER does not believe that the timeliness of transportation providers warrants further investigation.

PEER's Verification of LogistiCare's Complaint Process

According to PEER's review of the records of complaints received between May and August 2007, LogistiCare maintained adequate records to investigate complaints and followed appropriate procedures in receiving and investigating complaints.

PEER reviewed twenty-five complaints received by LogistiCare between May 2007 and August 2007. The purpose of PEER's review was to determine whether LogistiCare maintained adequate, auditable records to investigate complaints and whether LogistiCare's policies and procedures were followed in these instances.

For the complaints PEER reviewed, LogistiCare's documentation was sufficient to allow the investigation of the complaints.

In each instance, LogistiCare had audio recordings of each complaint and followed appropriate policies and procedures in receiving and investigating the complaint. LogistiCare's documentation was sufficient to allow the investigation of complaints.

If the Division of Medicaid follows its stated procedures for monitoring complaints regarding LogistiCare (see next section), the division should be able to detect any service delivery issues on a timely basis.

How has the Division of Medicaid assured that the broker has provided appropriate and timely service delivery?

Although the DOM's state plan for the NET program notes that the broker will be subject to regular auditing and oversight to ensure the quality of transportation services provided and the adequacy of beneficiaries' access to medical care and services, the Division of Medicaid did not implement

formal, documented quality assurance processes until the contract had been in effect for a full year.

Requirements of the State Plan with CMS

Federal requirements mandate that the states ensure the quality of NET services through auditing and oversight. Mississippi's state plan for the NET program, approved by CMS, includes the following language:

The State assures that transportation services will be provided under a contract with a broker who. . .is subject to regular auditing and oversight by the State in order to ensure the quality of the transportation services provided and the adequacy of beneficiary access to medical care and services.

Federal requirements mandate that the states ensure the quality of NET services through auditing and oversight. The Division of Medicaid intends to implement formal review procedures on a quarterly basis.

When questioned by PEER, DOM officials stated they were performing informal monitoring procedures such as reviewing LogistiCare-generated management reports and noting areas of concern; communicating concerns via e-mail and telephone; listening to some telephone calls made to the broker by beneficiaries; and forwarding complaints to the broker and ensuring that follow-up was performed on those complaints. However, the first, formal, documented monitoring review of LogistiCare's compliance with policy did not begin until November 26, 2007, over twelve months after the contract started.

The Division's Plans to Monitor for Quality Assurance

The DOM intends to implement formal review procedures on a quarterly basis. These procedures are designed to ensure LogistiCare's compliance with policies with respect to the following areas:

- denying rides to beneficiaries;
- transporting beneficiaries in a timely fashion;
- handling complaints;
- inspecting transportation providers' vehicles;
- credentialing of drivers;
- responding appropriately to accidents and incidents;

- paying NET providers on time; and,
- complying with the request for proposals.

As noted above, during the course of this project, the DOM was in the process of conducting its first formal monitoring review of the LogistiCare contract. The division plans to note all exceptions in a report to which LogistiCare must respond with a resolution.

Recommendations

1. The Legislature should amend MISS. CODE ANN. Section 25-61-9 (1972) to exclude PEER and other investigative bodies from the scope of any protective order limiting public access to documents in the possession of state agencies. Additionally, the Legislature should adopt legislation that would clearly authorize legislative enforcement of subpoenas through the court system if a committee deems such enforcement necessary to carry out its prerogatives. The Legislature should also define in law the criminal offense of contempt of the Legislature and establish a penalty for such.
2. When making future decisions regarding contracting for services with a private, for-profit company, the Division of Medicaid should engage in a formal needs assessment process to determine what tasks and services are needed, whether current staff can perform these tasks and provide the services, and the estimated cost of these tasks and services.
3. The Division of Medicaid should require LogistiCare to make the programming changes necessary to LogistiCare's NET program to ensure that accurate codes are captured regarding denial of NET services.
4. The broker's log sheets should require that beneficiaries or responsible parties certify by signature that they not only received the service, but that the times denoted by the driver are true and correct. If the times are not correct, the log should provide a place for the beneficiary to note the actual times of service.
5. The Division of Medicaid should require LogistiCare to implement necessary system modifications that would allow LogistiCare to identify and exclude from denial reports any requests for NET services that were initially denied due to incomplete information/documentation or inadequate notice, but that are ultimately approved for NET service after the information/documentation is supplied or the appointment is rescheduled.
6. The Division of Medicaid should continue with its plan to implement formal, quarterly, and continuous monitoring procedures for the NET program. The division should use its monitoring procedures to verify documentation submitted by LogistiCare and

any discrepancies should be resolved and corrective action taken before the end of the next quarterly or monthly reporting cycle. The division should also use these monitoring procedures to ensure that appropriate NET services are provided to Medicaid beneficiaries and detect patterns that might indicate a decline in service or inappropriate denials of service.

Agency Response



STATE OF MISSISSIPPI
OFFICE OF THE GOVERNOR
DIVISION OF MEDICAID

DR. ROBERT L. ROBINSON
EXECUTIVE DIRECTOR

January 10, 2008



HAND DELIVERED

Dr. Max Arinder, Executive Director
PEER Committee
501 North West Street
Woolfolk Building, 3rd Floor
Jackson, MS 39201

Dear Dr. Arinder:

Please accept this as the response to your Performance Review of the Mississippi Division of Medicaid's (DOM) Non-Emergency Transportation (NET) Program. Overall, DOM agrees with the contents of the report and we believe it factually demonstrates that the decision to broker the NET program has had and will continue to have a positive impact on the delivery of services and overall program cost. However, we would like to provide the following comments and clarifications of facts.

The PEER report begins with a discussion of "atypical problems that resulted in delays of the project's completion", and includes references to DOM's inability to share information with PEER due to a court order obtained by LogistiCare (for reasons not related to the PEER review) and an initial lack of cooperation on the part of LogistiCare.

Contrary to the PEER assertion of an "initial lack of cooperation" LogistiCare worked closely with both the PEER audit staff and its legal representatives and dedicated substantial local and corporate resources to respond to PEER's requests for information. On September 5, 2007, LogistiCare received from PEER an initial broad request for files, data and other information regarding the DOM NET program that included a request for a response from LogistiCare by September 10, 2007. On September 10, 2007, LogistiCare submitted a response to PEER and stated that it would, "review the Committee's requests and where information is available we will redact that information to conform to HIPAA confidentiality requirements."

In addition, LogistiCare's September 10th response to PEER requested that all future requests for information be submitted through DOM and also cited the fact that on February 6, 2007, the Hinds County Chancery Court had issued a permanent injunction expressly to protect LogistiCare's trade secrets and other confidential research, development and commercial information from public disclosure. The letter further stated that, "[w]e acknowledge and appreciate your sensitivity to the protection of this proprietary information. The fact that PEER's work files are exempt from the Mississippi Public Records Act does not, of course, guarantee that the information would remain confidential if it were released to you." LogistiCare's concern was and remains that any voluntary waiver of the protections of the permanent injunction would jeopardize future enforceability of the injunction.

Immediately thereafter LogistiCare local counsel began to work with PEER and Mississippi Attorney General staff attorneys to determine what data and/or information could be released to PEER. LogistiCare sought to limit the information to that which did not violate the Hinds County Court order while PEER asked for a voluntary waiver of the protections of the Injunction. On October 16, 2007, PEER issued a Legislative Subpoena Duces Tecum ordering the appearance of specific LogistiCare staff at a Committee hearing to be held on November 6, 2007, and production of original source documentation at that hearing.

On November 2, 2007, LogistiCare filed objections to the nature and extent of individual subpoena requests in conformance with Mississippi Code of Civil Procedure. In addition, in advance of the November 6th hearing LogistiCare invited the PEER audit staff to tour the Jackson, MS operations facility and provided a demonstration of its reservation system.

Both LogistiCare and DOM representatives appeared at the November 6th Committee hearing during which the PEER audit team representatives expressed satisfaction at the cooperation of LogistiCare and DOM. On November 9, 2007, LogistiCare and PEER attorneys conducted a conference call during which LogistiCare summarized a series of both standard and ad hoc reports it had submitted to PEER in response to its requests that did not violate either HIPAA confidentiality provisions or the Hinds County Injunction. An informal compromise was then reached whereby PEER agreed to execute a HIPAA Business Associate Agreement to ensure confidentiality of beneficiary information while PEER audit staff agreed that LogistiCare was able to protect from disclosure trade secrets and other confidential research, development and commercial information from disclosure.

The HIPAA agreement executed by PEER was delivered to LogistiCare on November 29, 2007. On December 6th LogistiCare delivered to PEER ninety-nine boxes of records

Dr. Max Arinder
Page 3

and data. On December 12th and 13th the PEER audit team conducted an on-site review of LogistiCare's operations and various source documents and data. The last two weeks of December 2007 saw a few follow-up questions and answers sent back and forth between PEER and LogistiCare's staff. The PEER draft report was submitted to the Committee on January 7, 2007.

While the approximate two month period between the submission to LogistiCare of the initial data request and the final compromise between the parties was unfortunate timing given PEER's internal calendar, it was a necessary delay to ensure that the federal mandates of HIPAA were followed and that the terms of a valid state court injunction were not violated.

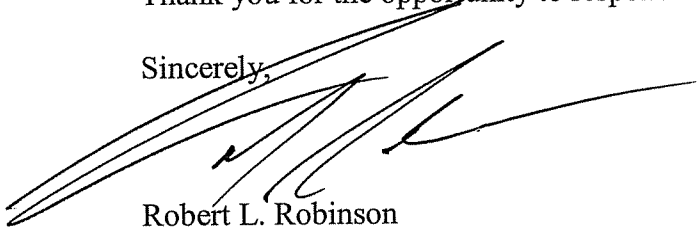
Additionally, under the section "What is the Non-Emergency Transportation Services Program and who is eligible to receive services?", PEER indicates that individuals with Medicare dual eligibility is an example of beneficiaries who are not eligible for NET. In fact, there are certain individuals with Medicare dual eligibility that are eligible for NET.

Also, in regards to the cost savings estimated by PEER, it is DOM's opinion that cost savings will exceed the amount reported. PEER utilized the fee for service rates which were in effect on June 1, 2006. Had DOM not brokered the program, it is our opinion that those rates would have increased significantly due primarily to the rising cost of fuel. Finally, PEER estimates the annual cost to monitor the contract at \$7,000. PEER did not provide DOM with documentation on how they arrived at that amount. As a result, we cannot agree or disagree with the reported amount.

Finally, PEER stated that the division did not conduct a formal needs assessment or cost analysis prior to our decision to change the service delivery model. While the needs assessment was performed informally, DOM executive and program staff did a thorough analysis of costs both prior to and during the request for bid process. This analysis was utilized in our decision to award the contract to LogistiCare.

Thank you for the opportunity to respond to this report.

Sincerely,



Robert L. Robinson
Executive Director

cc: Mrs. Janet Mann, Deputy Administrator, DOM
Mr. Brian Smith, Bureau Director, DOM

PEER's Clarification of Assertions in the Agency Response

The PEER Committee acknowledges receipt of the agency response to this report and thanks the Office of the Governor, Division of Medicaid for a timely response that allowed the PEER Committee to meet its statutory deadline for production of the report. The response does, however, contain detail that requires further PEER comment.

- In its response, the Division of Medicaid (DOM) states:

On September 10, 2007, LogistiCare submitted a response to PEER and stated that it would, "review the Committee's requests and where information is available we will redact that information to conform to HIPAA confidentiality requirements."

PEER notes that its copy of LogistiCare's September 10, 2007, letter does not contain the above-quoted language. The September 10, 2007, letter does state that "all requests for information must be submitted to the Division of Medicaid for review and approval and should not be submitted directly to LogistiCare." There is nothing in the letter offering redaction of information.

- DOM's response states:

Both LogistiCare and DOM representatives appeared at the November 6th Committee hearing....

PEER notes that, as reflected in the PEER minutes, the LogistiCare and DOM representatives actually appeared at the PEER Committee hearing on November 13, 2007.

- DOM's response states:

On December 12th and 13th the PEER audit team conducted an on-site review of LogistiCare's operations and various source documents and data.

PEER notes that PEER staff conducted fieldwork at LogistiCare's Jackson operation's center on December 11th, 12th, and 13th.

- DOM's response states:

...PEER indicates that individuals with Medicare dual eligibility is an example of beneficiaries who are not eligible for NET. In fact, there are certain individuals with Medicare dual eligibility that are eligible for NET.

PEER accepts this as a factual error and has made the following correction on page 7 of the PEER report:

Individuals in some Medicaid-eligible categories (such as certain individuals with Medicare dual eligibility) are excluded from NET eligibility.

In closing, PEER reaffirms the position taken in the report regarding lack of early cooperative efforts and acknowledges that these difficulties were resolved in sufficient time to proceed with the review and produce the report by the January 15, 2008, statutory deadline. PEER also acknowledges that prior to resolution of the issues discussed on pages 2 through 4 of the report, the Division of Medicaid and LogistiCare did not believe at that point that they could act otherwise regarding PEER's access to information. The issues that led to the respective concerns regarding access could be the subject of more general debate based on the first recommendation of this report (see page 30).

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