



March 14, 2024

Bob Schmit
Transportation Policy Manager
Bureau of Health Access, Policy, and Innovation
Division of Program Development and Management
New York State Department of Health
Office of Health Insurance Programs
Empire State Plaza, Corning Tower
OCP 720
Albany, NY 12237

Re: MLTC Non-Emergency Transportation Benefit Carve-Out

Dear Mr. Schmit:

Thank you for assisting with the questions and concerns of the New York State Adult Day Services Association (NYSADSA) in connection with the carve-out of non-emergency medical transportation from Managed Long-Term Care (MLTC) benefits and the impact on social adult day care (SADC). According to the “MLTC FAQs for MAS” that were recently sent to MLTC plans, the responsibility of transportation to and from SADC programs will remain with the MLTC plans, pending the Department of Health’s (DOH) review of trip data submissions by the MLTC plans. DOH’s February 16, 2024 letter to MLTC plans confirmed that, pending completion of the data analysis, SADC programs that handle their own transportation or contract directly with a transportation provider should continue to bill their MLTC plans for transportation even after March 1, 2024. We wanted to highlight some issues for your consideration as DOH makes future determinations about this benefit.

First, in regard to the trip data submissions from MLTC plans, some SADC providers utilize Modivcare with Modivcare-contracted transportation vendors via authorizations provided the MLTC plans, while other SADC providers provide transportation using their own vehicles pursuant to their contracts with MLTC plans. In the latter case, some contracts between SADC providers and MLTC plans set forth one rate for SADC and a separate rate for transportation, sometimes at a round-trip rate and other times a one-way rate. However, many SADC providers have contracts with MLTC plans under which the reimbursement rate is an all-inclusive daily rate for both SADC and transportation. Therefore, MLTC plans’ data may not fully reflect the amount of transportation being provided by SADC providers, as the billing codes do not necessarily track transportation separately. Accordingly, DOH and MAS may not be aware of the full extent of transportation that needs to be arranged for SADC participants.

Second, were the carve-out of non-emergency medical transportation from MLTC benefits to be extended to SADC, many complications would arise. As mentioned, many provider contracts

with MLTC plans establish reimbursement at an all-inclusive rate. How will MLTC plans address contracts with an all-inclusive rate already in place? In addition, SADC providers are not currently enrolled as Medicaid Transportation Providers because SADC is a non-medical service covered in the MLTC benefit package. Questions to be resolved include:

- Going forward, would SADC providers with their own vehicles be required to enroll as Medicaid Transportation Providers? If so, would they also need to enroll as Medicaid service providers?
- How long would the registration process to become a Medicaid Transportation Provider take, and would there be expedited procedures for SADC providers?
- To be enrolled as a Medicaid Transportation Provider would require compliance with additional State transportation regulations for driver qualifications, recordkeeping, insurance, etc. Would the rates paid by MLTC plans be updated to appropriately compensate for these additional obligations?
- For those SADC providers located in New York City that want to enroll to become Medicaid Transportation Providers, would they also be required to become licensed by the New York City Taxi and Limousine Commission (NYC TLC)?
 - SADC providers' vans should not be considered for-hire vehicles (FHVs), but if they were, would they be dispatched by TLC-licensed FHV bases? NYC TLC is currently accepting new FHV applications for only wheelchair-accessible vehicles, electric vehicles, or if the driver has a lease-to-own contract. Many SADC centers' vans would not fall into one of those categories. Would SADC centers be required to modify their vehicles to comply with Americans with Disabilities Act (ADA) regulations and specifications?
 - Would SADC centers' vans be considered paratransit vehicles? If so, would they be dispatched by paratransit bases or MAS?
- Will non-medical group transportation be an option under Medicaid?
- Will MAS be responsible for transportation necessary for SADC providers to implement the Home and Community-Based Services (HCBS) Final Rule requiring community integration?
- Will MAS be responsible for scheduling and adjusting participants' pick-up from home schedule "on the fly," considering there is a three-day mandatory advance notice required for MAS for non-emergent transportation?
- Will DOH allow invoicing of transportation instead of billing for reimbursement?
- If MAS is negotiating rates with SADC providers, will there be a closed bid by location?

More fundamentally, would the coordination of transportation to SADC centers by a transportation management broker be in the best interests of the SADC participants? Transportation is a core social determinant of health (see Paul G. Shekelle, et al., *Effect of interventions for non-emergent medical transportation: a systemic review and meta-analysis*, BMC Public Health, (published online April 21, 2022), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9026972/>). SADC providers offer a unique program that depends on streamlined, reliable transportation for program attendees to ensure that MLTC plan members receive their essential long-term care services as scheduled. SADC participants are functionally impaired, chronically ill or disabled, and often elderly and frail, but yet are able to safely remain in the community (and not a nursing home setting) with these long-

term care services and supports. Transportation provided by SADC programs is held to higher standards than other non-emergency medical transportation or non-medical transportation (see, e.g., NYC Department for the Aging, Social Adult Day Services, Standards of Operation and Scope of Services, Standard 12 Transportation (July 2023), available at <https://www.nyc.gov/assets/dfta/downloads/pdf/community/Social-Adult-Day-Service-Standardsv07-2023-v2.pdf>). SADC participants receiving transportation through their SADC provider are personally known by the SADC program, increasing the feeling of comfort and security of the SADC participants. Personally tailored transportation better ensures timely pickups and drop-offs, regular attendance, and the overall well-being of this vulnerable population.

NYSADSA remains available and eager to discuss these concerns with DOH as it makes determinations about SADC programs and transportation.

Very truly yours,



Ann Marie Selfridge
President
New York State Adult Day Services Association

cc: Kate Bliss, DOH