SENATE, No. 2190



STATE OF NEW JERSEY

219th LEGISLATURE



INTRODUCED MARCH 16, 2020

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Senator ROBERT W. SINGER

District 30 (Monmouth and Ocean)

SYNOPSIS

“Medicaid Transportation Brokerage Program Oversight and Accountability Act”; establishes vehicle, staffing, and performance standards, and review and reporting requirements for non-emergency medical transport provided under Medicaid transportation brokerage program.

CURRENT VERSION OF TEXT

As introduced.



An Act concerning non-emergency medical transport provided under the State’s Medicaid transportation brokerage program, and supplementing Title 30 of the Revised Statutes.

Be It Enacted by the Senate and General Assembly of the State of New Jersey:

1. This act may be known, and shall be cited as, the “Medicaid Transportation Brokerage Program Oversight and Accountability Act.”

2. As used in this act:

“Covered medical service” means a physical or behavioral health care service that is provided to a Medicaid beneficiary and is eligible for reimbursement under the State Medicaid program.

“Department” means the Department of Human Services.

“Initial trip” means the transport of a Medicaid beneficiary to a medical provider for the purposes of receiving a covered medical service.

“Livery vehicle” means a chauffeured vehicle, other than a mobility assistance vehicle, which is used to transport ambulatory Medicaid beneficiaries to and from health care providers to receive covered medical services. “Livery vehicle” includes, but is not limited to, a clinic van, a paratransit van, or a wheelchair van.

“Medicaid program” means the State Medicaid program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

“Medicaid transportation broker” or “broker” means LogistiCare Solutions, LLC or another corporate entity, which is contracted by the department, and is responsible for: developing and maintaining a non-emergency medical transport provider network for use by Medicaid program beneficiaries; verifying beneficiary eligibility for non-emergency medical transport; determining and authorizing the appropriate mode of transport for each beneficiary on the basis of medical necessity; and dispatching an appropriate provider vehicle to transport the beneficiary.

“Medicaid transportation brokerage contract” means the contract that is executed between the department and the Medicaid transportation broker for the purposes of the Medicaid transportation brokerage program.

“Medicaid transportation brokerage program” or “brokerage program” means the brokerage program operated by the department, and pursuant to which the department contracts with a Medicaid transportation broker to manage the provision of non-emergency medical transport to Medicaid beneficiaries in the State.

“Medical necessity form” means a document that: is submitted by a Medicaid beneficiary who is requesting that transportation services be provided thereto through the use of a mobility assistance vehicle; identifies the Medicaid beneficiary’s current medical diagnoses, impairments, or functional disabilities, with particular emphasis on factors that affect the beneficiary’s ability to walk; and demonstrates that other modes of transport are not appropriate or available to the beneficiary.

“Mobility assistance vehicle” means a chauffeured vehicle that is staffed by certified trained personnel, and which is used to transport a non-ambulatory Medicaid beneficiary who is sick, has an infirmity, or has a disability, and is under the care and supervision of a physician, and whose medical condition is not of sufficient magnitude or gravity to require transportation by ambulance, but is of sufficient magnitude or gravity to require transportation from place to place for medical care, and whose use of an alternate form of transportation, such as a taxicab, bus, livery vehicle, private vehicle, or public conveyance might create a serious risk to the beneficiary’s life or health.

“Multi-passenger load” means an initial trip or a return trip in which a Medicaid beneficiary is transported simultaneously with other Medicaid beneficiaries in the same vehicle, regardless of whether all passengers are being transported to the same location, or to different locations.

“Provider” means a person, company, firm, association, corporation, or other entity that is participating directly, or indirectly as a subcontractor, in the Medicaid program, and that is providing transportation services as an authorized provider in the Medicaid transportation broker’s network.

“Return trip” means the transport of a Medicaid beneficiary from a medical provider following the beneficiary’s receipt of a covered medical service.

“Transportation service” means the non-emergency medical transport of a Medicaid beneficiary by a provider who is engaged in the Medicaid transportation brokerage program, and which transport is provided through the use of a mobility assistance vehicle or livery vehicle and is necessary for the Medicaid beneficiary to receive covered medical services.

3. a. A provider of transportation services shall ensure that requested transportation services are provided within 15 minutes of the pre-arranged pick-up time that is scheduled by the person seeking the services and agreed to by the provider.

b. A provider of transportation services, before engaging in the provision of transportation services to a Medicaid beneficiary, shall demonstrate, in a form and manner specified by department regulation, that the provider has a workers’ compensation policy, a general liability insurance policy, and an automobile liability insurance policy that covers all vehicles that will be used in the provision of transportation services. If a provider fails to demonstrate that it has all three policies, and that each policy is current, the provider shall be prohibited from providing transportation services to Medicaid beneficiaries.

c. A provider of transportation services shall register each vehicle used in the provision of transportation services as a “commercial” or “livery” vehicle, as appropriate, and shall additionally maintain a current vehicle inspection report for each such vehicle. Any vehicle that is not appropriately registered, that does not have a current vehicle inspection report, or that has failed its most recent vehicle inspection, shall not be used to provide transportation services to a Medicaid beneficiary under the Medicaid transportation brokerage program.

d. Any vehicle that has been driven more than 150,000 miles shall undergo an enhanced inspection process before commencing or continuing operations as a livery or mobility assistance vehicle. The enhanced inspection process shall include: (1) an evaluation of all vehicle maintenance records to ensure that all appropriate oil changes and air filter changes have been completed; (2) an inspection of all four tires, and, if applicable, any spare tire; (3) repacking of wheel bearings; (4) completion of engine tune-ups; (5) an inspection of all seatbelts; (6) an inspection of the windshield to ensure that it does not have clear damage; (7) an inspection of the vehicle’s electrical systems; (8) the servicing of fluid levels; (9) the lubrication of the vehicle’s chassis and doors; (10) an inspection of the vehicle’s air conditioning and heating systems; (11) an inspection of the vehicle’s hoses and fire extinguishers; (12) an inspection of the vehicle’s brakes, headlights, and indicator lights; and (13) an inspection of any body damage. Any vehicle that fails the enhanced inspection shall immediately be withdrawn from service as a livery or mobility assistance vehicle, and shall have its inspection medallion removed, until such time as the vehicle has been repaired and re-inspected, and is deemed safe to operate.

e. A provider shall not provide transportation services using any vehicle that seats less than four passengers, in addition to the driver.

f. A provider shall ensure that the drivers and other staff members employed thereby are appropriately licensed or certified to provide transportation services, as required by law.

g. A provider shall comply with all applicable criminal history record background check requirements imposed by the department, and shall not employ any driver or other person who has ever been convicted of a disqualifying offense, as defined by department regulation, regardless of the date of the offense or conviction therefor.

h. A provider shall only be authorized to transport a Medicaid beneficiary to or from a medical provider in order to receive a covered medical service, and not for any other purpose.

4. a. A provider shall ensure that its drivers, and any other staff members who come into direct contact with a person receiving transportation services, successfully complete training as provided by this section. A provider shall not employ, or shall dismiss from employment, as appropriate, any person who fails to complete such training.

b. A driver or other staff member who comes into direct contact with a person receiving transportation services, and who commences employment after the effective date of this act, shall receive training upon the commencement of employment, and biennial refresher training thereafter, as follows:

(1) training on how to satisfy the special needs of a beneficiary who is receiving transportation services;

(2) training on the procedures that should be followed to adequately respond to a complaint from a beneficiary who is receiving transportation services; and

(3) training on how to provide appropriate and courteous treatment and engage in positive interactions with a beneficiary who is receiving transportation services.

c. A driver or other staff member who comes into direct contact with a person receiving transportation services, and who is employed as of the effective date of this act, shall complete the training described in subsection b. of this section within six months after the effective date of this act, and biennial refresher training thereafter.

d. Training under this section shall be provided by the department, a division of the department, or any agency that is contracted by the department to provide such training.

5. a. Each provider shall maintain a monthly transportation services log to document the transportation services that were provided thereby to Medicaid beneficiaries during the month, and shall make the log available to the department, upon request. The transportation services log shall be updated on a daily basis, and shall identify, for each Medicaid beneficiary served by the provider:

(1) the name of the Medicaid beneficiary;

(2) whether the Medicaid beneficiary was transported using a mobility assistance vehicle or a livery vehicle;

(3) the model year and registration number of the vehicle used for transport;

(4) the driver’s name;

(5) the date and time for which pick-up was scheduled, for both the initial trip and the return trip;

(6) the date and time at which the vehicle actually arrived to pick up the beneficiary for the initial trip and the return trip;

(7) the name and address of the medical provider to or from which the beneficiary was transported;

(8) the time at which the beneficiary was scheduled to arrive at the medical provider’s office for the provision of covered medical services;

(9) the time at which the transport vehicle actually arrived at the medical provider’s office;

(10) whether the beneficiary, for both the initial trip and the return trip, was the sole passenger in the vehicle, or was transported as part of a multi-passenger load; and

(11) the actual number of miles traveled between the pick-up location and the drop-off location, for both the initial trip and the return trip, which mileage shall be calculated in accordance with the provisions of subsection c. of section 9 of this act.

b. In addition to the transportation services log maintained pursuant to subsection a. of this section, a provider of transportation services shall maintain the following records:

(1) documentation for each driver of a mobility assistance vehicle or livery vehicle certifying that the driver has completed department-approved medical and safety training courses, as well as the sensitivity training required by section 4 of this act, and showing the date on which such training was successfully completed;

(2) a copy of the driver’s license possessed by each driver of a mobility assistance vehicle or livery vehicle;

(3) a copy of any other licenses or certifications that are required for the provider’s staff members;

(4) a copy of all applicable licenses, registrations, and inspection reports for each vehicle that is used by the provider in the provision of transportation services;

(5) a copy of any complaints that were submitted directly to the provider and forwarded thereby to the department’s designated evaluator, pursuant to subsection b. of section 7 of this act; and

(6) any other records required by department regulation, or by the Medicaid transportation brokerage contract.

c. A provider, when submitting a claim for reimbursement under the Medicaid program, shall also submit a copy of the monthly transportation services log that is maintained under subsection a. of this section for the reimbursement period, and shall allow the broker or the department, upon request, to review copies of the records that have been retained under subsection b. of this section for each driver, other staff member, or vehicle used in the provision of transportation services identified under the claim.

6. a. (1) The Medicaid transportation broker, upon receiving a request for transportation services under the brokerage program, shall require the beneficiary requesting the service to certify that the transportation is necessary to enable the beneficiary to receive a covered medical service.

(2) The department, as deemed appropriate, may additionally require the broker, or the individual providers in the broker’s network, to obtain verification from the medical provider, prior to the date of transport, as to whether a covered medical service will be received by the beneficiary on the date of transport.

b. The Medicaid transportation broker, upon receiving a request for transportation services to be provided through a mobility assistance vehicle, shall ensure that the Medicaid beneficiary submits a medical necessity form justifying the use of the mobility assistance vehicle. The medical necessity form shall be submitted by the Medicaid beneficiary before the vehicle is dispatched. If no medical necessity form is submitted by the Medicaid beneficiary, the broker shall not authorize a provider to use a mobility assistance vehicle to provide transportation services to the beneficiary, and transportation services shall instead be provided through the use of a livery vehicle, where appropriate. A Medicaid beneficiary seeking transportation services through the use of a mobility assistance vehicle shall be required to submit a medical necessity form, as provided by this section, regardless of the beneficiary’s medical condition or place of residence, and regardless of the whether the broker or the individual provider has existing knowledge of the beneficiary’s medical condition.

c. The Medicaid transportation broker shall maintain the following records, and shall make them available to the department, upon request:

(1) a daily and monthly log showing each transportation service that was requested and each transportation service that was provided under the brokerage program during the period, and additionally identifying the individual provider in the network who provided each transportation service, and the type of vehicle that was dispatched in each case;

(2) a copy of each medical necessity form that is submitted, pursuant to subsection b. of this section, by a Medicaid beneficiary who is seeking the use of a mobility assistance vehicle;

(3) a record showing the date and time on which a Medicaid beneficiary provided oral or written certification, pursuant to paragraph (1) of subsection a. of this section, that transportation was required to enable the beneficiary to receive a covered medical service; and, if required by the department pursuant to paragraph (2) of subsection a. of this section, a log showing the date and time on which the medical provider was contacted for verification purposes, and indicating whether the medical provider confirmed that a covered medical service was being provided to the transportation recipient on the date of transport;

(4) a log of cases in which the waiting time for a transportation service was in excess of 15 minutes;

(5) a record showing the types of insurance coverage that are held by each individual provider in the network;

(6) a copy of any complaints that were submitted directly to the broker and forwarded to the department’s designated evaluator, pursuant to subsection b. of section 7 of this act; and

(7) any other records required by the department.

7. a. The department shall designate an employee to conduct an evaluation of the Medicaid transportation brokerage program, on at least an annual basis, as provided by this section. The evaluation shall not be conducted by the Division of Medical Assistance and Health Services, or its successor, or by any employee of the division. The designated evaluator shall:

(1) in accordance with the provisions of subsection b. of this section, receive, catalogue, and report to the department on the complaints that are submitted by Medicaid beneficiaries with regard to the transportation services that are provided under the Medicaid transportation brokerage program; and

(2) in accordance with the provisions of subsection c. of this section, regularly evaluate the performance of the Medicaid transportation broker and individual transportation service providers in the broker’s network, in order to ensure compliance with applicable performance standards.

b. (1) The designated evaluator shall receive and catalogue all complaints that are submitted by recipients of transportation services provided under the Medicaid brokerage program. Any complaints that are submitted directly to a provider, or to the Medicaid transportation broker, shall be forwarded to the designated evaluator, in a form and manner prescribed by department regulation, within five business days, except that any complaints alleging health or safety risks or violations shall be forwarded to the designated evaluator within one business day.

(2) Upon receipt of a complaint about a transportation service, the designated evaluator shall verify the facts of the complaint and catalogue the complaint in a monthly report, as provided by paragraph (3) of this subsection.

(3) On a monthly basis, the designated evaluator shall submit a report to the commissioner, to the Director of the Division of Medical Assistance and Health Services, and to the Medicaid transportation broker, indicating: (a) the total number of Medicaid beneficiaries who received transportation services during the month under the brokerage program, and the total number of Medicaid beneficiaries who received transportation services during the month from each individual transportation provider within the broker’s network; (b) the total number of complaints that were filed during the month, and the number and percentage of those complaints that dealt with the broker, and with each individual provider in the broker’s network; (c) the percentage of transportation recipients who filed a complaint during the month; and (d) the nature of the complaints that were filed. The report submitted to the commissioner shall additionally provide a recommendation as to the amount of monthly liquidated damages, if any, that should be imposed on the broker by the department, pursuant to section 8 of this act, in response to the complaints.

c. (1) The designated evaluator, on at least an annual basis, shall review the records maintained by the broker pursuant to subsection c. of section 6 of this act, and the transportation service logs and other records maintained by each individual provider pursuant to section 5 of this act, in order to ensure that the broker and the providers in its network are complying with applicable vehicle, staffing, and performance standards. The designated evaluator shall also perform random and follow-up reviews, as deemed to be necessary.

(2) In conducting a performance review under this subsection, the designated evaluator shall determine whether:

(a) the vehicles used to transport Medicaid beneficiaries are fully compliant with all statutory, regulatory, and contractual requirements;

(b) transport personnel are properly licensed and qualified to provide non-emergency medical transportation services;

(c) prior authorization is being obtained and medical necessity is being documented for beneficiaries who require the services of a mobility assistance vehicle;

(d) individual providers consistently maintain all types of insurance required by law or regulation;

(e) beneficiaries using a transportation service actually receive a covered medical service on the date of transport; and

(f) the nature of transportation services provided to each beneficiary, including the date and time the beneficiary was picked-up and dropped-off for both the initial trip and the return trip, and the actual miles driven, are being accurately and consistently documented, as required by this act.

(3) Within 30 days after the completion of a performance review pursuant to this subsection, the designated evaluator shall prepare and submit to the commissioner, and to the Director of the Division of Medical Assistance and Health Services, a report that identifies the evaluator’s findings with regard to the matters described in paragraph (2) of this subsection. The report shall additionally provide a recommendation as to the amount of monthly liquidated damages, if any, that should be imposed on the broker by the department, pursuant to section 8 of this act, in response to any identified performance failures.

d. The department shall post, on its Internet website, the findings that are set forth in each annual report submitted pursuant to subsection c. of this section.

8. a. Monthly capitation fees that are paid by the department to the Medicaid transportation broker for each Medicaid beneficiary shall be offset by any liquidated damages that may be assessed by the department against the broker for failing to comply with, or failing to ensure that the individual providers in its network comply with, applicable vehicle, staffing, or performance standards.

b. The amount of liquidated damages imposed under this section shall be: (1) based on the reports that are filed by the department’s designated evaluator under subsections b. and c. of section 7 of this act; (2) consistent with the provisions of the Medicaid transportation brokerage contract, and the recommendations that are made by the department’s designated evaluator under subsection c. of section 7 of this act; and (3) sufficient to deter future non-compliance. Whenever the brokerage contract is being considered for renewal, the department shall review the contract’s liquidated damage provisions, and revise the contract appropriately, in order to ensure that the maximum liquidated damage amounts specified therein are sufficient to deter future non-compliance.

c. Liquidated damages shall be imposed, on a monthly basis, as provided in this section, until the broker or individual providers, as the case may be, are deemed to be in compliance with applicable vehicle, staffing, and performance standards. The amount of liquidated damages imposed by the department shall be increased, on a monthly basis, until full compliance is achieved, at which time liquidated damages may be reduced or eliminated, as deemed by the department to be appropriate.

9. a. The department shall implement policies and procedures, and review and appropriately revise the Medicaid transportation brokerage contract, as may be necessary to ensure that the reimbursement and capitation fees paid thereby under the Medicaid transportation brokerage program are not paid in excess.

b. The department shall develop a system that enables the department to: (1) periodically review the monthly capitation fees that have been paid to the broker under the Medicaid transportation brokerage contract; (2) identify when capitation payments have been duplicated or made in excess; and (3) take action to fully recover such excess or duplicate payments. The periodic review of monthly capitation payments, and the recovery of excess or duplicative payments, under the system established pursuant to this section, shall occur not less than once per year.

c. (1) Mileage reimbursement payments made by the department under the Medicaid transportation brokerage program shall be based on the actual number of miles driven by the driver.

(2) A driver who provides simultaneous transportation services to more than one Medicaid beneficiary on any initial trip or return trip shall not receive mileage reimbursement in the same way as would be true if the driver had provided separate trips for each passenger. Instead, the mileage reimbursement provided to a driver who is engaged in the provision of multi-passenger transportation services shall be based on the number of miles actually driven for the one passenger in the multi-passenger load who was transported over the farthest distance. The contract executed between the department and the Medicaid transportation broker shall specify that a lower rate of mileage reimbursement will be authorized for multi-passenger loads, as provided in this paragraph.

(3) The department shall not authorize a mileage reimbursement payment, under this section, unless the Medicaid beneficiary being transported actually received a covered medical service on the date of transport. The department shall institute procedures and protocols as necessary to verify that a covered medical service was actually received by the beneficiary, for the purposes of authorizing mileage reimbursements under this subsection.

10. a. The department shall annually submit to the Governor, and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1) to the Legislature, a report on the Medicaid transportation brokerage program. The information that is contained in an annual report filed pursuant to this section shall be based on the department’s review of the reports that were filed by its designated evaluator during the reporting period, pursuant to section 7 of this act.

b. The report filed pursuant to this section shall: (1) describe the transportation services that have been provided under the Medicaid transportation brokerage program during the reporting period; (2) describe and categorize the nature of complaints that were filed during the reporting period; (3) include a performance evaluation of the broker and individual providers in the broker’s network; (4) incorporate statistical data on the brokerage program, as provided by subsection c. of this section; (5) identify the actions that were undertaken during the reporting period by the broker, or by individual providers in the broker’s network, in order to correct previously identified problems or otherwise improve service provision and fiscal responsibility under the brokerage program; (6) identify the actions that were undertaken by the department during the reporting period, including the imposition of liquidated damages pursuant to section 8 of this act, or the ordering of corrective action, which were designed to address identified problems and ensure future compliance with vehicle, staffing, and performance standards; and (7) provide recommendations for executive or legislative actions that can be undertaken to improve the brokerage program or ensure its proper and fiscally responsible implementation.

c. The statistical data that is included in an annual report shall identify, at a minimum: (1) the percentage of providers whose staff members have not fully complied with applicable training standards; (2) the percentage of providers whose vehicles are not fully compliant with applicable vehicle standards; (3) the percentage of transportation services that were not provided within the 15-minute timeframe required by subsection a. of section 3 of this act; (4) the number of complaints that were filed during the reporting period; and (5) the percentage of total transportation recipients during the period who filed a complaint.

d. The report filed pursuant to this section shall be posted on the department’s Internet website concurrently with its submission to the Governor and the Legislature.

11. Sections 1 through 7, and sections 9 and 10, of this act shall take effect immediately. Section 8 of this act shall take effect on the first day of the third month next following the date of enactment, except that the Commissioner of Human Services may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of that section

STATEMENT

This bill would establish vehicle, staffing, and performance standards in association with the State’s Medicaid transportation brokerage program.

Under the State’s Medicaid transportation brokerage program, the Department of Human Services (DHS) contracts with a Medicaid transportation broker to manage the provision of non-emergency medical transport to Medicaid beneficiaries in the State. The transportation broker is responsible for: developing and maintaining a non-emergency medical transport provider network for use by Medicaid program beneficiaries; verifying beneficiary eligibility for non-emergency medical transport; determining and authorizing the appropriate mode of transport for each beneficiary on the basis of medical necessity; and dispatching an appropriate provider vehicle to transport the beneficiary. The current Medicaid transportation broker in the State is LogistiCare Solutions, LLC.

Although the Medicaid transportation brokerage program has been in operation in the State since 2009, recent reports issued by the Office of Inspector General and the Office of the State Auditor have indicated that there are significant performance deficiencies in the provision of non-emergency transport under the brokerage program. This bill is designed to address the issues raised in those reports.

Specifically, the bill would clarify the requirements that are to be applicable to the DHS, the Medicaid transportation broker, and the individual providers within the broker’s network, under the Medicaid transportation brokerage program; and it would further establish a procedure for the performance review of the broker and its authorized providers and the review of complaints that are submitted about the brokerage program.

The bill would clarify, for instance, that the Medicaid transportation broker is obligated to: 1) require a person requesting transportation services to certify that the transportation services are necessary for the person to receive a covered medical service under Medicaid; and 2) require a person requesting transport through the use of a mobility assistance vehicle (MAV) to submit a medical necessity form justifying the use of the MAV.

Individual providers of transportation services under the brokerage program would be required by the bill to comply with the vehicle, staffing, and service delivery requirements specified therein. In particular, each provider would be required to: 1) ensure that transport services are provided within 15 minutes of the scheduled arrival time; 2) be covered by a workers’ compensation policy, a general liability insurance policy, and an automobile insurance policy that covers all vehicles used in the provision of services; 3) register each vehicle as a “commercial” or “livery” vehicle, as appropriate, and maintain a current inspection report for each vehicle; 4) ensure that drivers and staff members are appropriately licensed or certified, as required by law; 5) prohibit the employment of any person who is convicted of a disqualifying offense, as specified in department regulation, regardless of the date of the person’s offense or conviction; 6) transport a Medicaid beneficiary to and from a medical provider only in order to receive a covered medical service, and for no other purpose; and 7) ensure that drivers and other staff members who engage in direct contact with transportation recipients have completed sensitivity training, as provided by the bill, as well as any medical and safety training required by the department. In addition, any vehicle that has been driven more than 150,000 miles would be required to undergo an enhanced inspection process, as provided by the bill, before commencing or continuing operations as a livery or mobility assistance vehicle. Any vehicle that fails the enhanced inspection would need to be immediately withdrawn from service, and would have its inspection medallion removed, until such time as the vehicle has been repaired and re-inspected and is deemed safe to operate.

The bill requires individual providers to maintain, and daily update, a monthly transportation services log that contains the basic facts associated with each transportation request. Such facts would include the date and time for which pick-up was scheduled, the date and time at which pick-up actually occurred, the actual number of miles traveled, the location of the medical provider, the model year and registration number of the vehicle, and whether the beneficiary was transported as part of a multi-passenger load. Each provider would also be required to maintain records regarding the licensure and training status of its employees, and the licensure, registration, and inspection status of its vehicles. Whenever an individual provider submits a claim for reimbursement under the Medicaid program, it would be required to include with the claim, a copy of its transportation service log. The department or the broker would also be authorized to access the provider’s other records, upon request.

The Medicaid transportation broker would similarly be required, under the bill, to maintain certain records, including: 1) a daily and monthly log showing each transportation service that was requested and provided under the brokerage program during the period, and additionally identifying both the individual provider who provided each transportation service, and the type of vehicle that was dispatched; 2) a copy of each medical necessity form submitted by a beneficiary who is seeking the use of an MAV; 3) a record showing the date and time on which a beneficiary certified that transportation was necessary to receive a covered medical service; 4) a log of cases in which the waiting time for a transportation service was in excess of 15 minutes; and 5) a record showing the types of insurance coverage possessed by each individual provider.

The DHS would be required, under the bill, to designate an employee to engage in the ongoing monitoring and oversight of the Medicaid transportation brokerage program. The designated evaluator would be responsible for: 1) receiving, cataloguing, and submitting a monthly report to the department, the Director of the Division of Medical Assistance and Health Services, and the broker, on all complaints that are submitted about the brokerage program; and 2) regularly reviewing the records of the Medicaid transportation broker and individual transportation service providers in the broker’s network, in order to ensure compliance with applicable vehicle, staffing, and performance standards. (Any complaints that are submitted directly to the transportation broker, or to an individual provider, would need to be forwarded to the department’s designated evaluator.) The designated evaluator would also be authorized to make recommendations to the DHS about the proper amount of liquidated damages to impose on the broker in response to identified performance failures.

In conducting a performance review under the bill, the department’s designated evaluator would be required to determine whether: 1) vehicles used to transport Medicaid beneficiaries are fully compliant with all statutory, regulatory, and contractual requirements; 2) transport personnel are properly licensed and qualified to provide non-emergency medical transportation services; 3) prior authorization is being obtained, and medical necessity is being documented, for beneficiaries who require MAV service; 4) individual providers consistently maintain requisite insurance policies; 5) transportation recipients actually receive a covered medical service on the date of transport; and 6) the transportation services provided to each beneficiary are adequately documented, as required by the bill.

The bill would require any monthly capitation fees, which are paid by the DHS to the broker, to be offset by the amount of any liquidated damages that are assessed by the department against the broker for failing to comply with, or failing to ensure that the individual providers in its network comply with applicable vehicle, staffing, or performance standards. The amount of liquidated damages imposed is to be based on the reports prepared by the department’s designated evaluator, is to be consistent with the evaluator’s recommendations, and is to be sufficient to deter future non-compliance. The amount of liquidated damages is to be increased, on a monthly basis, until full compliance with vehicle, staffing, and performance standards is achieved.

The bill would further require the DHS to endeavor to reduce unnecessary State expenditures under the brokerage program. Specifically, the department would be required to develop a system that allows it to identify when capitation fee payments have been duplicated or made in excess to the broker, so that it may properly recover such excess or duplicate payments. The review of monthly capitation payments, and the recovery of excess or duplicative payments would need to occur at least once per year.

The bill would additionally provide that mileage reimbursement payments made by the DHS under the Medicaid transportation brokerage program are to be based on the actual number of miles driven by the driver. The mileage reimbursement provided to a driver who is engaged in the provision of multi-passenger transportation services would be based on the number of miles actually driven for the one passenger in the multi-passenger load who was transported over the farthest distance. Mileage reimbursement is to be authorized, moreover, only if the transportation recipient actually received a covered medical service on the date of transport.

The bill would require the DHS to file an annual report on the Medicaid transportation brokerage program with the Governor and Legislature. The report would also be posted on the DHS website. The report would include relevant statistical data, a description of existing performance or compliance issues, a list of actions that have been undertaken to address previously identified performance and compliance issues, and recommendations for executive and legislative action necessary to improve the brokerage program.