

Congress of the United States
Washington, DC 20515

April XX, 2020

The Honorable Frank Pallone, Jr.
Chairman
House Energy and Commerce Committee
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Greg Walden
Ranking Member
House Energy and Commerce Committee
2322A Rayburn House Office Building
Washington, D.C. 20515

The Honorable Rosa L. DeLauro
Chairwoman
Subcommittee on Labor, Health and Human
Services, Education, and Related Agencies
House Committee on Appropriations
2358B Rayburn House Office Building
Washington, D.C. 20515

The Honorable Tom Cole
Ranking Member
Subcommittee on Labor, Health and Human
Services, Education, and Related Agencies
House Committee on Appropriations
1016 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Pallone, Chairwoman DeLauro, Ranking Member Walden, and Ranking Member Cole:

We are writing to express our concern about a soon-to-be proposed change in a Medicaid regulation that for the first time would allow states to eliminate Medicaid non-emergency medical transportation (NEMT) for patients that are blind, elderly, or disabled. The Medicaid rule would repeal long-standing regulations (CFR 431.53) that have been upheld in the courts requiring state plans to include necessary transportation to and from healthcare providers. Given that action on the Medicaid rule is expected to begin this year, it is urgent that your committees act as soon as possible to protect this critical benefit.

Last year, the Fiscal Year 2020 Labor, Health and Human Services, Education, and Related Agencies (Labor-HHS) Appropriations Act directed the Secretary of Health and Human Services to take no action on this policy until the Medicaid and CHIP Payment and Access Commission completes an evaluation of its impact on our most vulnerable patients. As you may be aware, NEMT is an essential component of our nation's health care delivery system, especially in rural areas. According to a recent Kaiser study, over half of Medicaid transportation services are utilized by patients with the highest burden of chronic diseases, including those diagnosed with cancer, HIV, mental illness, substance abuse, and end-stage renal disease. In fact, NEMT is vital to many of our constituents who are Medicaid patients. Without this help, they could not access chemotherapy, dialysis, and other services that allow them to

remain at home and out of the hospital. Moreover, given the growing concern around maternal mortality rates in the U.S., particularly among African American women, it is important to recognize that NEMT plays a vital role in ensuring access to prenatal care for Medicaid beneficiaries.

NEMT also helps patients travel to pharmacies to obtain their prescriptions and medical supplies. Currently, NEMT is utilized by roughly 10% of Medicaid enrollees and accounts for only 1 % of total Medicaid spending. It is reserved for beneficiaries who have no other means of transportation to and from their medical appointments. State programs help to ensure the benefit is accessible only to those in need.

The elimination of Medicaid NEMT would have an adverse impact both on beneficiaries and state budgets. As members of the Congressional Black Caucus, we respectfully request:

- 1) That Congress enact H.R. 3935, a bill with bi-partisan support, which would codify the current regulation in law. NEMT has been a mandatory benefit by regulation since the Medicaid program's inception. It is appropriate and timely for the Energy and Commerce Committee to write the NEMT "assurance of transportation" into the Medicaid statute. H.R. 3935 would not change the 1115 waiver process thus preserving states' flexibility.
- 2) Pending final resolution by the authorizers, we also ask that the Fiscal Year 2021 Labor-HHS Appropriations bill contain the following legislative and report language to block implementation of this misguided policy:

Bill language: "Sec. _____. None of the funds appropriated in this bill or otherwise made available to the Department of Health and Human Services shall be used to publish the proposed regulation in the Budget of the United States Government, Fiscal Year 2021 relating to the Medicaid Nonemergency Medical Transportation benefit for Medicaid beneficiaries."

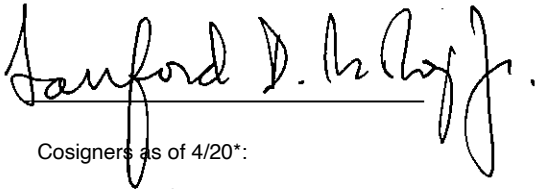
Report language: Non-Emergency Medical Transportation (NEMT). -The fiscal year 2020 Joint Explanatory Statement for the Department of Health and Human Services provided \$300,000 for MACPAC to examine the benefits of State Medicaid Programs' NEMT programs on Medicaid beneficiaries including beneficiaries with chronic diseases, such as end stage renal disease, or health conditions, such as substance use disorder, as well as those receiving pre-natal and postpartum care or living in rural or frontier areas. The agreement, further, directed HHS to take no regulatory action on the availability of NEMT service until the study is completed. To ensure that the agency takes no regulatory action, the bill includes a funding limitation in section _____.

Given the urgent need to protect this important benefit, we strongly urge you to include H.R. 3935, the Protecting Patients Transportation to Care Act, in the health care "extenders" legislation expected to pass on or before May 22. We also urge you to include funding limitation language in the Fiscal Year 2021 Labor-HHS Appropriations bill.

Please join us in protecting Medicaid NEMT. It is essential that we retain the requirement for States to offer transportation to all Medicaid patients that have no other means to access health services.

Thank you for your kind attention.

Sincerely,



Cosigners as of 4/20*:

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*As a safety precaution at this time, this letter was not circulated for physical signatures.