

5-009.13 Transportation

5-009.13A Service Description: Transportation service is transporting a client to and from community resources identified during client assessment and addressed in the client's Plan of Services and Supports. Service may be provided by an individual, exempt ~~(agency)~~ provider, or common carrier.

5-009.13B Transportation Definitions:

Common Carrier means any person who transports passengers by motor vehicle for hire and is licensed as such with the Public Service Commission (PSC).

~~Escort means a person who accompanies or personally assists a client who is unable to travel or wait alone. This may include assistance to and from a vehicle and/or place of destination, supervision, or support.~~

Escort Services means an attendant or caregiver accompanying a minor or persons who are physically, mentally, or developmentally disabled and unable to travel or wait without assistance or supervision.

Exempt Provider means carriers exempted from PSC licensure by law including those ~~which~~ that:

1. Transport for hire persons who are aged and their spouses and dependents under a contract with a municipality or county;
2. Are owned and operated by a nonprofit organization which has been exempted from the payment of federal income taxes as provided by Section 501(c)(4), Internal Revenue Code, and transporting solely those persons over age 60, their spouses and dependents, and/or persons experiencing disabilities;
3. Are operated by a municipality or county as authorized by law in the transportation of persons who are aged;
4. Are operated by a governmental subdivision or a qualified public purpose organization having motor vehicles with a seating capacity of 20 or less and are engaged in the transportation of passengers in the state; ~~or~~
5. Are engaged in the transportation of passengers and are operated by a transit authority created under and acting pursuant to the laws of the State of Nebraska; and
6. Provide escort services under contract with the Department of Health and Human Services or with any agency organized under the Nebraska Community Aging Services Act.

Individual Provider means a person who is not in the business of providing transportation for hire; for example, a friend, neighbor, or non-legally responsible relative.

Nebraska Medicaid Coverable Services means a medical service that could be covered by the Nebraska Medical Assistance Program (NMAP) as specified in Nebraska Administrative Code (NAC) Title 471 (see 480-000-300).

Tariff means the geographic and rate parameters of operation assigned to a particular carrier by the Public Service Commission.

~~Note: Nebraska State Statutes regulate the use of different transportation providers. Services coordinator must authorize transportation providers following these Statutes (75-303, R.R.S.).~~

5-009.13C Need for Service: The services coordinator must determine a client has the need for transportation services. Transportation services are not provided based on the demand of the client. Need for a service implies that the provision of that service will assist the client in achieving program outcomes. Eligible clients must:

1. Have no access to a working licensed vehicle or a valid driver's license;
2. Be unable to drive due to physical or cognitive limitation;
3. Be unable to secure transportation from relatives, friends, or other organizations at no cost; or
4. Require transportation in relationship to one or more of the transportation components in 480 NAC 5-009.13D.

5-009.13D ~~Transportation Conditions of Provision~~ Service Components: Transportation services are available to meet the following needs:

1. Medical and medical escort;
2. Nutrition needs (for example, grocery shopping and taking advantage of available nutrition programs);
3. Maintenance or budget program needs, such as the:
  - a. Department of Health and Human Services for benefit programs;
  - b. Social Security Administration;
  - c. Veteran's Administration; and
  - d. Financial institutions;
4. Legal sources (for example, attorneys, Legal Aid Societies);
5. Housing location;
6. Non-medical escort; or
7. Other needs identified during client assessment. These needs must be directly related to maintaining the client's independence and not be

related to socializing, recreation, religious activities, or other trips which would be appropriate for volunteer transportation providers.

5-009.13D1 Exclusion: Transportation may not be authorized to obtain educational services.

5-009.13D2 Medical Needs: Medical transportation and medical escort are Medicaid State Plan services and are not covered under the waiver program, but may be authorized by the services coordinator if the individual has a need and is receiving other waiver services. See 473 NAC 5-018. If an applicant's only assessed need is for medical transportation and/or medical escort, that person is not eligible for this waiver program.

5-009.13D3 Non-Medical Escort: An attendant or caregiver who accompanies a client unable to travel or wait alone while accessing non-medical resources in the community is considered an escort. The services coordinator must authorize this component only when the services coordinator has identified and documented that:

1. The client is physically or mentally unable to travel or wait by him/herself to receive services as identified in his/her Plan of Services and Supports;
2. The attendant is not a legally-responsible member of the client's family (that is, not spouse or parent of minor child);
3. The client is unable to secure an attendant at no cost;
4. The attendant is not receiving reimbursement for care of the client from any source (such as waiver full-time housekeeper, personal care aide assistance services provider, private insurance, foster care, etc.).

Escort may be provided by an attendant/caregiver who also provides the transportation. The services coordinator must authorize the appropriate mileage rate for this escort service. Each hour of escort must be authorized at the contracted rate. If the attendant/caregiver accompanies a client, but does not provide the transportation, only the negotiated hourly rate may be authorized for the escort hours.

If the escort is not providing the transportation and the transportation provider charges for an extra passenger (that is, taxi, bus, mini-bus, airplane, etc.), the services coordinator must authorize additional units under the client's number to allow for transportation costs of the attendant/escort. These transportation costs may be authorized for an attendant who is not paid for escort services, (that is, spouse, parent of minor child, or volunteer).

Individual transportation providers may not charge for additional passengers (that is, escort, spouse, parents, other clients, etc.). The maximum rate for these providers must not exceed the state reimbursement rate for state employees.

5-009.13E Transportation Provider Standards: The resource developer contracts annually with common carriers, ~~agency (exempt)~~ providers, escort providers, and individual providers. Providers must meet all general provider standards in addition to the service-specific standards.

5-009.13E1 Common Carrier Standards: The Public Service Commission certifies common carriers. Taxis, van companies, and limousine services are certified by the PSC as common carriers. Staff must:

1. Verify that the carrier is certified by the Public Service Commission;
2. Request and receive a copy of the carrier's tariff; and
3. Verify that the carrier has a special HHSS designation.

5-009.13E2 Exempt Providers: Exempt providers must ensure that their employees meet the individual provider standards in 480 NAC 5-009.13E4.

5-009.13E3 Escort Provider Standards: The provider must:

1. Be an individual age 19 or older;
2. Have training or experience in working with persons who are aged or who have a disability;
3. Have training or experience in providing personal assistance;
4. Agree to have his/her driving records reviewed, if the escort will drive;
5. Maintain information on specific needs of each client served; and
6. Report all changes observed to the client's services coordinator.

The escort provider who personally drives the client must also meet all individual provider standards in 480 NAC 5-009.13E4. The escort provider must complete the individual transportation provider self-certification.

If the client requires an escort and the escort will not drive (for example, handibus, taxi, or airfare), the services coordinator must authorize sufficient transportation units for both the client and the escort.

5-009.13E4 Individual Provider Standards: The resource developer is authorized to contract with individual providers by Neb. Rev. Stat. § 75-303.03 only if the following driver and vehicle standards are met at all times when the individual is providing transportation for a client.

5-009.13E4a Driver Standards: The individual provider must:

1. Have been chosen by the client or the usual caregiver to provide transportation;
2. Be age 19 or older;
3. Possess a current and valid driver's license;
4. Have no more than three points assessed against his/her Nebraska driver's license, or meet a comparable standard in the state where s/he is licensed to drive;
5. Currently have no limitations that would interfere with safe driving;
6. Personally drive his/her own vehicle to transport the client;
7. Use seat belts and child passenger restraint devices as required by law;
8. Not smoke while transporting the client;
9. Not transport the client while under the influence of alcohol or any drug that impairs the ability to drive safely;
10. Not provide transportation if the s/he has a communicable disease which may pose a threat to the health and well-being of the client;
11. Have and maintain the minimum automobile liability and medical insurance coverage as required by law; and
12. Report disqualification from any HHSS program for intentional program violations.

5-009.13E4b Vehicle Standards: The individual provider's vehicle must be:

1. Currently licensed and registered as required by law;
2. Kept at all times in proper physical and mechanical conditions;
3. Equipped with operable seat belts, turn signals, lights, and horn;
4. Equipped with proper child passenger restraint devices as required by law when transporting children; and
5. Equipped to provide comfortable temperature and ventilation conditions.

5-009.13E4c Registry Checks and Criminal Background Checks: The resource developer must complete and document registry checks and criminal background checks on each potential individual provider.

5-009.13E4c(1) Registry Checks: The resource developer must check:

1. Adult Protective Services Central Registry;
2. Central Register of Child Protection Cases; and
3. Nebraska State Patrol Sex Offender Registry.

If the potential provider does not reside in Nebraska or has resided in Nebraska for less than one year, the resource developer must check registries in the state of residence or previous residence, if possible.

5-009.13E4c(1)(a) The resource developer must not contract with the potential individual provider if a report of abuse or neglect concerning the individual provider has been determined to be "Court Substantiated" or "Department Substantiated" on the APS Central Registry or "Court Substantiated", "Court Pending", or "Inconclusive" on the Central Register of Child Protection Cases.

5-009.13E4c(1)(b) The resource developer must not contract with a potential individual provider if the individual's name appears on the Nebraska State Patrol Sex Offender Registry.

5-009.13E4c(2) Criminal Background Checks: The resource developer must:

1. Obtain a criminal history statement from the potential individual provider; and
2. Perform a criminal history check of the potential individual provider.

5-009.13E4c(2)(a) General Criminal History: HHSS staff must not contract with a potential individual provider if a history of convictions for misdemeanor or felony actions that endanger the health and safety of an client is indicated. This includes crimes against a child or vulnerable adult, crimes involving intentional bodily harm, crimes involving the illegal use of a controlled substance, and crimes involving moral turpitude on the part of the potential provider.

5-009.13E4c(2)(b) Specific Criminal History: HHSS staff must deny or terminate service provider approval when conviction has occurred in the following areas:

1. Child pornography;

2. Child or adult abuse;
3. Driving under the influence: a DUI conviction within the past eight years;
4. Domestic violence;
5. Shoplifting after age 19 and within the last three years;
6. Felony fraud within the last 10 years;
7. Misdemeanor fraud within the last five years;
8. Termination of provider status for cause from any HHSS program within the last 10 years;
9. Possession of any controlled substance within the last five years;
10. Possession of a controlled substance with intent to deliver within the last 10 years;
11. Felony or misdemeanor assault without a weapon in the last 10 years;
12. Felony or misdemeanor assault with a weapon in the last 15 years;
13. Prostitution or solicitation of prostitution within the last five years;
14. Felony or misdemeanor robbery or burglary within the last 10 years;
15. Rape or sexual assault; or
16. Homicide.

Pending charges must be reviewed by HHSS staff to determine whether the client's safety is in jeopardy. Other convictions must be considered using the guidance in 480 NAC 5-009.13E4c(2)(a) and weighted to similar offenses included in this list.

5-009.13E4d Individual Provider Approval Process for Providers: The resource developer must obtain a copy of the individual's current driver's license, insurance card, and vehicle registration. The provider must complete and sign the provider self-certification and the provider agreement. In addition to having no more than three points assessed against his/her driver's license, each provider's past eight-year driving history must be considered. If a license has been suspended or revoked, the provider must not be approved for eight years from the date of suspension or revocation.

5-009.13E4d(1) Renewal: The provider self-certification and the provider agreement must be renewed annually. The registry checks and criminal history checks required under 480 NAC 5-009.13E4c must be completed for each renewal. The resource developer must obtain a copy of the individual's current driver's license, insurance card, and vehicle registration. The resource developer must not renew any

contract with a provider whose name appears on the registries or whose criminal history check indicates any convictions as specified in 480 NAC 5-009.13E4c.

5-009.13E4d(2) Termination: The resource developer must terminate the provider agreement if the individual provider is found to be in violation of any of the standards in 480 NAC 5-009.13E4a and 13E4b. The resource developer must terminate any contract with a provider whose name appears on the registries or whose criminal history check indicates any convictions as specified in 480 NAC 5-009.13E4c.

5-009.13F Authorization: Before authorizing transportation/escort services, HHSS staff should the services coordinator must explore with the client the use of family, neighbors, friends, or community agencies that will provide this service without charge whenever possible. The services coordinator must discuss types and options of providers with the client before authorizing transportation services. The services coordinator must assure the client is aware of the associated costs.

5-009.13F1 Medical Transportation and Medical Escort: Medical transportation and medical escort are Medicaid State Plan services and are not covered under the waiver program, but may be authorized by the services coordinator if the individual has a need and is receiving other waiver services. See 473 NAC 5-018. If an applicant's only assessed need is for medical transportation and/or medical escort, that person is not eligible for this waiver program.

5-009.13F2 Authorization of Exempt Providers: The services coordinator may contract with and authorize services for a provider who is exempt from PSC licensure as appropriate to meet a client's needs. The availability of a common carrier does not limit the use of an exempt provider.

5-009.13F3 Individual Providers: The services coordinator must authorize an individual provider if the following criteria are met:

1. The client has chosen the individual provider;
2. The individual will personally drive the vehicle; and
3. The individual meets provider standards see 480 NAC 5-009.13E4.

5-009.13G Transportation Services Rates, Frequency, and Maximum Allowable Units

5-005.13G1 Conditions for Payment: HHSS will pay for transportation services only:

1. When the client is actually in the vehicle; and

2. Using the most direct and logical route from the client's residence to the service location.

5-009.13G2 Upper Limits: HHSS Central Office establishes transportation rates according to the following limits. The resource developer may negotiate rates lower than the established rates.

5-009.13G2a Common Carriers: Neb. Rev. Stat. § 75-303.02 limits the distance rates for common carriers at a rate no greater than three times the state employee mileage rate.

5-009.13G2b Taxis: Taxi rates may be no greater than 95% of published rates.

5-009.13G2c Exempt Providers: HHSS Central Office will establish rates for exempt providers.

5-009.13G2d Escort Providers: The mileage rate for escort providers must not exceed the state employee mileage rate unless the escort is a certified carrier. The hourly rate is set by HHSS Central Office.

5-009.13G2e Individual Providers: As provided in Neb. Rev. Stat. § 75-303.03, HHS Finance and Support will reimburse the individual provider for costs incurred in transportation at a rate no greater than that paid for reimbursement of state employees under Neb. Rev. Stat. § 81-1176 only for mileage.

5-009.13G3 Frequency: The frequency for non-medical transportation is by miles or trip. The frequency for medical escort or escort services is by:

1. The hour(s) and miles; or
2. The hours and trip.

The services coordinator must authorize escort time and miles traveled separately.