

Department of Health and Human Services

**OFFICE OF  
INSPECTOR GENERAL**

**NEBRASKA DID NOT ALWAYS COMPLY  
WITH FEDERAL AND STATE  
REQUIREMENTS FOR CLAIMS  
SUBMITTED FOR THE NONEMERGENCY  
TRANSPORTATION PROGRAM**

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# *Office of Inspector General*

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## EXECUTIVE SUMMARY

*Nebraska improperly paid, and incorrectly claimed at least \$1.9 million in Federal Medicaid reimbursement for, nonemergency transportation services during Federal fiscal years 2012 through 2014. In addition, for most of the claims we sampled, nonemergency transportation providers did not comply with State regulations to maintain documentation of driver background checks, vehicle maintenance, and driver qualifications.*

### WHY WE DID THIS REVIEW

Federal regulations require each State to ensure that Medicaid recipients have necessary transportation to and from medical providers. During Federal fiscal years (FYs) 2012 through 2014, the Nebraska Department of Health and Human Services (State agency) claimed \$17.5 million (\$9.8 million Federal share) for payments to nonemergency medical transportation (NET) providers. Previous Office of Inspector General reviews have found that States' claims for Medicaid reimbursement for NET services were not always in accordance with Federal and State requirements.

The objective of this review was to determine whether the State agency claimed Federal Medicaid reimbursement for NET services in accordance with Federal and State requirements during FYs 2012 through 2014.

### BACKGROUND

The Medicaid program provides medical assistance to low-income individuals and individuals with disabilities. The Federal and State Governments jointly fund and administer the Medicaid program. At the Federal level, the Centers for Medicare & Medicaid Services (CMS) administers the Medicaid program. Each State administers its Medicaid program in accordance with a CMS-approved State plan. Although the State has considerable flexibility in designing and operating its Medicaid program, it must comply with applicable Federal requirements.

Federal regulations require each State to ensure that Medicaid recipients have transportation to and from medical providers and to describe in its State plan the methods that the State will use to meet this requirement. The regulations define transportation expenses as costs for transportation that the State deems necessary to secure medical examinations and treatment (Medicaid-covered services) for recipients.

### WHAT WE FOUND

During FYs 2012 through 2014, the State agency claimed Federal Medicaid reimbursement for some NET services claims submitted by NET providers that did not comply with Federal and State requirements. Specifically, 41 of the 100 NET claims in our random sample were unallowable because they had at least 1 of the following errors (some claims had more than 1 error):

- the recipient did not receive a Medicaid-covered service on the date that he or she received an NET service (15 claims);
- the NET provider could not provide documentation supporting that the recipient was actually transported in the vehicle for one or both trips on the date that the NET service was rendered (16 claims);
- the NET provider could not provide documentation to support that it had actually provided an NET service to a Medicaid recipient (12 claims); and
- the only Medicaid service provided to the recipient for the claimed date of the NET service was for personal care services, the transportation to and from which is not a Medicaid-covered service (1 claim).

Although these claimed NET services had these errors, the State agency paid the NET providers and then claimed Federal Medicaid reimbursement for them.

On the basis of our sample results, we estimated that the State agency improperly claimed at least \$3,425,082 (\$1,911,138 Federal share) in Federal Medicaid reimbursement for 623,396 NET claims for FYs 2012 through 2014.

In addition, for 76 of the 100 NET claims in our random sample, NET providers did not have documentation to support that State-mandated driver background checks, vehicle maintenance checks, and driver qualification verifications had been performed. We refer to the lack of documentation of these driver and vehicle checks as “deficiencies” and note that many of the 76 claims were the same claims with the errors described above for which we are questioning costs and recommending refunds. For these 76 claims with deficiencies, we are making procedural recommendations to the State agency.

The State agency paid NET providers and claimed unallowable Federal Medicaid reimbursement because its policies and procedures did not ensure that providers complied with Federal and State requirements for documenting and claiming NET services. Additionally, the State agency’s policies and procedures did not ensure that NET providers maintained documentation to support that driver and vehicle checks were performed in accordance with State requirements.

## **WHAT WE RECOMMEND**

We recommend that the State agency:

- refund to the Federal Government \$1,911,138 (Federal share) in estimated overpayments for NET claims that were in error and did not comply with Federal and State requirements; and
- strengthen its policies and procedures to ensure that:

- transportation services are provided only to recipients who are receiving Medicaid-covered services on the dates that they are receiving NET services;
- NET providers maintain records documenting that recipients are actually transported in the vehicles for all trips on the dates that NET services are rendered;
- NET providers maintain records to document the services provided;
- it does not pay NET providers or claim Federal reimbursement for non-covered transportation services;
- NET providers complete the required background checks on all potential drivers before permitting them to render NET services and annually thereafter, and maintain documentation of these checks;
- NET providers maintain records of all vehicle maintenance checks; and
- NET providers maintain documentation verifying that their drivers are qualified with current and valid driver's licenses.

## **STATE AGENCY COMMENTS AND OUR RESPONSE**

In written comments on our draft report, the State agency disagreed with most of our findings and provided additional documentation regarding some of the errors that we had identified in our draft report. The State agency described corrective actions that it had taken or planned to take but disagreed with our estimate of the improperly claimed costs.

After reviewing the State agency's comments and the additional documentation that the State agency provided, we revised some of our findings for this final report to reflect those changes, after which we also revised our statistical estimate and the associated recommendations. We maintain that our remaining findings and our revised recommendations are valid.

## TABLE OF CONTENTS

INTRODUCTION .....	1
Why We Did This Review .....	1
Objective .....	1
Background .....	1
Medicaid Program .....	1
Nebraska’s Nonemergency Medical Transportation Program .....	1
State Requirements .....	2
How We Conducted This Review .....	3
FINDINGS .....	3
The State Agency Claimed Federal Reimbursement for Unallowable Claims .....	4
Federal and State Requirements .....	4
Recipients Did Not Receive a Medicaid-Covered Service on the Dates of Nonemergency Transportation .....	5
Nonemergency Transportation Providers’ Documentation Did Not Support That the Recipients Were Actually Transported in the Vehicles .....	5
Nonemergency Transportation Providers Did Not Maintain Documentation To Support Transportation Services .....	6
Nonemergency Transportation Provided for Non-Covered Service .....	6
Effect of Unallowable Nonemergency Transportation Claims .....	6
Inadequate Documentation of Required Driver Background Checks, Vehicle Maintenance Checks, and Driver Qualification Verifications .....	6
State Regulations .....	7
Nonemergency Transportation Providers Did Not Maintain Documentation of Required Driver Background Checks .....	7
Nonemergency Transportation Providers Did Not Maintain Documentation of Vehicle Maintenance Performed .....	7
Nonemergency Transportation Providers Did Not Maintain Documentation of Driver Qualification Verifications .....	8
Financial Impact of Deficiencies Regarding Inadequate Documentation of Driver Background Checks, Vehicle Maintenance Checks, and Driver Qualification Verifications .....	8
State Agency’s Policies and Procedures Did Not Ensure Compliance with Federal and State Regulations .....	8
RECOMMENDATIONS .....	9

STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE .....9

Recipients Did Not Receive a Medicaid-Covered Service on the  
 Dates of Nonemergency Transportation .....10  
     State Agency Comments.....10  
     Office of Inspector General Response .....10

Nonemergency Transportation Providers’ Documentation Did Not Support  
 That the Recipients Were Actually Transported in the Vehicles.....11  
     State Agency Comments.....11  
     Office of Inspector General Response .....11

Claims Related to the Use of the Nebraska Medicaid Practitioner Fee Schedule .....11  
     State Agency Comments.....11  
     Office of Inspector General Response .....11

Nonemergency Transportation Providers Did Not Maintain  
 Documentation To Support Transportation Services.....12  
     State Agency Comments.....12  
     Office of Inspector General Response .....12

Nonemergency Transportation Provided for Non-Covered Service.....12  
     State Agency Comments.....12  
     Office of Inspector General Response .....12

Effect of Unallowable Nonemergency Transportation Claims.....13  
     State Agency Comments.....13  
     Office of Inspector General Response .....13

Inadequate Documentation of Required Driver Background Checks, Vehicle  
 Maintenance Checks, and Driver Qualification Verifications .....13  
     State Agency Comments.....13  
     Office of Inspector General Response .....13

APPENDIXES

A: Related Office of Inspector General Reports .....14  
 B: Audit Scope and Methodology.....15  
 C: Statistical Sampling Methodology .....17  
 D: Sample Results and Estimates .....18  
 E: Federal and State Regulations for Nonemergency Medical Transportation .....19

F: Summary of Errors and Deficiencies for Each Sampled Claim .....21  
G: State Agency Comments.....24

## **INTRODUCTION**

### **WHY WE DID THIS REVIEW**

Federal regulations require each State to ensure that Medicaid recipients have necessary transportation to and from medical providers (42 CFR § 431.53). During Federal fiscal years (FYs) 2012 through 2014, the Nebraska Department of Health and Human Services (State agency) claimed \$17.5 million (\$9.8 million Federal share) for payments to nonemergency medical transportation (NET) providers. Previous Office of Inspector General (OIG) reviews (Appendix A) have found that States' claims for Medicaid reimbursement for NET services were not always in accordance with Federal and State requirements.

### **OBJECTIVE**

Our objective was to determine whether the State agency claimed Federal Medicaid reimbursement for NET services in accordance with certain Federal and State requirements during FYs 2012 through 2014.

### **BACKGROUND**

#### **Medicaid Program**

The Medicaid program provides medical assistance to low-income individuals and individuals with disabilities. The Federal and State Governments jointly fund and administer the Medicaid program. At the Federal level, the Centers for Medicare & Medicaid Services (CMS) administers the Medicaid program. Each State administers its Medicaid program in accordance with a CMS-approved State plan. Although the State has considerable flexibility in designing and operating its Medicaid program, it must comply with applicable Federal requirements.

Federal regulations require each State to ensure that Medicaid recipients have transportation to and from medical providers and to describe in its State plan the methods that the State will use to meet this requirement (42 CFR § 431.53). Federal regulations define transportation expenses as costs for transportation that the State deems necessary to secure medical examinations and treatment (Medicaid-covered services) for recipients (42 CFR § 440.170(a)(1)).

#### **Nebraska's Nonemergency Medical Transportation Program**

In Nebraska, the State agency contracts with a broker (NET broker) to schedule, arrange, and authorize NET. This program provides transportation to eligible Medicaid recipients. Participants are eligible to receive transportation when no other means of transportation is available and a medical necessity exists.

The NET broker receives requests for transportation and documents the authorizations for transportation in the software system.<sup>1</sup> The NET broker's software receives Medicaid eligibility information from the State agency's Medicaid Management Information System (MMIS), which

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<sup>1</sup> The NET broker used two different software systems during our audit period: EcoLane and Access2Care.

is a computerized payment and information reporting system that the State agency uses to process and pay Medicaid claims and to manage information about Medicaid beneficiaries and services.

Data elements recorded in the NET broker's software system include the recipient's name, the pickup and destination addresses, and purpose of the trip. The NET broker then schedules the requested and authorized services with one of the enrolled NET providers. After each trip has been completed, the NET provider submits a claim for reimbursement to the NET broker. The NET broker, in turn, submits the claim into the MMIS, within which the claim is processed and paid. The State agency pays the NET provider directly.

### **State Requirements**

The Nebraska Administrative Code (NAC) defines an NET service as “a ride, or mileage reimbursement for a ride, and escort/attendant services provided so that a Medicaid eligible client with no other transportation resources can receive Medicaid coverable services. By definition, NET services do not include transportation provided on an emergency basis, such as trip to the emergency room” (471 NAC 27-001).

The State plan specifies that the NET broker will manage requests and authorizations for NET services. Specifically, the NET broker is responsible for all administrative brokerage functions to include the following tasks:

- establish and monitor the Medicaid program compliance of a transportation network;
- receive NET service requests;
- verify the recipient's Medicaid eligibility, and verify that the requested medical service provider is an active Medicaid provider;
- screen the recipient's need for service and mobility status and determine the most appropriate mode of transportation;
- approve and arrange the least expensive transport to the closest appropriate Medicaid provider; and,
- pre-authorize completed services in the State agency's MMIS for direct payment from the State agency to the NET provider after services have been completed.

The NAC requires that NET providers complete background checks on drivers using several databases: the Nebraska Child Abuse and Neglect Central Register, the Adult Protective Services Central Registry, the Nebraska State Patrol Sex Offender Registry, and the Criminal History database. NET providers must conduct criminal background checks on drivers before they begin providing NET services and annually thereafter (471 NAC 27-008.01 through 27-008.03).

## **HOW WE CONDUCTED THIS REVIEW**

We reviewed a simple random sample of 100 claims. We obtained and reviewed documentation from each NET provider to determine whether the claims complied with applicable Federal and State requirements. We also obtained the other Medicaid claims paid for the same dates of service as the transportation dates to determine whether the recipient received any other Medicaid-covered service(s) on the date of the transportation.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix B contains details of our audit scope and methodology, Appendix C contains details on our statistical sampling methodology, Appendix D contains our sample results and estimates, Appendix E contains details on the Federal and State requirements related to NET, and Appendix F aggregates the errors and deficiencies for each sampled claim.

## **FINDINGS**

During FYs 2012 through 2014, the State agency claimed Federal Medicaid reimbursement for some NET services claims submitted by NET providers that did not comply with Federal and State requirements. Specifically, 41 of the 100 NET claims in our random sample were unallowable because they had at least 1 of the following errors (some claims had more than 1 error):

- the recipient did not receive a Medicaid-covered service on the date that he or she received an NET service (15 claims);
- the NET provider could not provide documentation supporting that the recipient was actually transported in the vehicle for one or both trips on the date that the NET service was rendered (16 claims);
- the NET provider could not provide documentation to support that it had actually provided an NET service to a Medicaid recipient (12 claims); and
- the only Medicaid service provided to the recipient for the claimed date of the NET service was for personal care services, the transportation to and from which is not a Medicaid-covered service (1 claim).

Although these claimed NET services had these errors, the State agency paid the NET providers and then claimed Federal Medicaid reimbursement for them.

On the basis of our sample results, we estimated that the State agency improperly claimed at least \$3,425,082 (\$1,911,138 Federal share) in Federal Medicaid reimbursement for 623,396 NET claims for FYs 2012 through 2014.

In addition, for 76 of the 100 NET claims in our random sample, NET providers did not have documentation to support that State-mandated driver background checks, vehicle maintenance checks, and driver qualification verifications had been performed.<sup>2</sup> We refer to the lack of documentation of these driver and vehicle checks as “deficiencies” and note that many of the 76 claims were the same claims with the errors described above for which we are questioning costs and recommending refunds. For these 76 claims with deficiencies, we are making procedural recommendations to the State agency.

The State agency paid NET providers and claimed unallowable Federal Medicaid reimbursement because its policies and procedures did not ensure that providers complied with Federal and State requirements for documenting and claiming NET services. Additionally, the State agency’s policies and procedures did not ensure that NET providers maintained documentation to support that driver and vehicle checks were performed in accordance with State requirements.

## **THE STATE AGENCY CLAIMED FEDERAL REIMBURSEMENT FOR UNALLOWABLE CLAIMS**

During FYs 2012 through 2014, the State agency claimed Federal Medicaid reimbursement for some NET services claims submitted by NET providers that did not comply with Federal and State requirements. Of the 100 randomly sampled NET claims that we reviewed, 41 were unallowable for Medicaid reimbursement (some claims had more than 1 error).

### **Federal and State Requirements**

A State Medicaid plan must require that providers of services maintain records to fully disclose the extent of services provided to Medicaid beneficiaries (Social Security Act (the Act) § 1902(a)(27)).

Federal regulations require each State to ensure necessary transportation for Medicaid recipients to and from providers and to describe in its State plan the methods that the State will use to meet this requirement (42 CFR § 431.53).

Transportation includes expenses for transportation and related expenses determined to be necessary by the State Medicaid agency to secure medical examinations and treatment for a recipient (42 CFR § 440.170).

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<sup>2</sup> We did not review 17 of the 100 sampled claims for driver and vehicle maintenance checks. Of these 17 claims, 10 were for bus tickets that were subject to the requirements promulgated by a different Federal agency (Federal Transportation Administration); we therefore did not review these 10 claims for the driver and vehicle maintenance requirements. The other seven claims involved administrative fees paid to the NET broker that had been misidentified in the State’s MMIS; the State agency adjusted these seven claims after the end of our audit period.

Office of Management and Budget Circular No. A-87, *Cost Principles for State, Local, and Tribal Governments* (2 CFR part 225), establishes principles and standards for determining allowable costs applicable to grants with States and local governments.<sup>3</sup> To be allowable under a grant program, costs must be authorized or not prohibited under State or local laws or regulations (2 CFR part 225, App. A, § (C)(1)(c)).

State regulations define NET and state that Medicaid covers the most appropriate NET services necessary to obtain Nebraska Medicaid-covered services subject to the fulfillment of certain criteria regarding a recipient's inability to transport him- or herself to receive medical services (471 NAC 27-001 and 27-002).

### **Recipients Did Not Receive a Medicaid-Covered Service on the Dates of Nonemergency Transportation**

State regulations define an NET service as a ride, and permit the provision of escort and attendant services so that a Medicaid-eligible recipient who has no other transportation resources can receive Medicaid-covered services (471 NAC 27-001). Furthermore, NET is not a covered Medicaid service if it is used to obtain services that are not covered by Nebraska Medicaid (471 NAC 27-003).

The State agency claimed unallowable Federal Medicaid reimbursement for 15 NET claims with dates of services for recipients who did not receive a Medicaid-covered service on that date. For each of the 15 claims, the State agency's MMIS had no claims data to verify that a health care service was provided to that recipient on the date that the individual received NET services. In addition, the State agency was unable to provide any other documentation that a service similar to a Medicaid-covered service had been provided to that recipient on the date that the individual received NET services.

### **Nonemergency Transportation Providers' Documentation Did Not Support That the Recipients Were Actually Transported in the Vehicles**

An NET provider may bill Medicaid only when the recipient was actually transported in the vehicle on the date claimed (471 NAC 27-005.01).

For 16 claims, we could not verify that the recipients were in the vehicles for the transportation services billed by the NET provider and paid by the State agency. Specifically, 5 claims did not have documentation supporting either the outgoing or return portion of the claimed trip and 11 claims had documentation supporting 1 portion of the trip but not the other.

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<sup>3</sup> This circular was made applicable by U.S. Department of Health and Human Services (HHS) regulations at 45 CFR § 92.22(b). The circular was relocated to 2 CFR part 225. (HHS has promulgated new grant regulations and cost principles at 45 CFR part 75 that apply to awards made on or after December 26, 2014.)

## **Nonemergency Transportation Providers Did Not Maintain Documentation To Support Transportation Services**

A State plan is required to “provide for agreements with every person or institution providing services under which such person or institution agrees (A) to keep such records as are necessary to fully disclose the extent of the services provided to individuals receiving assistance under the State plan and (B) to furnish the State agency or the Secretary [of HHS] with such information ... as the State agency or the Secretary may from time to time request.”<sup>4</sup>

For 12 claims, the NET provider did not maintain documentation to support that it had actually provided an NET service to a Medicaid recipient. Specifically, for 11 claims the provider did not provide any documentation related to the NET service and for 1 claim the provider billed for 3 trips but had documentation for only 2 trips.

### **Nonemergency Transportation Provided for Non-Covered Service**

State regulations address services that are not covered by Medicaid and state that these include transportation claimed for Medicaid-covered services that are provided in the recipient’s home, such as personal care services (471 NAC 27-003).

For one claim, the only other Medicaid service provided to the recipient for the claimed date of NET service was for personal care services.

### **Effect of Unallowable Nonemergency Transportation Claims**

Although the claimed NET services had the errors described above, the State agency paid the NET providers and then claimed Federal Medicaid reimbursement for them.

On the basis of our sample results, we estimated that the State agency paid NET providers and then improperly claimed at least \$3,425,082 (1,911,138 Federal share) in Federal Medicaid reimbursement for 623,396 NET claims for FYs 2012 through 2014.

## **INADEQUATE DOCUMENTATION OF REQUIRED DRIVER BACKGROUND CHECKS, VEHICLE MAINTENANCE CHECKS, AND DRIVER QUALIFICATION VERIFICATIONS**

Of the 83 randomly sampled NET claims that we reviewed for driver and vehicle checks, 76 did not comply with State requirements because the NET providers did not have documentation to support that State-mandated driver background checks, vehicle maintenance checks, and driver qualification verifications had been performed.<sup>5</sup>

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<sup>4</sup> The Act § 1902(a)(27).

<sup>5</sup> The findings in this section of the report are drawn from the same 100 randomly sampled claims that we reviewed (and discussed earlier in this report) for unallowable claims. As explained in footnote 2, we did not review driver or vehicle information for 17 for the 100 sampled claims.

We refer to the lack of documentation of these driver and vehicle checks as “deficiencies” and note that many of the 76 claims were the same claims with the errors described above for which we are questioning costs and recommending refunds.

**State Regulations**

To participate in the Nebraska Medicaid program, providers of NET services shall fully meet all applicable local, State, and Federal laws and regulations governing the provision of their services; these requirements include driver background checks, vehicle maintenance checks, and driver qualification verifications (471 NAC 27-007).

**Nonemergency Transportation Providers Did Not Maintain Documentation of Required Driver Background Checks**

NET providers must perform background checks for each potential driver before he or she begins providing NET services and annually thereafter. These checks are to use several databases: the Nebraska Child Abuse and Neglect Central Register, the Adult Protective Services Central Registry, the Nebraska State Patrol Sex Offender Registry, and the Criminal History database (471 NAC 27-008).

For 68 claims, NET providers did not have documentation that either 1 or all of the required driver background checks had been completed. Table 1 below provides details of the nature of the background check deficiencies in the context of each of these four databases.

**Table 1: Summary of Background Check Deficiencies**

	<b>Child Abuse and Neglect Central Register</b>	<b>Adult Protective Services Central Registry</b>	<b>Nebraska State Patrol Sex Offender Registry</b>	<b>Criminal History</b>
<b>No Documentation Provided</b>	42	42	36	32
<b>Check Completed After Date of Service</b>	5	4	13	9
<b>Check Over 1 Year Old</b>	12	13	11	19
<b>Documentation on Record but Undated</b>	0	0	4	0

**Nonemergency Transportation Providers Did Not Maintain Documentation of Vehicle Maintenance Performed**

NET providers must meet all vehicle maintenance standards in accordance with the NET Brokerage Provider Manual (Provider Manual) (471 NAC 27-007.04). The Provider Manual states that providers are expected to adhere to a comprehensive Preventive Maintenance (PM) program to ensure that all vehicles and equipment used to provide NET services are maintained

in top working condition to minimize breakdowns and reduce the possibility of accidents. This program includes the upkeep, for each vehicle, of a vehicle maintenance file that includes records of all maintenance actions, including but not limited to servicing, PM inspections, repairs, brake adjustments, and bodywork.

For 48 claims, NET providers were unable to provide vehicle maintenance records.

### **Nonemergency Transportation Providers Did Not Maintain Documentation of Driver Qualification Verifications**

NET providers must ensure that drivers providing NET services: (1) are 19 years old or older; (2) possess a current and valid driver's license, and (3) have not have had their license revoked within the past 3 years (471 NAC 27-007.05).

For 26 claims, NET providers did not provide documentation verifying that the driver who had rendered NET services had a current and valid driver's license.

### **Financial Impact of Deficiencies Regarding Inadequate Documentation of Driver Background Checks, Vehicle Maintenance Checks, and Driver Qualification Verifications**

For these 76 claims with deficiencies, we are making procedural recommendations to the State agency. The financial impact of the 76 NET claims with deficiencies was, on the basis of our sample results, an estimated \$13,949,670 (\$7,786,839 Federal share) of Federal and State Medicaid funding associated with NET providers that lacked documentation of driver and vehicle checks.<sup>6</sup> These amounts represent NET services that may have been provided to Medicaid recipients:

- by drivers who would not have passed the required background checks,
- in vehicles that did not meet the vehicle standards in accordance with the Provider Manual, and/or
- by drivers who were not qualified to drive.

### **STATE AGENCY'S POLICIES AND PROCEDURES DID NOT ENSURE COMPLIANCE WITH FEDERAL AND STATE REGULATIONS**

The State agency paid NET providers and claimed unallowable Federal Medicaid reimbursement because its policies and procedures did not ensure that providers complied with Federal and State requirements for documenting and claiming NET services. Additionally, the State agency's

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<sup>6</sup> This amount is without reference to the 41 claims with errors that we detailed in "The State Agency Claimed Federal Reimbursement for Unallowable Claims" earlier in this report. We are not recommending a monetary disallowance for these 76 NET claims with deficiencies; the reason is that driver background checks, vehicle maintenance checks, and driver qualification verifications are not conditions of payment. Furthermore, the estimated dollar value of claims that lacked documentation of driver and vehicle checks partially overlaps with the estimated overpayment associated with NET claims that did not comply with Federal and State requirements.

policies and procedures did not ensure that NET providers maintained documentation to support that driver and vehicle checks were performed in accordance with State requirements.

## **RECOMMENDATIONS**

We recommend that the State agency:

- refund to the Federal Government \$1,911,138 (Federal share) in estimated overpayments for NET claims that were in error and did not comply with Federal and State requirements; and
- strengthen its policies and procedures to ensure that:
  - transportation services are provided only to recipients who are receiving Medicaid-covered services on the dates that they are receiving NET services;
  - NET providers maintain records documenting that recipients are actually transported in the vehicles for all trips on the dates that NET services are rendered;
  - NET providers maintain records to document the services provided;
  - it does not pay NET providers or claim Federal reimbursement for non-covered transportation services;
  - NET providers complete the required background checks on all potential drivers before permitting them to render NET services and annually thereafter, and maintain documentation of these checks;
  - NET providers maintain records of all vehicle maintenance checks; and
  - NET providers maintain documentation verifying that their drivers are qualified with current and valid driver's licenses.

## **AUDITEE COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE**

In written comments on our draft report, the State agency disagreed with most of our findings and provided additional documentation regarding some of the errors that we had identified in our draft report.<sup>7</sup> Specifically, the State agency agreed with 11 of the 64 NET claims (of the 100 claims in our random sample)<sup>8</sup> that our draft report had identified as unallowable, but disagreed

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<sup>7</sup> After submitting its written comments on our draft report, the State agency provided us with more additional documentation.

<sup>8</sup> The State agency's written comments appear to indicate a total of 14 NET claims (6 + 8) for which the State agency agreed that there was no documentation. But because some claims had more than 1 error, as mentioned earlier in this report, the total number of claims with which the State agency agreed was actually 11.

with the other claims. The State agency also disagreed with our finding regarding documentation of State-mandated driver background checks, vehicle maintenance checks, and driver qualification verifications had been performed (76 of the 100 NET claims in our random sample). The State agency described corrective actions that it had taken or planned to take but disagreed with our estimate of improperly claimed costs.

A summary of the State agency's comments and our responses follows. The State agency's comments appear as Appendix G, in which we have redacted proprietary information regarding third parties. We also excluded four attachments (the additional documentation referred to just above) because of their volume. We will forward all of the attachments, as well as the further additional documentation mentioned in footnote 7 above, in their entirety to CMS.

After reviewing the State agency's comments and the additional documentation that the State agency provided, we revised some of our findings for this final report to reflect those changes. These revisions included the removal of a finding and associated recommendation (regarding the use of the Nebraska Medicaid Practitioner Fee Schedule) that had appeared in our draft report, as well as reductions in the number of claims in error in some of our other findings. Accordingly, we revised our statistical estimate and the dollar amount conveyed in our first recommendation. We maintain that our remaining findings and our revised recommendations are valid.

## **RECIPIENTS DID NOT RECEIVE A MEDICAID-COVERED SERVICE ON THE DATES OF NONEMERGENCY TRANSPORTATION**

### **State Agency Comments**

The State agency provided new documentation and said that all 36 of the NET claims that our draft report had identified for this finding either had an associated Medicaid-covered service claim or had another payer involved. The State agency said that in other cases, services "were provided properly even when there were no claims associated with them," and added, "[i]t appears the scope of the audit performed may have been too narrow to discover these claims."

### **Office of Inspector General Response**

Although the State agency asserted that it had supporting documentation for all 36 of the NET claims that our draft report had identified for this finding, the additional documentation that the State agency provided resolved only 21 of the 36 errors. Thus, there are still 15 claims that lack documentation to support that transportation for a Medicaid-covered service, or a service similar to a Medicaid-covered service, had been provided on the dates in question. During our fieldwork, we made multiple requests to the State agency for any additional documentation to support that a Medicaid-covered service, or a service similar to a Medicaid-covered service, had been provided. The State agency was unable to provide the documentation for these 15 claims, either during our fieldwork or as part of the additional information that the State agency both included with and provided after its written comments on our draft report.

## **NONEMERGENCY TRANSPORTATION PROVIDERS' DOCUMENTATION DID NOT SUPPORT THAT THE RECIPIENTS WERE ACTUALLY TRANSPORTED IN THE VEHICLES**

### **State Agency Comments**

The State agency agreed that there was no documentation for 6 of the 22 NET claims that our draft report had identified for this finding but disagreed with our finding for the other 16 claims. The State agency said that it had found additional documentation—in some cases by contacting providers—to support 15 claims. According to the State agency, several of the claims that we had identified were for bus tickets, for which there is no documentation.

### **Office of Inspector General Response**

Of the 16 NET claims with which the State agency disagreed, we accept the State agency's additional documentation for 6 of the claims but continue to hold that for the remaining 10 claims (as well as the 6 NET claims with which the State agency agreed), the documentation did not support that the recipients were in the vehicles for the transportation services billed by the NET provider and paid by the State agency. Furthermore, for claims billed as bus claims, the State agency contacted the providers, some of which were able to provide their records for trips with client signatures. In addition, one claim was paid even though the provider actually stated that the client had canceled the trip in advance.

## **CLAIMS RELATED TO THE USE OF THE NEBRASKA MEDICAID PRACTITIONER FEE SCHEDULE**

### **State Agency Comments**

Our draft report included a finding (with 18 associated NET claims) that involved the use of a fee schedule that had not been published on the Nebraska Medicaid Practitioner Fee Schedule. Regarding this finding, the State agency stated (as item 1.3 on the third page of its written comments (Appendix G)) that it had determined all payments that we had identified were made according to the fee schedule that was current and in effect at the time, though the schedules were not yet published. There was no contractual requirement for the publication of these fee schedules.”

### **Office of Inspector General Response**

Although we disagree with the State agency's assertion that the fee schedules are not required to be published in order for them to be in effect, we recognize that information that the State agency provided after submitting its written comments effectively renders this issue moot.

The State Medicaid plan states that for dates of service on or after May 1, 2011, Medicaid pays for NET services at the lower of: (1) the NET provider's submitted charge or (2) the allowable amount for that procedure code in the Nebraska Medicaid Practitioner Fee Schedule in effect for that date of service (State Medicaid plan, Attachment 3.1-A, page 4c).

After submitting its written comments on our draft report, the State agency provided us with new information in the form of an additional fee schedule that had been in effect during the timeframe in question. The State agency also provided documentation to show that this fee schedule had been published in accordance with the State Medicaid plan. After reviewing this material, we removed the finding regarding the use of the fee schedule from this final report, and revised our findings (the number of unallowable NET claims), our estimate, and the amount of our recommended refund accordingly.

## **NONEMERGENCY TRANSPORTATION PROVIDERS DID NOT MAINTAIN DOCUMENTATION TO SUPPORT TRANSPORTATION SERVICES**

### **State Agency Comments**

The State agency agreed that there was no documentation for 8 of the 14 NET claims that our draft report had identified for this finding. The State agency said (as item 1.4 on the third page of its written comments (Appendix G)) that it had documentation for five of the claims. Additionally, one of the NET claims we identified involved services rendered by an NET provider (1) from which the State agency had requested a refund as a result of findings in a previous OIG review (A-07-10-04172; Appendix A) and (2) which had subsequently gone out of business. The State agency added that because “this provider was included as part of a previous OIG finding, its inclusion skews the results of this current audit and should be excluded.”

### **Office of Inspector General Response**

The additional documentation that the State agency provided resolved 2 of the 14 errors that our draft report had identified. As a result, there are still 12 claims that lack documentation to support that the NET provider had actually provided an NET service to a Medicaid recipient. The previous OIG review to which the State agency referred involved claims for services provided from July 2007 through June 2009. The current review involved claims for services provided from October 2011 through September 2014. The inclusion of the claims from this provider did not skew the results of this current audit.

## **NONEMERGENCY TRANSPORTATION PROVIDED FOR NON-COVERED SERVICE**

### **State Agency Comments**

Regarding the one claim in this finding, the State agency said (as item 1.5 on the third page of its written comments (Appendix G)) that the address on the documentation was of a chiropractic office that reported that it had provided services to the recipient in question. “Documentation of the medical service will be submitted.”

### **Office of Inspector General Response**

The State agency did not provide the documentation to support that the NET service was for an allowable Medicaid-covered service or for a service similar to a Medicaid-covered service. We therefore maintain that our finding that identified this claim as unallowable remains valid.

## **EFFECT OF UNALLOWABLE NONEMERGENCY TRANSPORTATION CLAIMS**

### **State Agency Comments**

The State agency disagreed with the sampling frame that we used to estimate improperly claimed costs. In its introductory comments, the State agency explained that in the latter portion of our audit period, it contracted with a new NET broker.<sup>9</sup> The State agency later said that it disputed our "... combining NET claims adjudicated under the first broker ... with claims adjudicated under the current broker ... in the same universe and extrapolation."

### **Office of Inspector General Response**

The claims from both NET brokers are relevant given the scope of the audit. By recommending recovery at the lower limit of a 90-percent confidence interval, we account for differences between claims, including differences caused by the presence of the two brokers, in a manner that is favorable to the State agency. See Appendixes C and D, in particular Table 3 in Appendix D.

## **INADEQUATE DOCUMENTATION OF REQUIRED DRIVER BACKGROUND CHECKS, VEHICLE MAINTENANCE CHECKS, AND DRIVER QUALIFICATION VERIFICATIONS**

### **State Agency Comments**

The State agency disagree with this finding and stated: "Nebraska Medicaid does not have specific regulations that require maintaining documentation of these items."

### **Office of Inspector General Response**

The relevant section of State regulations includes specific requirements governing provider participation in the Nebraska Medicaid program. Specifically, NET providers shall fully meet all applicable local, State, and Federal laws and regulations governing the provision of their services (471 NAC 27-007). These requirements include driver background checks, vehicle maintenance checks, and driver qualification verifications. Without the maintenance of documentation, NET providers are unable to provide support to show that they are complying with all applicable aspects of the NET section of the NAC.

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<sup>9</sup> For an explanation of this term, see "Nebraska's Nonemergency Medical Transportation Program" at the beginning of this report.

**APPENDIX A: RELATED OFFICE OF INSPECTOR GENERAL REPORTS**

<b>Report Title</b>	<b>Report Number</b>	<b>Date Issued</b>
<i>Louisiana Did Not Always Comply With Federal and State Requirements for Claims Submitted for the Nonemergency Medical Transportation Program</i>	<a href="#"><u>A-06-15-00019</u></a>	1/04/17
<i>Texas Did Not Always Comply With Federal and State Requirements for Claims Submitted for the Nonemergency Medical Transportation Program</i>	<a href="#"><u>A-06-12-00053</u></a>	10/20/14
<i>California Claimed Medicaid Reimbursement for Some Nonemergency Medical Transportation Services in Los Angeles County That Did Not Comply With Federal and State Requirements</i>	<a href="#"><u>A-09-12-02083</u></a>	6/24/14
<i>Hawaii Claimed Unallowable Medicaid Reimbursement for Nonemergency Medical Transportation Services Furnished by Taxi Providers</i>	<a href="#"><u>A-09-11-02047</u></a>	5/22/12
<i>Review of Medicaid Payments for Nonemergency Medical Transportation Services Claims Submitted by Providers in New York State</i>	<a href="#"><u>A-02-09-01024</u></a>	2/13/12
<i>Review of Medicaid Payments for Nonemergency Medical Transportation Services Claims Submitted by Providers in New York City</i>	<a href="#"><u>A-02-08-01017</u></a>	11/30/11
<i>Review of Costs Claimed by the State of Nebraska for Non-Emergency Medical Transportation Services Provided by Shared Mobility Coach</i>	<a href="#"><u>A-07-10-04172</u></a>	7/22/11
<i>Review of Nonemergency Medical Transportation Costs in the State of Texas (Transportation Provided by the League of United Latin American Citizens—Project Amistad)</i>	<a href="#"><u>A-06-09-00090</u></a>	10/22/10
<i>Review of Nonemergency Medical Transportation Costs in the State of Texas (Transportation Provided by Capital Area Rural Transit System)</i>	<a href="#"><u>A-06-08-00096</u></a>	6/15/10

## **APPENDIX B: AUDIT SCOPE AND METHODOLOGY**

### **SCOPE**

Our audit covered \$17,518,245 (\$9,765,329 Federal share) in Medicaid payments for NET services provided and paid for during FYs 2012 through 2014 (October 1, 2011, through September 30, 2014).

We reviewed a simple random sample of 100 claims. We obtained and reviewed documentation from each NET provider to determine whether the claims complied with applicable Federal and State requirements. We also obtained the other Medicaid claims paid for the same dates of service as the transportation dates to determine whether the recipient received any other Medicaid-covered service(s) on the date of the transportation.

We did not assess the overall internal control structure of the State agency or the Medicaid program. Rather, we limited our review of internal controls to those applicable to our audit objective. In addition, the scope of our audit did not require us to review the medical necessity of the NET services.

We conducted fieldwork at the State agency's offices in Lincoln, Nebraska, in July 2015 and in February 2016.

### **METHODOLOGY**

To accomplish our objective, we:

- reviewed Federal and State laws and regulations related to Medicaid NET services;
- reviewed contracts between the State agency and NET brokers;
- interviewed State agency officials regarding Medicaid recipients' eligibility for NET services, prior authorization and scheduling of services, and the claims verification and monitoring process;
- reconciled the State agency's claim for transportation services on the Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program (CMS-64 report) with supporting documentation;
- selected a simple random sample of 100 claims (Appendix C) for NET services submitted by providers and, for each sampled claim:
  - analyzed claims data from the State agency's MMIS to determine whether each recipient had obtained a Medicaid-covered service on the date of the NET service;
  - reviewed providers' documentation to determine whether the recipient was actually transported in the vehicle on the date of the claimed NET service;

- reviewed the State agency's payments to providers to determine whether the payments were based upon the approved fee schedule in effect on the date of service;
- reviewed the providers' documentation to determine whether State-mandated background checks (using the Nebraska Child Abuse and Neglect Central Register, the Adult Protective Services Central Registry, the Nebraska State Patrol Sex Offender Registry, and the Criminal History database) had been completed for the driver(s) associated with each sampled claim;
- reviewed the providers' documentation of vehicle maintenance records to determine whether the vehicle used in each sampled claim was being properly maintained in accordance with the Provider Manual; and
- reviewed providers' documentation of driver qualification verifications to determine whether the driver(s) associated with each sampled claim had a current and valid driver's license at the time of service;
- used the results of the sample to estimate (Appendix D) the unallowable Federal Medicaid reimbursement associated with the errors we identified (for which we are recommending refund to the Federal Government) and to estimate the financial impact associated with the deficiencies we identified with respect to driver background checks, driver qualification verifications, and vehicle maintenance checks (for which we are making procedural recommendations to the State agency); and
- provided the results of our review of the sampled claims to the State agency on April 8, 2016.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## **APPENDIX C: STATISTICAL SAMPLING METHODOLOGY**

### **POPULATION**

The target population consisted of unique NET paid claims with positive Medicaid reimbursements for NET services that the State agency provided and paid for during FYs 2012 through 2014 (October 1, 2011, through September 30, 2014).

### **SAMPLING FRAME**

The sampling frame consisted of 623,396 unique NET paid claims with procedure codes A0120, A0130, A0140, S0209, S0215, T1001, and T2003 in the 15 counties with the highest total payments for NET services during our audit period. The reimbursement amount associated with these 623,396 claims totaled \$17,518,245 (\$9,765,329 Federal share) for this period. The procedure codes represent all NET services except for (1) ambulance services and (2) services for which the vehicle was provided by an individual (e.g., a family member or neighbor).

### **SAMPLE UNIT**

The sample unit was one NET paid claim.

### **SAMPLE DESIGN**

We used a simple random sample.

### **SAMPLE SIZE**

We selected 100 unique NET paid claims.

### **SOURCE OF RANDOM NUMBERS**

We generated the random numbers with the Office of Inspector General, Office of Audit Services (OAS), statistical software (RATS-STATS).

### **METHOD OF SELECTING SAMPLE UNITS**

We consecutively numbered the sample units in the sampling frame from 1 to 623,396. After generating 100 random numbers, we selected the corresponding frame items.

### **ESTIMATION METHODOLOGY**

We used RAT-STATS to estimate the amount of the unallowable payments for NET services and to estimate the financial impact of the deficiencies associated with driver checks and vehicle maintenance checks.

**APPENDIX D: SAMPLE RESULTS AND ESTIMATES**

**Table 2: Unallowable Claims Sample Results**

	<b>Frame Size</b>	<b>Value of Frame</b>	<b>Sample Size</b>	<b>Value of Sample</b>	<b>Number of Unallowable Claims</b>	<b>Value of Unallowable Claims</b>
Total	623,396	\$17,518,245	100	\$2,702	41	\$835
Federal Share	623,396	\$9,765,329	100	\$1,507	41	\$467

**Table 3: Estimated Value of Unallowable Claims  
(Limits Calculated for a 90-Percent Confidence Interval)**

	<b>Total</b>	<b>Federal Share</b>
<b>Point estimate</b>	\$5,203,299	\$2,908,641
<b>Lower limit</b>	\$3,425,082	\$1,911,138
<b>Upper limit</b>	\$6,981,517	\$3,906,144

**Table 4: Driver and Vehicle Deficiencies Sample Results**

	<b>Frame Size</b>	<b>Value of Frame</b>	<b>Sample Size</b>	<b>Value of Sample</b>	<b>Number of Deficient Claims</b>	<b>Value of Deficient Claims</b>
Total	623,396	\$17,518,245	100	\$2,702	76	\$2,238
Federal Share	623,396	\$9,765,329	100	\$1,507	76	\$1,249

**Table 5: Estimated Financial Impact Associated With Driver and Vehicle Deficiencies  
(Limits Calculated for a 90-Percent Confidence Interval)**

	<b>Total</b>	<b>Federal Share</b>
<b>Point estimate</b>	\$13,949,670	\$7,786,839
<b>Lower limit</b>	\$10,523,083	\$5,870,966
<b>Upper limit</b>	\$17,376,257	\$9,702,713

## **APPENDIX E: FEDERAL AND STATE REGULATIONS FOR NONEMERGENCY MEDICAL TRANSPORTATION**

### **FEDERAL REGULATIONS**

A State Medicaid plan must require that providers of services maintain records to fully disclose the extent of services provided to Medicaid recipients (the Act § 1902(a)(27)).

Each State is required to ensure necessary transportation for Medicaid recipients to and from providers and to describe in its State plan the methods that the State will use to meet this requirement (42 CFR § 431.53).

Transportation includes expenses for transportation and related expenses determined to be necessary by the State Medicaid agency to secure medical examinations and treatment for a recipient (42 CFR § 440.170).

Office of Management and Budget Circular No. A-87, *Cost Principles for State, Local, and Tribal Governments* (2 CFR part 225), establishes principles and standards for determining allowable costs applicable to grants with States and local governments.<sup>10</sup> To be allowable under a grant program, costs must be authorized or not prohibited under State or local laws or regulations (2 CFR part 225, App. A, § (C)(1)(c)).

### **STATE REGULATIONS**

#### **State Medicaid Plan**

The State assures that it enrolls individual and agency providers to provide appropriate medical transportation to Medicaid-eligible recipients (State Medicaid plan, Attachment 3.1-D). The State Medicaid plan also states that NET is provided through a brokerage program. The State assures that the broker is required to establish and monitor Medicaid program compliance of a transportation network (State Medicaid plan, Attachment 3.1-A).

The State Medicaid plan states that for dates of service on or after May 1, 2011, Medicaid pays for NET services at the lower of: (1) the NET provider's submitted charge or (2) the allowable amount for that procedure code in the Nebraska Medicaid Practitioner Fee Schedule in effect for that date of service (State Medicaid plan, Attachment 3.1-A, page 4c).

#### **Nebraska Administrative Code**

The State defines an NET service as a ride, or mileage reimbursement for a ride, and permit the provision of escort and attendant services so that a Medicaid-eligible client (that is, a recipient) who has no other transportation resources can receive Medicaid-covered services. By definition, NET services do not include transportation provided on an emergency basis, such as trips to the emergency room (471 NAC 27-001).

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<sup>10</sup> See footnote 3.

State regulations (471 NAC 27-002) state that Medicaid covers the most appropriate NET services necessary to obtain Nebraska Medicaid-covered services when one of the following criteria is met: (1) the recipient does not own or does not have access to a working licensed vehicle; (2) the recipient does not have a current valid driver's license; (3) the recipient is unable to drive due to a documented physical, cognitive, or developmental limitation; (4) the recipient is unable to travel or wait by him- or herself due to a documented physical, cognitive, or developmental limitation; or (5) the recipient is unable to secure free transportation (as defined in this chapter of the State regulations).

State regulations list several NET services that are not covered by Nebraska Medicaid, a list which includes but is not limited to transportation to obtain services not coverable by Nebraska Medicaid and transportation for Medicaid-covered services that are provided in the recipient's home, such as personal care services (471 NAC 27-003).

State regulations require that an NET provider may bill Medicaid only when the transportation is furnished by a Medicaid-enrolled provider to whom a direct venter payment can be made and when the recipient was actually transported in the vehicle on the date claimed (471 NAC 27-005.01).

State regulations require that to participate in the Nebraska Medicaid program, providers of NET services shall fully meet all applicable local, State, and Federal laws and regulations governing the provision of their services (471 NAC 27-007).

State regulations require that providers meet all vehicle standards in accordance with the NET Brokerage Provider Manual (471 NAC 27-007.04).

State regulations require that NET providers ensure that each driver possesses a current or valid driver's license with no more than three points assessed against his or her Nebraska driver's license within the past 2 years, or meet a comparable standard in the State in which he or she is licensed to drive (471 NAC 27-007.05).

State regulations require NET providers to conduct background checks for each potential driver before he or she begins providing NET services and annually thereafter. These checks are to use several databases: the Nebraska Child Abuse and Neglect Central Register, the Adult Protective Services Central Registry, the Nebraska State Patrol Sex Offender Registry, and the Criminal History database (471 NAC 27-008).

**APPENDIX F: SUMMARY OF ERRORS AND DEFICIENCIES FOR  
EACH SAMPLED CLAIM**

Count	ERRORS				DEFICIENCIES		
	Other Medicaid Service on Date of Transportation	Beneficiary in Vehicle	No Documentation/ Documentation Does Not Support Claim	Medicaid-Covered Service	Background Check	Vehicle Maintenance Check	Current/ Valid Driver's License
1	X		X		X	X	X
2			X		X	X	X
3					X		
4				X	X		
5					X		X
6							
7					X		
8					X		
9			X		X	X	X
10	X						
11					X	X	
12					X	X	
13						X	
14		X			X	X	
15		X			X	X	X
16					X	X	X
17	X				X		
18					X		
19		X			X		X
20	X		X		X		
21					X		
22	X					X	
23		X			X	X	
24		X			X	X	
25					X	X	
26					X	X	
27	X				X	X	
28					X	X	
29		X			X	X	X
30					X		
31					X	X	X
32			X				
33					X	X	
34					X	X	
35						X	

Count	ERRORS				DEFICIENCIES		
	Other Medicaid Service on Date of Transportation	Beneficiary in Vehicle	No Documentation/ Documentation Does Not Support Claim	Medicaid-Covered Service	Background Check	Vehicle Maintenance Check	Current/ Valid Driver's License
36					X		
37		X					
38		X				X	
39					X		
40	X					X	
41						X	
42		X			X		
43					X		
44					X		
45					X		
46			X		X		
47			X		X	X	X
48			X		X	X	X
49	X				X		
50					X	X	X
51					X		
52						X	
53					X	X	X
54					X	X	
55					X	X	
56					X	X	
57					X	X	X
58		X			X		X
59					X	X	X
60		X			X	X	
61	X	X			X	X	
62		X			X	X	X
63			X		X	X	X
64			X		X	X	X
65		X			X		
66					X	X	
67							
68			X		X	X	X
69							
70							

Count	ERRORS				DEFICIENCIES		
	Other Medicaid Service on Date of Transportation	Beneficiary in Vehicle	No Documentation/ Documentation Does Not Support Claim	Medicaid-Covered Service	Background Check	Vehicle Maintenance Check	Current/ Valid Driver's License
71					X		
72					X		
73					X		
74			X		X	X	X
75					X		
76		X			X		
77							
78							
79	X						
80	X						
81							
82							
83							
84	X						
85		X			X		
86						X	
87					X	X	X
88					X	X	X
89					X	X	X
90	X				X	X	X
91	X				X	X	X
92	X						
93							
94							
95							
96							
97							
98							
99							
100							
<b>Total</b>	<b>15</b>	<b>16</b>	<b>12</b>	<b>1</b>	<b>68</b>	<b>48</b>	<b>26</b>