

April 27, 2011

Michelle Probert  
Office of Maine Care Services  
11 State House Station  
Augusta, ME 04333-0011

Dear Michelle:

Thank you for hosting the April 25, 2011 listening session on the Department's plans to restructure the way that non-emergency medical transportation (NEMT) is delivered to Maine Care members.

I am writing today to emphasize, and perhaps clarify, some of the feedback I and others offered at the session.

First, I urge the Department to engage in a due diligence analysis that compares the existing capacity of transportation services to what may remain available after a rapid migration to an at-risk prepaid ambulatory health plan (PAHP) and state wide broker system. It is clear that the Department is assuming that existing capacity will not be significantly diminished by this migration. I believe that assumption is flawed.

You can, however, test your assumptions. You could, for example, survey existing and potential transportation providers, ask for their description (supported by data) of what their capacity would be under the various scenarios you are considering for implementation.

Second, I understand that the Department is at least contemplating transferring the recruitment and management of volunteer drivers to the newly established state-wide broker. I am not convinced that a for-profit broker can rely on the services of volunteer drivers without a non-profit, charitable intermediary, and still comply with existing federal and state wage and hour protections and IRS rules. Moreover, volunteer drivers' automobile insurance is protected from inflated premiums or cancellation by Maine statute only if they are volunteering for a charitable organization.

An insurer may not refuse to issue motor vehicle liability insurance to an applicant solely because the applicant is a volunteer driver. An insurer may not impose a surcharge or otherwise increase the rate for a motor vehicle policy solely on the basis that the named insured, a member of the insured's household or a person who customarily operates the insured's vehicle is a volunteer driver. For purposes of this section, "volunteer driver" means a person who provides services, including transporting individuals or goods, without compensation above expenses to a nonprofit agency or charitable organization as defined in Title 14, section 158-A. This section does not

prohibit an insurer from refusing to renew, imposing a surcharge or otherwise raising the rate for a motor vehicle liability insurance policy based upon factors other than the volunteer status of the insured driver. 26 M.R.S. § 2902-F.

For these reasons, I believe that shifting the management of volunteers to a state-wide broker will be problematic at best, and is almost certain to cause a significant reduction in the availability of volunteer drivers.

Third, as a gentleman at the listening session explained, the transit system that has been developed over many years in Maine is just that: a system. Transit systems, particularly in places like Maine, where volume is low and distance is long, are extremely difficult to implement and manage cost effectively. Sustainability of the capacity of the system depends on creatively coordinating various resources. The Maine legislature addressed this by implementing a network of regional transportation providers (23 M.R.S. § 4209), and mandating coordination between DHHS, MDOT, and MDOL.

You have the power to remain in compliance with these statutory mandates by either implementing a non-risk PAHP or by leaving the current system intact. Even if federal matching funds are reduced to 50% for the administrative component of providing NEMT, I believe a due diligence analysis will show that either option will be more efficient than implementing an at-risk PAHP using a state wide broker.

Thank you for considering these comments. I am happy to talk with you further if you have questions or would like more information.

Sincerely,

Barbara L. Crider  
Executive Director  
York County Community Action