

## The Role of Brokers in the Medicaid Program Snapshot

Many State Medicaid agencies (SMAs) use independent contractors, or “brokers,” to deliver services. Those services include non-emergency medical transportation (NEMT) for both managed care and fee-for-service beneficiaries, managed care enrollment, and managed care choice counseling.

Under the Federal Medicaid regulations, SMAs are required to “ensure necessary transportation for beneficiaries to and from providers.”[1] Under the Social Security Act, SMAs have the authority to establish an NEMT service through a broker. SMAs must select NEMT brokers through a competitive bidding process. They must have “oversight procedures to monitor beneficiary access and complaints and ensure that transport personnel are licensed, qualified, competent, and courteous.” Additionally, NEMT brokers must comply with referral and conflict-of-interest regulations and be subject to regular auditing by the SMA.[2] The Office of Inspector General for the U.S. Department of Health and Human Services (HHS-OIG) has found repeated deficiencies in the operations of NEMT providers.[3, 4, 5]

SMAs may also use brokers to deliver enrollment services. Enrollment brokers deliver enrollment services, which can consist of enrollment activities or choice counseling or both. “Enrollment activities” are “activities such as distributing, collecting, and processing enrollment materials and taking enrollments.”[6] Enrollment brokers must provide information to beneficiaries in an accessible format including definitions of key managed care terms, populations eligible to enroll, benefits, and the right to disenroll.[7]

“Choice counseling,” on the other hand, means providing “information and services designed to assist beneficiaries in making enrollment decisions” regarding choosing among managed care plans and primary care providers.[8] Enrollment brokers may not be owned or controlled by a managed or coordinated care plan. Additionally, enrollment brokers must not have any owner, employee, or consultant who has an interest in any provider, has been excluded or debarred, or is or has been subject to civil monetary penalties.[9]

### For More Information

A “Non-Emergency Medical Transportation” Toolkit, “Managed Care Compliance” Toolkit, and podcasts are available to help States, providers, and beneficiaries understand their roles in minimizing payment errors. These materials are posted to the Medicaid Program Integrity Education page at <https://www.cms.gov/Medicare-Medicaid-Coordination/Fraud-Prevention/Medicaid-Integrity-Education/edmic-landing.html> on the CMS website.

To see the electronic version of this E-Bulletin and E-Bulletins on other topics posted to the Medicaid Program Integrity Education page, visit <https://www.cms.gov/Medicare-Medicaid-Coordination/Fraud-Prevention/Medicaid-Integrity-Education/edmic-landing.html> on the CMS website.

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## References

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- 2 Social Security Act § 1902(a)(70). Retrieved June 6, 2016, from [https://www.ssa.gov/OP\\_Home/ssact/title19/1902.htm](https://www.ssa.gov/OP_Home/ssact/title19/1902.htm)
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- 6 42 C.F.R. § 438.810(b). Retrieved June 6, 2016, from [http://www.ecfr.gov/cgi-bin/text-idx?SID=d588438d05c9cd28f9c0be93c7884797&mc=true&node=se42.4.438\\_1810&rgn=div8](http://www.ecfr.gov/cgi-bin/text-idx?SID=d588438d05c9cd28f9c0be93c7884797&mc=true&node=se42.4.438_1810&rgn=div8)
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- 8 Definitions. 42 C.F.R. § 438.2. Retrieved June 6, 2016, from [http://www.ecfr.gov/cgi-bin/text-idx?SID=d588438d05c9cd28f9c0be93c7884797&mc=true&node=se42.4.438\\_12&rgn=div8](http://www.ecfr.gov/cgi-bin/text-idx?SID=d588438d05c9cd28f9c0be93c7884797&mc=true&node=se42.4.438_12&rgn=div8)
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