

1 SENATE HEALTH AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
2 SENATE BILL 485

3 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

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10 AN ACT

11 RELATING TO TRANSPORTATION; AMENDING AND ENACTING SECTIONS OF
12 THE TRANSPORTATION NETWORK COMPANY SERVICES ACT; PROVIDING FOR
13 THE FACILITATION AND PROVISION OF NON-EMERGENCY MEDICAL
14 TRANSPORTATION SERVICES BY TRANSPORTATION NETWORK COMPANY
15 DRIVERS; ESTABLISHING CONDITIONS; PROVIDING DEFINITIONS.

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

18 SECTION 1. A new section of the Transportation Network
19 Company Services Act is enacted to read:

20 "[NEW MATERIAL] PROVISION OF NON-EMERGENCY MEDICAL
21 TRANSPORTATION.--

22 A. A transportation network company may connect a
23 driver to a rider for the purpose of providing non-emergency
24 medical transportation services, including providing non-
25 emergency medical transportation services under the state's

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1 medicaid program.

2 B. The medical assistance division of the human
3 services department shall promulgate rules necessary for the
4 implementation of this section as soon as practicable. Except
5 as provided in Subsection C of this section and as may
6 otherwise be necessary to conform to applicable federal
7 requirements for the provision of transportation benefits to
8 persons receiving benefits from the state's medicaid program,
9 the requirements imposed by the medical assistance division of
10 the human services department for transportation network
11 companies and drivers to facilitate or provide non-emergency
12 medical transportation for medicaid recipients, including
13 requirements for enrollment and vehicle specifications, shall
14 not exceed those imposed by the Transportation Network Company
15 Services Act.

16 C. A transportation network company driver shall
17 not provide a non-emergency medical transportation service to a
18 medicaid recipient through a transportation network company's
19 digital network prior to completion by the transportation
20 network company of a:

21 (1) criminal background check of the driver
22 pursuant to Section 65-7-12 NMSA 1978;

23 (2) review of whether the driver is listed as
24 excluded from participation in the federal medicare, medicaid
25 and other health care programs by the United States department

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1 of health and human services inspector general; and

2 (3) review of whether the driver is excluded
 3 from federal contracts, grants or other agreements by the
 4 United States general services administration as either a known
 5 fraudulent actor or as a fraud risk.

6 D. The medical assistance division of the human
 7 services department may require that, prior to facilitating
 8 non-emergency medical transportation services for a medicaid
 9 recipient of the state's medicaid program, a transportation
 10 network company be under contract with a transportation broker.

11 E. Prior to the adoption of rules promulgated
 12 pursuant to Subsection B of this section, a transportation
 13 network company operating under a valid permit issued pursuant
 14 to Section 65-7-4 NMSA 1978 that contracts with a
 15 transportation broker may facilitate non-emergency medical
 16 transportation services for medicaid recipients of the state's
 17 medicaid program.

18 F. The provisions of Section 65-7-18 NMSA 1978
 19 shall extend to the regulation of companies, drivers and
 20 vehicles facilitating or providing non-emergency medical
 21 transportation services as authorized in this section.

22 G. Nothing in this section shall be construed to:

23 (1) authorize a company or a driver to provide
 24 ambulance services, as defined in Section 65-2A-3 NMSA 1978; or

25 (2) abridge the application of the provisions

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1 of the Transportation Network Company Services Act to, or the
2 services provided by, a transportation network company or a
3 driver."

4 SECTION 2. Section 65-7-2 NMSA 1978 (being Laws 2016,
5 Chapter 80, Section 2, as amended) is amended to read:

6 "65-7-2. DEFINITIONS.--As used in the Transportation
7 Network Company Services Act:

8 A. "digital network" means an internet-supported
9 application, software, program, website or system offered or
10 utilized by a transportation network company that enables the
11 prearrangement of transportation by passengers with
12 transportation network company drivers;

13 B. "facilitate" means the connection of a driver to
14 a passenger by a transportation network company for the
15 provision of a prearranged ride;

16 [~~B.~~] C. "personal vehicle" means a vehicle that is
17 used by a transportation network company driver and is:

18 (1) owned, leased or otherwise authorized for
19 use by a transportation network company driver; and

20 (2) not a taxicab or other vehicle for hire;

21 [~~C.~~] D. "prearranged ride" means transportation
22 provided by a transportation network company driver, which
23 shall be deemed to commence when a driver accepts a
24 transportation request through a digital network and continue
25 until all passengers have exited from the personal vehicle at

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1 the destination requested by the rider. "Prearranged ride"
 2 does not include shared-expense vanpool or carpool arrangements
 3 or transportation provided using a taxicab, limousine or other
 4 vehicle for hire pursuant to the Motor Carrier Act;

5 E. "state's medicaid program" means a state program
 6 acting to leverage federal benefits for state residents
 7 pursuant to Title 19 or Title 20 of the federal Social Security
 8 Act;

9 F. "transportation broker" means an entity under
 10 contract with the medical assistance division of the human
 11 services department or a managed care organization that manages
 12 transportation benefits under the state's medicaid program;

13 [~~D.~~] G. "transportation network company" means a
 14 corporation, partnership, sole proprietorship or other entity
 15 that is licensed pursuant to the Transportation Network Company
 16 Services Act and lawfully operating in New Mexico that uses a
 17 digital network, but which shall not:

18 (1) be deemed to control, direct or manage the
 19 personal vehicles or transportation network company drivers
 20 that connect to its digital network except where agreed to by
 21 written contract; or

22 (2) include any entity receiving funding to
 23 supplement transportation services through Title III B of the
 24 federal Older Americans Act of 1965, including any driver for
 25 such an entity, but only when the driver is providing those

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1 services;

2 [E-] H. "transportation network company driver" or
3 "driver" means an individual who:

4 (1) accepts a prearranged ride requested
5 through a digital network and for a fee paid by a
6 transportation network company rider to the transportation
7 network company; and

8 (2) uses a personal vehicle to provide a
9 prearranged ride through a digital network;

10 [F-] I. "transportation network company insurance"
11 means a liability insurance policy that specifically covers a
12 transportation network company driver's use of a transportation
13 network company digital network; and

14 [G-] J. "transportation network company rider" or
15 "rider" means a person who uses a digital network for a
16 prearranged ride."

17 **SECTION 3. EFFECTIVE DATE.**--The effective date of the
18 provisions of this act is July 1, 2023.