

CHAPTER 164--H.F.No. 3548

An act relating to transportation; amending certain regulations and penalties governing special transportation service providers; setting requirements for nonemergency medical transportation providers related to background studies; amending Minnesota Statutes 2014, section 174.30, subdivisions 1, 4a, 8, by adding a subdivision; Minnesota Statutes 2015 Supplement, sections 174.30, subdivisions 4, 10; 256B.0625, subdivision 17.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2014, section 174.30, subdivision 1, is amended to read:

Subdivision 1. **Applicability.** (a) The operating standards for special transportation service adopted under this section do not apply to special transportation provided by:

(1) a common carrier operating on fixed routes and schedules public transit provider receiving financial assistance under sections 174.24 or 473.371 to 473.449;

(2) a volunteer driver using a private automobile;

(3) a school bus as defined in section 169.011, subdivision 71; or

(4) an emergency ambulance regulated under chapter 144.

(b) The operating standards adopted under this section only apply to providers of special transportation service who receive grants or other financial assistance from either the state or the federal government, or both, to provide or assist in providing that service; except that the operating standards adopted under this section do not apply to any nursing home licensed under section 144A.02, to any board and care facility licensed under section 144.50, or to any day training and habilitation services, day care, or group home facility licensed under sections 245A.01 to 245A.19 unless the facility or program provides transportation to nonresidents on a regular basis and the facility receives reimbursement, other than per diem payments, for that service under rules promulgated by the commissioner of human services.

(c) Notwithstanding paragraph (b), the operating standards adopted under this section do not apply to any vendor of services licensed under chapter 245D that provides transportation services to consumers or residents of other vendors licensed under chapter 245D and transports 15 or fewer persons, including consumers or residents and the driver.

Sec. 2. Minnesota Statutes 2014, section 174.30, is amended by adding a subdivision to read:

Subd. 1a. **Definition.** For purposes of this section, unless the context clearly indicates otherwise, "disqualified" means an individual disqualified under chapter 245C who has not received a disqualification set-aside under sections 245C.22 and 245C.23 specific to that special transportation service provider.

Sec. 3. Minnesota Statutes 2015 Supplement, section 174.30, subdivision 4, is amended to read:

Subd. 4. **Vehicle and equipment inspection; rules; decal; complaint contact information; restrictions on name of service.** (a) The commissioner shall inspect or provide for the inspection of vehicles

at least annually. In addition to scheduled annual inspections and reinspections scheduled for the purpose of verifying that deficiencies have been corrected, unannounced inspections of any vehicle may be conducted.

(b) On determining that a vehicle or vehicle equipment is in a condition that is likely to cause an accident or breakdown, the commissioner shall require the vehicle to be taken out of service immediately. The commissioner shall require that vehicles and equipment not meeting standards be repaired and brought into conformance with the standards and shall require written evidence of compliance from the operator before allowing the operator to return the vehicle to service. The commissioner may prohibit a vehicle from being placed in or returned to service under a certificate of compliance until the vehicle fully complies with all of the requirements in Minnesota Rules, chapter 8840.

(c) The commissioner shall provide in the rules procedures for inspecting vehicles, removing unsafe vehicles from service, determining and requiring compliance, and reviewing driver qualifications.

(d) The commissioner shall design a distinctive decal to be issued to special transportation service providers with a current certificate of compliance under this section. A decal is valid for one year from the last day of the month in which it is issued. A person who is subject to the operating standards adopted under this section may not provide special transportation service in a vehicle that does not conspicuously display a decal issued by the commissioner.

(e) All special transportation service providers shall pay an annual fee of \$45 to obtain a decal. Providers of ambulance service, as defined in section 144E.001, subdivision 3, are exempt from the annual fee. Fees collected under this paragraph must be deposited in the trunk highway fund, and are appropriated to the commissioner to pay for costs related to administering the special transportation service program.

(f) Special transportation service providers shall prominently display in each vehicle all contact information for the submission of complaints regarding the transportation services provided to that individual. All vehicles providing service under section 473.386 shall display contact information for the Metropolitan Council. All other special transportation service vehicles shall display contact information for the commissioner of transportation.

(g) Nonemergency medical transportation providers must comply with Minnesota Rules, part 8840.5450, except that a provider may use the phrase "nonemergency medical transportation" in its name or in advertisements or information describing the service.

Sec. 4. Minnesota Statutes 2014, section 174.30, subdivision 4a, is amended to read:

Subd. 4a. **Certification of special transportation provider.** (a) The commissioner may refuse to issue a certificate of compliance if an individual specified in subdivision 10, paragraph (a), clauses (1) to (3), is disqualified.

(b) The commissioner shall annually evaluate or provide for the evaluation of each provider of special transportation service regulated under this section and certify that the provider is in compliance with the standards under this section.

Sec. 5. Minnesota Statutes 2014, section 174.30, subdivision 8, is amended to read:

Subd. 8. **Administrative penalties; loss of certificate of compliance.** (a) The commissioner may issue an order requiring violations of this section and the operating standards adopted under this section to be corrected and assessing monetary penalties of up to \$1,000 for all violations identified during a single

inspection, investigation, or audit. Section 221.036 applies to administrative penalty orders issued under this section or section 174.315. The commissioner shall suspend, without a hearing, a special transportation service provider's certificate of compliance for failure to pay, or make satisfactory arrangements to pay, an administrative penalty when due.

(b) If the commissioner determines that an individual subject to background studies under subdivision 10, paragraph (a), is disqualified, the commissioner must issue a written notice ordering the special transportation service provider to immediately cease permitting the individual to perform services or functions listed in subdivision 10, paragraph (a). The written notice must include a warning that failure to comply with the order may result in the suspension or revocation of the provider's certificate of compliance under this section.

(c) The commissioner may suspend or revoke a provider's certificate of compliance upon determining that, following receipt by a provider of written notice under paragraph (b), the individual has continued to perform services or functions listed in subdivision 10, paragraph (a), for the provider. A provider whose certificate is suspended or revoked may appeal the commissioner's action in a contested case proceeding under chapter 14.

(d) Penalties collected under this section must be deposited in the state treasury and credited to the trunk highway fund.

Sec. 6. Minnesota Statutes 2015 Supplement, section 174.30, subdivision 10, is amended to read:

Subd. 10. **Background studies.** (a) Providers of special transportation service regulated under this section must initiate background studies in accordance with chapter 245C on the following individuals:

(1) each person with a direct or indirect ownership interest of five percent or higher in the transportation service provider;

(2) each controlling individual as defined under section 245A.02;

(3) managerial officials as defined in section 245A.02;

(4) each driver employed by the transportation service provider;

(5) each individual employed by the transportation service provider to assist a passenger during transport; and

(6) all employees of the transportation service agency who provide administrative support, including those who:

(i) may have face-to-face contact with or access to passengers, their personal property, or their private data;

(ii) perform any scheduling or dispatching tasks; or

(iii) perform any billing activities.

(b) The transportation service provider must initiate the background studies required under paragraph (a) using the online NETStudy system operated by the commissioner of human services.

(c) The transportation service provider shall not permit any individual to provide any service or function listed in paragraph (a) until the transportation service provider has received notification from the commissioner of human services indicating that the individual:

(1) is not disqualified under chapter 245C; or

(2) is disqualified, but has received a set-aside of that disqualification according to ~~section~~ sections 245C.22 and 245C.23 related to that transportation service provider.

(d) When a local or contracted agency is authorizing a ride under section 256B.0625, subdivision 17, by a volunteer driver, and the agency authorizing the ride has reason to believe the volunteer driver has a history that would disqualify the individual or that may pose a risk to the health or safety of passengers, the agency may initiate a background study to be completed according to chapter 245C using the commissioner of human services' online NETStudy system, or through contacting the Department of Human Services background study division for assistance. The agency that initiates the background study under this paragraph shall be responsible for providing the volunteer driver with the privacy notice required under section 245C.05, subdivision 2c, and payment for the background study required under section 245C.10, subdivision 11, before the background study is completed.

Sec. 7. Minnesota Statutes 2015 Supplement, section 256B.0625, subdivision 17, is amended to read:

Subd. 17. **Transportation costs.** (a) "Nonemergency medical transportation service" means motor vehicle transportation provided by a public or private person that serves Minnesota health care program beneficiaries who do not require emergency ambulance service, as defined in section 144E.001, subdivision 3, to obtain covered medical services.

(b) Medical assistance covers medical transportation costs incurred solely for obtaining emergency medical care or transportation costs incurred by eligible persons in obtaining emergency or nonemergency medical care when paid directly to an ambulance company, common carrier, or other recognized providers of transportation services. Medical transportation must be provided by:

- (1) nonemergency medical transportation providers who meet the requirements of this subdivision;
- (2) ambulances, as defined in section 144E.001, subdivision 2;
- (3) taxicabs;
- (4) public transit, as defined in section 174.22, subdivision 7; or
- (5) not-for-hire vehicles, including volunteer drivers.

(c) Medical assistance covers nonemergency medical transportation provided by nonemergency medical transportation providers enrolled in the Minnesota health care programs. All nonemergency medical transportation providers must comply with the operating standards for special transportation service as defined in sections 174.29 to 174.30 and Minnesota Rules, chapter 8840, and in consultation with the Minnesota Department of Transportation. All nonemergency medical transportation providers shall bill for nonemergency medical transportation services in accordance with Minnesota health care programs criteria. Publicly operated transit systems, volunteers, and not-for-hire vehicles are exempt from the requirements outlined in this paragraph.

(d) An organization may be terminated, denied, or suspended from enrollment if:

(1) the provider has not initiated background studies on the individuals specified in section 174.30, subdivision 10, paragraph (a), clauses (1) to (3); or

(2) the provider has initiated background studies on the individuals specified in section 174.30, subdivision 10, paragraph (a), clauses (1) to (3), and:

(i) the commissioner has sent the provider a notice that the individual has been disqualified under section 245C.14; and

(ii) the individual has not received a disqualification set-aside specific to the special transportation services provider under sections 245C.22 and 245C.23.

~~(d)~~ (e) The administrative agency of nonemergency medical transportation must:

(1) adhere to the policies defined by the commissioner in consultation with the Nonemergency Medical Transportation Advisory Committee;

(2) pay nonemergency medical transportation providers for services provided to Minnesota health care programs beneficiaries to obtain covered medical services;

(3) provide data monthly to the commissioner on appeals, complaints, no-shows, canceled trips, and number of trips by mode; and

(4) by July 1, 2016, in accordance with subdivision 18e, utilize a Web-based single administrative structure assessment tool that meets the technical requirements established by the commissioner, reconciles trip information with claims being submitted by providers, and ensures prompt payment for nonemergency medical transportation services.

~~(e)~~ (f) Until the commissioner implements the single administrative structure and delivery system under subdivision 18e, clients shall obtain their level-of-service certificate from the commissioner or an entity approved by the commissioner that does not dispatch rides for clients using modes of transportation under paragraph ~~(h)~~ (i), clauses (4), (5), (6), and (7).

~~(f)~~ (g) The commissioner may use an order by the recipient's attending physician or a medical or mental health professional to certify that the recipient requires nonemergency medical transportation services. Non-emergency medical transportation providers shall perform driver-assisted services for eligible individuals, when appropriate. Driver-assisted service includes passenger pickup at and return to the individual's residence or place of business, assistance with admittance of the individual to the medical facility, and assistance in passenger securement or in securing of wheelchairs or stretchers in the vehicle.

Nonemergency medical transportation providers must take clients to the health care provider using the most direct route, and must not exceed 30 miles for a trip to a primary care provider or 60 miles for a trip to a specialty care provider, unless the client receives authorization from the local agency.

Nonemergency medical transportation providers may not bill for separate base rates for the continuation of a trip beyond the original destination. Nonemergency medical transportation providers must maintain trip logs, which include pickup and drop-off times, signed by the medical provider or client, whichever is deemed most appropriate, attesting to mileage traveled to obtain covered medical services. Clients requesting client mileage reimbursement must sign the trip log attesting mileage traveled to obtain covered medical services.

~~(g)~~ (h) The administrative agency shall use the level of service process established by the commissioner in consultation with the Nonemergency Medical Transportation Advisory Committee to determine the

client's most appropriate mode of transportation. If public transit or a certified transportation provider is not available to provide the appropriate service mode for the client, the client may receive a onetime service upgrade.

~~(h)~~ (i) The covered modes of transportation, which may not be implemented without a new rate structure, are:

(1) client reimbursement, which includes client mileage reimbursement provided to clients who have their own transportation, or to family or an acquaintance who provides transportation to the client;

(2) volunteer transport, which includes transportation by volunteers using their own vehicle;

(3) unassisted transport, which includes transportation provided to a client by a taxicab or public transit. If a taxicab or public transit is not available, the client can receive transportation from another nonemergency medical transportation provider;

(4) assisted transport, which includes transport provided to clients who require assistance by a non-emergency medical transportation provider;

(5) lift-equipped/ramp transport, which includes transport provided to a client who is dependent on a device and requires a nonemergency medical transportation provider with a vehicle containing a lift or ramp;

(6) protected transport, which includes transport provided to a client who has received a prescreening that has deemed other forms of transportation inappropriate and who requires a provider: (i) with a protected vehicle that is not an ambulance or police car and has safety locks, a video recorder, and a transparent thermoplastic partition between the passenger and the vehicle driver; and (ii) who is certified as a protected transport provider; and

(7) stretcher transport, which includes transport for a client in a prone or supine position and requires a nonemergency medical transportation provider with a vehicle that can transport a client in a prone or supine position.

~~(i)~~ (j) The local agency shall be the single administrative agency and shall administer and reimburse for modes defined in paragraph ~~(h)~~ (i) according to paragraphs ~~(h)~~ (m) and ~~(m)~~ (n) when the commissioner has developed, made available, and funded the Web-based single administrative structure, assessment tool, and level of need assessment under subdivision 18e. The local agency's financial obligation is limited to funds provided by the state or federal government.

~~(j)~~ (k) The commissioner shall:

(1) in consultation with the Nonemergency Medical Transportation Advisory Committee, verify that the mode and use of nonemergency medical transportation is appropriate;

(2) verify that the client is going to an approved medical appointment; and

(3) investigate all complaints and appeals.

~~(k)~~ (l) The administrative agency shall pay for the services provided in this subdivision and seek reimbursement from the commissioner, if appropriate. As vendors of medical care, local agencies are subject to the provisions in section 256B.041, the sanctions and monetary recovery actions in section 256B.064, and Minnesota Rules, parts 9505.2160 to 9505.2245.

~~(h)~~ (m) Payments for nonemergency medical transportation must be paid based on the client's assessed mode under paragraph ~~(g)~~ (h), not the type of vehicle used to provide the service. The medical assistance reimbursement rates for nonemergency medical transportation services that are payable by or on behalf of the commissioner for nonemergency medical transportation services are:

- (1) \$0.22 per mile for client reimbursement;
- (2) up to 100 percent of the Internal Revenue Service business deduction rate for volunteer transport;
- (3) equivalent to the standard fare for unassisted transport when provided by public transit, and \$11 for the base rate and \$1.30 per mile when provided by a nonemergency medical transportation provider;
- (4) \$13 for the base rate and \$1.30 per mile for assisted transport;
- (5) \$18 for the base rate and \$1.55 per mile for lift-equipped/ramp transport;
- (6) \$75 for the base rate and \$2.40 per mile for protected transport; and
- (7) \$60 for the base rate and \$2.40 per mile for stretcher transport, and \$9 per trip for an additional attendant if deemed medically necessary.

~~(m)~~ (n) The base rate for nonemergency medical transportation services in areas defined under RUCA to be super rural is equal to 111.3 percent of the respective base rate in paragraph ~~(h)~~ (m), clauses (1) to (7). The mileage rate for nonemergency medical transportation services in areas defined under RUCA to be rural or super rural areas is:

- (1) for a trip equal to 17 miles or less, equal to 125 percent of the respective mileage rate in paragraph ~~(h)~~ (m), clauses (1) to (7); and
- (2) for a trip between 18 and 50 miles, equal to 112.5 percent of the respective mileage rate in paragraph ~~(h)~~ (m), clauses (1) to (7).

~~(n)~~ (o) For purposes of reimbursement rates for nonemergency medical transportation services under paragraphs ~~(h)~~ (m) and ~~(m)~~ (n), the zip code of the recipient's place of residence shall determine whether the urban, rural, or super rural reimbursement rate applies.

~~(o)~~ (p) For purposes of this subdivision, "rural urban commuting area" or "RUCA" means a census-tract based classification system under which a geographical area is determined to be urban, rural, or super rural.

Presented to the governor May 24, 2016

Signed by the governor May 31, 2016, 10:10 a.m.