

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
NOTICE OF PUBLIC HEARING

September 22, 2020
10:00 a.m. Central Time
Nebraska State Office Building – Lower Level A
301 Centennial Mall South, Lincoln, Nebraska
Phone call information: 888-820-1398; Participant code: 3213662#

The purpose of this hearing is to receive comments on proposed changes to Title 471, Chapter 27 of the Nebraska Administrative Code (NAC) – *Non-Emergency Transportation (NET) Services*. The proposed changes include authorization of NET services through the broker contracted by the managed care organization or if fee-for-service, through the Customer Service Center. The proposed changes will remove all duplicate statutory and inconsistent language in the regulations, restructure the regulatory chapter, and update formatting.

Authority for these regulations is found in Neb. Rev. Stat. § 81-3117(7).

Due to the current public health crisis, the agency will enforce any Directed Health Measure Order on the size of gatherings that is in effect at the time of the hearing. In order to encourage participation in this public hearing, a phone conference line will be set up for any member of the public to call in and provide oral comments.

Interested persons may provide verbal comments by participating via phone conference line by calling 888-820-1398; Participant code: 3213662#.

Interested persons may provide written comments by mail, fax, or email, no later than the day of the hearing to: DHHS Legal Services, PO Box 95026, Lincoln, NE 68509-5026, (402) 742-2382 or dhhs.regulations@nebraska.gov, respectively.

A copy of the proposed changes is available online at <http://www.sos.ne.gov>, or by contacting DHHS at the mailing address or email above, or by phone at (402) 471-8417. The fiscal impact statement for these proposed changes may be obtained at the office of the Secretary of State, Regulations Division, 1201 N Street, Suite 120, Lincoln, NE 68508, or by calling (402) 471-2385.

Auxiliary aids or reasonable accommodations needed to participate in a hearing can be requested by calling (402) 471-8223. Individuals with hearing impairments may call DHHS at (402) 471-9570 (voice and TDD) or the Nebraska Relay System at 711 or (800) 833-7352 TDD at least 2 weeks prior to the hearing.

FISCAL IMPACT STATEMENT

Agency: Department of Health and Human Services	
Title: 471	Prepared by: Malisa McCown
Chapter: 27	Date prepared: 04/24/2019
Subject: Non-Emergency Transportation (NET) Services	Telephone: 402-471-1641

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	(<input checked="" type="checkbox"/>)	(<input checked="" type="checkbox"/>)	(<input checked="" type="checkbox"/>)
Increased Costs	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Decreased Costs	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Increased Revenue	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Decreased Revenue	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Indeterminable	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)

Provide an Estimated Cost & Description of Impact:

State Agency: N/A

Political Subdivision: N/A

Regulated Public: N/A

If indeterminable, explain why:

TITLE 471 NEBRASKA MEDICAL ASSISTANCE PROGRAM SERVICES

CHAPTER 27 NON-EMERGENCY TRANSPORTATION (NET) SERVICES

001. SCOPE AND AUTHORITY. The regulations govern the services provided under Nebraska's Medicaid program as defined by Nebraska Revised Statute §§ 68-901 et seq.

002. DEFINITIONS. The following definitions apply:

002.01 BASE RATES. Non-emergency medical transportation base rates include all services, equipment and other costs, including: vehicle operating expenses, services of personnel, first five "Loaded" miles of the trip, unloaded mileage, and usual waiting or standby time.

002.02 EXEMPT PROVIDER. Transportation carriers exempted from Nebraska Public Service Commission certification as defined in Neb. Rev. Stat. §§ 75-303 to 75-303.03.

002.03 FREE TRANSPORTATION. An appropriate mode of transportation that can be secured by the client without cost or charge, including the client's personal vehicle or through access to a vehicle in the household that is owned by a legally responsible individual for the client.

002.04 INDIVIDUAL PROVIDER. An individual carrier who meets the requirements of Neb. Rev. Stat. § 75-303 (11), (12), or (13), has an approved service provider agreement with the Department and is chosen by the client.

002.05 LEGALLY RESPONSIBLE INDIVIDUAL. A parent or guardian of a minor child, or spouse.

002.06 LOADED MILEAGE. Miles traveled while the client is present in the vehicle. Loaded mileage is covered for non-emergency medical transports when travel exceeds six or more miles. The first five loaded miles are included in the payment for the base rate.

002.07 MODE. The method used to provide transportation services to clients. This includes personal vehicle owned by individual provider; fixed route public transportation; ambulatory sedan, van, handi-bus; wheelchair-accessible van; and commercial airlines.

002.08 MOST APPROPRIATE. The least costly mode of transportation to meet a client's medical needs that accommodates the client based on the client's physical, cognitive or developmental capabilities.

002.09 NON-EMERGENCY TRANSPORTATION (NET) BROKER. An entity under contract with a Heritage Health Managed Care Organization provider to perform all administrative brokerage functions including, but not limited to establishing a transportation network; receiving non-emergency transportation (NET) service requests; verifying client program(s) eligibility; screening clients for mobility status and existing transportation resources; determining appropriateness and coverage of program services; approving and arranging for transport; notifying client of transportation arrangement; and facilitating provider payment for completed services.

002.10 NON-EMERGENCY TRANSPORTATION (NET) SERVICE PROVIDER. Non-emergency transportation (NET) services provided by an approved individual, exempt or public service commission (PSC) provider.

002.11 NON-EMERGENCY TRANSPORTATION (NET) SERVICE. Non-emergency transportation (NET) Services are a ride, or mileage reimbursement for a ride, and escort or attendant services provided so that a Medicaid eligible client with no other transportation resources can receive Medicaid coverable services. By definition, non-emergency transportation (NET) services do not include transportation provided on an emergency basis, such as trips to the emergency room.

002.12 NO SHOW. A trip that is not cancelled where the client or non-emergency transportation (NET) provider does not arrive as scheduled; or a scheduled trip that is not cancelled prior to the service when either the client or the non-emergency transportation (NET) provider fails to arrive.

002.13 PUBLIC SERVICE COMMISSION (PSC) CERTIFIED CARRIER. Transportation providers requiring Nebraska Public Service Commission certification as defined in Neb. Rev. Stat. § 75-302 including the following carriers:

002.13(A) COMMON CARRIER. Any person who or which undertakes to transport passengers or household goods for the general public in intrastate commerce by motor vehicle for hire, whether over regular or irregular routes, upon the highways of this state.

002.13(B) CONTRACT CARRIER. Any motor carrier which transports passengers or household goods for hire other than as a common carrier designed to meet the distinct needs of each individual customer or a specifically designated class of customers without any limitation as to the number of customers it can serve within the class.

002.14 UNLOADED MILEAGE. Miles traveled when a client is not present in the vehicle. All unloaded mileage is included in the payment for the base rate.

002.15 URGENT. A serious, but not life threatening, illness or injury. Urgent care is determined by the client's medical care provider. An appointment must be considered urgent if the medical service provider grants an appointment within 48 hours of the client's request. An inpatient or outpatient hospital discharge must be considered an urgent trip.

002.16 WAIT TIME. Periods of time that a non-emergency transportation (NET) provider spends waiting for the client prior to or in between the provision of covered non-emergency transportation (NET) services.

003. COVERED SERVICES. Medicaid covers the most appropriate non-emergency transportation (NET) services necessary to obtain Nebraska Medicaid reimbursed services when one of the following criteria is met:

- (A) Client does not own or does not have access to a working licensed vehicle;
- (B) Client does not have a current valid driver's license;
- (C) Client is unable to drive due to a documented physical, cognitive, or developmental limitation;
- (D) Client is unable to travel or wait by himself or herself due to a documented physical, cognitive, or developmental limitation; or
- (E) Client is unable to secure free transportation as defined in this chapter.

003.01 NON-EMERGENCY TRANSPORTATION (NET) SERVICES PROVIDED FOR CLIENTS RESIDING IN NURSING FACILITIES OR INTERMEDIATE CARE FACILITY FOR PERSONS WITH DEVELOPMENTAL DISABILITIES (ICF/DD'S) WHEN MEDICAID IS THE PRIMARY INSURANCE. Non-emergency transportation (NET) services for nursing facility or intermediate care facility for persons with developmental disability (ICF/DD) residents may be covered under this chapter for facility discharge transportation to a private residence within boundaries of the state of Nebraska.

003.02 EARLY AND PERIODIC SCREENING, DIAGNOSIS AND TREATMENT (EPSDT) SERVICES. All transportation services for medically necessary early and periodic screening, diagnosis, and treatment (EPSDT) covered services will be provided without regard to service limitations defined within this chapter, and with prior authorization.

003.03 PROVIDER LOCATION. Non-emergency transportation (NET) services are available to the nearest Nebraska Medicaid coverable services within a 20-mile radius of the client's residence, able to meet the client's medical needs, and willing to accept the client as a patient, unless otherwise exempted or approved by the Department.

004. NON-COVERED SERVICES. The following non-emergency transportation (NET) services are not covered by Nebraska Medicaid:

- (A) Transportation to obtain services not coverable by Nebraska Medicaid;
- (B) Transportation for clients residing in nursing facilities or intermediate care facilities for persons with developmental disabilities (ICF/DD), except circumstances when for facility discharge transportation to a private residence within boundaries of the state of Nebraska;
- (C) Transportation of family members to visit a hospitalized or institutionalized member;
- (D) Transportation to a durable medical equipment (DME) provider that provides a delivery service that can be accessed at no cost to the client, in addition to the delivery of durable medical equipment (DME) products in lieu of transporting the client;
- (E) Transportation for Medicaid covered services provided in the client's home such as personal care, home health, etc.;
- (F) Transportation to a pharmacy that provides a delivery service that can be accessed at no delivery cost to the client, with the exception of a new prescription requiring immediate

use not otherwise reasonably accessible to the client; in addition to the delivery of pharmacy products in lieu of transporting the client;

- (G) Transportation to a hospital emergency room;
- (H) Client-provided transportation utilizing his or her own personal vehicle;
- (I) Wait times;
- (J) Services provided by Department staff or a legally responsible individual for the client; and
- (K) No shows.

005. AUTHORIZATION PROCEDURES. Authorization for non-emergency transportation (NET) services must be requested for a scheduled trip at least three business days in advance, with the exception of an unscheduled trip for urgent medical care as defined in this Chapter. The authorization will be requested through the non-emergency transportation (NET) brokerage contracted by the Heritage Health managed care organization or if fee-for-service (FFS), through the Customer Service Center according to the most appropriate mode of transportation for the service provided to the client.

005.01 MINOR CHILDREN. A minor child under age 13 may not be transported by a non-emergency transportation (NET) provider without adult supervision by a legally responsible individual or an adult designated by a legally responsible individual.

005.02 ADDITIONAL PASSENGERS. The transportation for one legally responsible adult, or an adult designated by a legally responsible adult, may be authorized to accompany a minor child under age 19 as an additional passenger. The transportation for a personal assistance services provider may be authorized to accompany a client as an additional passenger.

006. PAYMENT FOR SERVICES.

006.01 CONDITIONS FOR PAYMENT. The provider may bill Medicaid only when:

- (A) The transportation is furnished by a Medicaid enrolled provider to whom a direct vender payment can be made; and
- (B) The client is actually in the vehicle.

007. PROVIDER PARTICIPATION. To participate in the Nebraska Medicaid Program, providers of non-emergency transportation (NET) services must fully meet all applicable local, state, and federal laws and regulations governing the provision of their services.

007.01 DRIVER QUALIFICATIONS. Providers must ensure drivers:

- (A) Be age 19 or older;
- (B) Possess a current and valid driver's license with no more than three points assessed against his or her Nebraska driver's license within the past two years, or meet a comparable standard in the state in which he or she is licensed to drive;
- (C) Not had his or her driver or chauffeur's license revoked within past three years.

008. BACKGROUND CHECKS. Records of screening results must be maintained by these carriers and providers, and must be made available to the Department upon request. The following background check requirements apply:

- (A) Individual Providers: If the provider is an individual, prior to enrollment and annually, the Department will:
- (i) Conduct the Nebraska State Patrol Sex Offender Registry screening;
 - (ii) Conduct the Criminal History Check; and
 - (iii) Notify the provider when and how to conduct the Nebraska Adult and Child Abuse and Neglect Central Registry screening.
- (B) Public Service Commission (PSC) and Exempt Providers: Public service commission (PSC) certified carriers and exempt providers must perform the following screenings on all drivers, whether employees or independent contractors prior to being allowed to provider transportation to Nebraska Medicaid clients:
- (i) Nebraska State Patrol Sex Offender Registry;
 - (ii) Criminal History Check; and
 - (iii) Nebraska Adult and Child Abuse and Neglect Central Registry

008.01 NEBRASKA ADULT AND CHILD ABUSE AND NEGLECT CENTRAL REGISTRY. A Nebraska Adult and Child Abuse and Neglect Central Registry check must be completed for each potential driver prior to providing services and annually thereafter. Any person whose result is "record found" must not be enrolled or allowed to provide transportation to Nebraska Medicaid clients.

008.02 NEBRASKA STATE PATROL SEX OFFENDER REGISTRY CHECKS. A Nebraska State Patrol Sex Offender Registry check must be completed for each potential driver prior to providing services and annually thereafter. Any person whose name appears on the Nebraska State Patrol Sex Offender Registry must not be enrolled or allowed to provide transportation to Nebraska Medicaid clients.

008.03 CRIMINAL HISTORY CHECKS. Provider staff must ensure criminal history checks are completed for each potential driver prior to providing services and annually thereafter. Any person whose result includes the driver being the respondent of a protection order, crimes against a child or vulnerable adult, drug-related crimes, or crimes that if repeated could harm a Medicaid client, must not be enrolled or allowed to provide transportation to Nebraska Medicaid clients.

27-000 NON-EMERGENCY TRANSPORTATION (NET) SERVICES

27-001 Service Definitions: the following words, terms and phrases when used in this section shall have the following meanings:

Base Rates: Non-emergency medical transportation base rates include all services, equipment and other costs, including: vehicle operating expenses, services of personnel, first five "Loaded" miles of the trip, unloaded mileage, and usual waiting/standby time. **Remains in section 2 as modified**

Department: The Department of Health and Human Services (DHHS) as established by the Health and Human Services Act.

Department staff: Employees of the Department of Health and Human Services or designees assigned those responsibilities.

Exempt Provider: Transportation carriers exempted from Nebraska Public Service Commission certification as defined in Neb. Rev. Stat. §§ 75-303 to 75-303.03. **Remains in section 2 as modified**

Free Transportation: An appropriate mode of transportation that can be secured by the client without cost or charge, including the client's personal vehicle or through access to a vehicle in the household that is owned by a legally responsible individual for the client. **Remains in section 2 as modified**

Individual Provider: An individual carrier who meets the requirements of Neb. Rev. Stat. § 75-303 (11), (12), or (13), has an approved service provider agreement with the Department and is chosen by the client. **Remains in section 2 as modified**

Legally Responsible Individual: A parent or guardian of a minor child, or spouse. **Remains in section 2 as modified**

Loaded Mileage: Miles traveled while the client is present in the vehicle. Loaded mileage is covered for non-emergency medical transports when travel exceeds six or more miles. The first five loaded miles are included in the payment for the base rate. **Remains in section 2 as modified**

Mode: The method used to provide transportation services to clients. This includes personal vehicle owned by individual provider; fixed route public transportation; ambulatory sedan, van, handi-bus; wheelchair-accessible van; and commercial airlines. **Remains in section 2 as modified**

~~Most Appropriate: The least costly mode of transportation to meet a client's medical needs that accommodates the client based on the client's physical, cognitive or developmental capabilities.~~
~~Remains in section 2 as modified~~

~~Nebraska Medicaid Coverable Services: A medical service that is covered by the Nebraska Medicaid Program as specified in Nebraska Administrative Code (NAC) Title 471 (see Appendix 471-000-200).~~

~~NET Broker: An entity under contract with DHHS, chosen through a competitive bidding process, to perform all administrative brokerage functions including, but not limited to establishing a transportation network; receiving NET service requests; verifying client program(s) eligibility; screening clients for mobility status and existing transportation resources; determining appropriateness and coverage of program services; approving and arranging for transport; notifying client of transportation arrangement; and facilitating provider payment for completed services.~~

~~NET Service Provider: NET services provided by an approved Individual, Exempt or PSC Provider.~~
~~Remains in section 2 as modified~~

~~Non-Emergency Transportation (NET) Service: Non-Emergency Transportation (NET) Services are 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 trips to the emergency room.~~
~~Remains in section 2 as modified~~

~~No Show: A trip that is not cancelled where the client or NET provider does not arrive as scheduled; or a scheduled trip that is not cancelled prior to the service when either the client or the NET provider fails to arrive.~~
~~Remains in section 2 as modified~~

~~Public Service Commission (PSC) Certified Carrier: Transportation providers requiring Nebraska Public Service Commission certification as defined in Neb. Rev. Stat. § 75-302 including the following carriers:~~
~~Remains in section 2 as modified~~

~~Common Carrier means any person who or which undertakes to transport passengers or household goods for the general public in intrastate commerce by motor vehicle for hire, whether over regular or irregular routes, upon the highways of this state.~~
~~Remains in section 2 as modified~~

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~~Contract Carrier means any motor carrier which transports passengers or household goods for hire other than as a common carrier designed to meet the distinct needs of each individual customer or a specifically designated class of customers without any limitation as to the number of customers it can serve within the class.~~
~~Remains in section 2 as modified~~

~~Unloaded Mileage: Miles traveled when a client is not present in the vehicle. All unloaded mileage is included in the payment for the base rate.~~ **Remains in section 2 as modified**

~~Urgent: A serious, but not life threatening, illness/injury. Urgent care is determined by the client's medical care provider. An appointment shall be considered urgent if the medical service provider grants an appointment within 48 hours of the client's request. An inpatient or outpatient hospital discharge shall be considered an Urgent Trip.~~ **Remains in section 2 as modified**

~~Wait time: Periods of time that a NET provider spends waiting for the client prior to or in between the provision of covered NET services.~~ **Remains in section 2 as modified**

~~27-002 Covered Services: Medicaid covers the most appropriate NET services necessary to obtain Nebraska Medicaid coverable services (see 471 NAC 1-002 for a list of Nebraska Medicaid coverable services) when one of the following criteria is met:~~

- ~~1. Client does not own or does not have access to a working licensed vehicle;~~
- ~~2. Client does not have a current valid driver's license;~~
- ~~3. Client is unable to drive due to a documented physical, cognitive, or developmental limitation;~~
- ~~4. Client is unable to travel or wait by him/herself due to a documented physical, cognitive, or developmental limitation; or~~
- ~~5. Client is unable to secure free transportation as defined in this chapter.~~

Remains in section 3 as modified

~~27-002.01 NET Services Provided for Clients Residing in Nursing Facilities or ICF/DD's when Medicaid is the Primary Insurance: NET services for nursing facility or ICF/DD residents may be covered under this chapter for facility discharge transportation to a private residence within boundaries of the state of Nebraska.~~ **Remains in section 3 as modified**

~~27-002.02 Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Services: All transportation services for medically necessary EPSDT covered services will be provided without regard to service limitations defined within this chapter, and with prior authorization.~~ **Remains in section 3 as modified**

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~~27-002.03 (Reserved)~~

~~27-002.04 Provider Location: NET services are available to the nearest Nebraska Medicaid coverable services within a 20-mile radius of the client's residence, able to meet the client's medical needs, and willing to accept the client as a patient, unless otherwise exempted or approved by the Department.~~ **Remains in section 3 as modified**

~~27-003 Non-Covered Services: The following NET services are not covered by Nebraska Medicaid:~~

- ~~1. Transportation to obtain services not coverable by Nebraska Medicaid;~~

2. Transportation for clients residing in nursing facilities or intermediate care facilities for persons with developmental disabilities (ICF/DD), except circumstances outlined in 471 NAC 27-002.01;
3. Transportation of family members to visit a hospitalized or institutionalized member;
4. Transportation to a Durable Medical Equipment (DME) provider that provides a delivery service that can be accessed at no cost to the client, in addition to the delivery of DME products in lieu of transporting the client;
5. Transportation for Medicaid covered services provided in the client's home such as personal care, home health, etc.;
6. Transportation to a pharmacy that provides a delivery service that can be accessed at no delivery cost to the client, with the exception of a new prescription requiring immediate use not otherwise reasonably accessible to the client; in addition to the delivery of pharmacy products in lieu of transporting the client;
7. Transportation to a hospital emergency room;
8. Client-provided transportation utilizing his/her own personal vehicle;
9. Wait times;
10. Services provided by Department staff or a legally responsible individual for the client; and
11. No shows.

Remains in section 3 as modified

~~27-004 Authorization Procedures: Authorization for NET services shall be requested for a scheduled trip at least three business days in advance, with the exception of an unscheduled trip for urgent medical care as defined in this Chapter. The authorization shall be requested through the NET Brokerage, and the NET Brokerage shall arrange the trip(s) according to the most appropriate mode of transportation for the service provided to the client as specified in 471 NAC 27-002.~~ Remains in section 5 as modified

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MANUAL LETTER #64-2014 HEALTH AND HUMAN SERVICES 471 NAC 27-004.01

~~27-004.01 Minor Children: A minor child under age 13 may not be transported by a NET provider without adult supervision by a legally responsible individual or an adult designated by a legally responsible individual.~~ Remains in section 5 as modified

~~27-004.02 Additional Passengers: The transportation for one legally responsible adult, or an adult designated by a legally responsible adult, may be authorized to accompany a minor child under age 19 as an additional passenger.~~ Remains in section 5 as modified

The transportation for a Personal Assistance Services provider may be authorized to accompany a client as an additional passenger.

27-005 Payment for Services

~~27-005.01 Conditions for Payment: The provider may bill Medicaid only when:~~

1. The transportation is furnished by a Medicaid enrolled provider to whom a direct vendor payment can be made; and
2. The client is actually in the vehicle.

~~Remains in section 6 as modified~~

~~27-005.02 Upper Limits: The Department establishes the NET Service Fee Schedule according to the following limits:~~

~~27-005.02A PSC Certified Carriers: Neb. Rev. Stat. §75-303.02 limits the distance rates for common carriers at a rate not to exceed the rate of reimbursement pursuant to Neb. Rev. Stat. §81-1176 multiplied by three. The maximum reimbursement rate does not apply when the carrier transports the client wholly within the corporate limits of the city or village where the transportation of the client originated pursuant to §75-303.02.~~

~~27-005.02B Individual Providers: Shall be paid at the mileage rate of reimbursement pursuant to Neb. Rev. Stat. §75-303.03, and Neb. Rev. Stat. §81-1176.~~

~~27-006 Billing Requirements: For services billed to Medicaid, providers shall submit claims through the NET Brokerage.~~

~~REV. JULY 23, 2014 NEBRASKA DEPARTMENT OF MEDICAID SERVICES
MANUAL LETTER #64-2014 HEALTH AND HUMAN SERVICES 471 NAC 27-007~~

~~27-007 Provider Participation: 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.~~ **Remains in section 7 as modified**

~~27-007.01 Provider Agreement: The NET provider shall complete and sign the "Service Provider Agreement" with the "NET Service Provider Agreement Addendum" found on the Nebraska Medicaid Provider Enrollment website and submit for approval to participate in Medicaid. NET Service provider agreements are renewed annually to ensure the provider continues to meet all provider standards.~~

~~27-007.02 Provider Compliance Reviews: The NET provider agreements are reviewed annually to ensure the provider continues to meet all provider requirements for provider participation.~~

~~27-007.03 NET Service Provider Standards: A provider shall meet all requirements set forth in the NET Brokerage Provider Manual and not have been terminated as a provider for cause from any Department program within the last ten years;~~

~~27-007.04 NET Provider Vehicle Requirements: Providers shall meet all vehicle standards in accordance with the NET Brokerage Provider Manual.~~

~~27-007.05 Driver Qualifications: Providers shall ensure drivers:~~

~~1. Be age 19 or older;~~

2. Possess a current and valid driver's license with no more than three points assessed against his/her Nebraska driver's license within the past two years, or meet a comparable standard in the state in which s/he is licensed to drive;
3. Not had his/her driver/chauffeur's license revoked within past three years;

Remains in section 7 as modified

REV. JULY 23, 2014 NEBRASKA DEPARTMENT OF MEDICAID SERVICES
MANUAL LETTER #64-2014 HEALTH AND HUMAN SERVICES 471 NAC 27-008

27-008 Background Checks:

27-008.01 Nebraska Child Abuse and Neglect Central Register and Adult Protective Services Central Registry checks: Nebraska Child Abuse and Neglect Central Register and Adult Protective Services Central Registry checks shall be completed for each potential driver prior to providing services and annually thereafter. This shall include registry checks in the state of residence or previous residence, if the state provides this service, when the potential driver does not reside in Nebraska or has resided in Nebraska for less than one year.

A driver will not be approved if a report of abuse or neglect concerning the driver has been determined to be "Court Substantiated", "Agency Substantiated", or "Court Pending" on the Nebraska Child Abuse and Neglect Central Register or on the Adult Protective Services Central Registry.

27-008.02 Nebraska State Patrol Sex Offender Registry checks: A Nebraska State Patrol Sex Offender Registry check shall be completed for each potential driver prior to providing services and annually thereafter. This shall include a registry check in the state of residence or previous residence, if the state provides this service, when the potential driver does not reside in Nebraska or has resided in Nebraska for less than one year.

A driver will not be approved if their name appears on the Nebraska State Patrol Sex Offender Registry.

27-008.03 Criminal History Checks: Provider staff shall ensure criminal history checks are completed for each potential driver prior to providing services and annually thereafter.

1. Individual Providers: If the driver is an individual, the Department staff shall:
 - a. Obtain a criminal history statement from the driver. This statement shall identify any record of any felony or misdemeanor convictions. This shall include details, dates, and disposition (e.g., parole, probation, incarceration, fine, community service, etc.); and
 - b. Perform a Nebraska statewide criminal background check of the driver. The driver shall provide Department staff with a statewide criminal history check in the state of residence when the driver does not reside in Nebraska, or previous state(s) of residence, if the driver has resided in Nebraska for less than 15 years.

Remains in section 8 as modified

2. ~~PSC and Exempt Providers: PSC certified carriers and exempt providers shall perform a nationwide criminal background check on all drivers, whether employees or independent contractors. Records shall be maintained by these carriers and providers, and shall be made available to Department staff upon request.~~ **Remains in section 8 as modified**

27-008.03A Specific Criminal History: ~~Drivers shall not have a history of misdemeanor or felony conviction(s) in the State of Nebraska or any other state, that include crimes against a child or vulnerable adult; crimes involving intentional bodily harm; crimes involving the illegal use of a controlled substance; or crimes involving moral turpitude on the part of the potential driver. Examples include but are not limited to the following:~~

1. ~~Child pornography;~~
2. ~~Child or adult abuse;~~
3. ~~Driving under the influence, pending charge or conviction within the past eight years;~~
4. ~~Domestic assault;~~
5. ~~Shoplifting after age 19 and within three years prior to the criminal history review;~~
6. ~~Felony fraud within the last ten years;~~
7. ~~Misdemeanor fraud within the last five years;~~
8. ~~Possession of any controlled substance within the last five years;~~
9. ~~Possession of a controlled substance with intent to deliver within the last five years;~~
10. ~~Felony or misdemeanor assault without a weapon in the last ten years;~~
11. ~~Felony or misdemeanor assault with a weapon in the last 15 years;~~
12. ~~Prostitution or solicitation of prostitution within the last five years;~~
13. ~~Felony or misdemeanor robbery or burglary within the last ten years;~~
14. ~~Rape or sexual assault; or~~
15. ~~Homicide.~~