

South Carolina Department of Health and Human Services

Transportation Advisory Committee

Meeting Minutes

September 22, 2016

Committee Members in Attendance: Coretta Bedsole, Lydia Hennick, Lynn Stockman, Gloria Prevost, and Heath Hill.

Committee Members via Telephone: Scott Lesiak, and Doug Wright

Guests in Attendance: Krista Martin, Michael Egan (Phone), Scott Bagwell (Phone), Randy Lee, Lisa Firmender, and Robert Pikkart

SCDHHS Staff: Courtney Sanders, Stacey Shull, Maudra Brown, and Stephen Boucher

- I. **Welcome and Introductions:** Coretta Bedsole, Chairwoman of the TAC called the meeting to order.
- II. **Purpose of the Transportation Advisory Committee (TAC): (Skipped)** The purpose of the TAC meetings is to meet quarterly to review performance reports and to make recommendations to resolve issues or complaints.
- III. **Meeting Minutes Approval:** The committee approved the meeting minutes for June 23, 2016.
- IV. **Stakeholder Input – Procurement Update:** The following statement was made during the September 22, 2016 meeting regarding the Procurement. On August 31, 2016 The South Carolina Department of Health and Human Services (HHS) requested the Chief Procurement Officer to cancel an award to Southeastrans, Inc. SCDHHS issued this solicitation under a delegation from the Chief Procurement Officer to acquire a transportation coordinator to manage the daily functions of the South Carolina Non-Emergency Medical Transportation Program. SCDHHS posted an Intent to Award to Southeast on February 26, 2016. The award statement indicates the total potential value of the contract is \$94,660,696.70. LogistiCare, protested the intended award, alleging among other things that Southeast proposed to use its own Quick Response Vehicles in violation of the Request for Proposals and federal regulation 42 CFR 440.170(a)(4)(ii)(B). The CPO denied the protest. On the specific issue of Southeast's proposed use of its own vehicles, HHS argued that an exception in the regulation allowed the transportation coordinator to also provide transportation under certain emergency conditions. The CPO relied on this exception in denying this protest ground. Logisticare appealed the decision to the Procurement Review Panel. Subsequently, HHS sought additional clarification from the Centers for Medicare and Medicaid Services

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(CMS). CMS responded as follows: ... These exceptions must be approved by CMS and specified in the state plan in order for a state to have the authority for a broker to also be a provider of transportation. Since South Carolina has not submitted a request with documentation to show that such an exception is needed and CMS has not approved such an exception, the state plan does not currently have this authority to permit the broker to also be a provider of transportation. It should be noted that these exceptions were intended to provide relief in circumstances where the availability of qualified transportation providers is unusually scarce and the area is therefore underserved by transportation providers. Brokers who bid on an NEMT contract are expected to be able to contract with an adequate network of transportation providers. I [sic] should be noted that these exceptions were not intended to provide back up for the broker when a qualified provider does not complete the assigned travel request. As a result, HHS has requested cancellation of the award to Southeast prior to performance, alleging that "the award is in error." The request cites Regulation 19-445.2085(C)(7), which states: Cancellation of Award Prior To Performance. After an award or notification of intent to award, whichever is earlier, has been issued but before performance has begun, the award or contract may be canceled and either re-awarded or a new solicitation issued or the existing solicitation canceled, if the Chief Procurement Officer determines in writing that: (7) Administrative error of the purchasing agency discovered prior to performance.... Consistent with the decision in Appeal by Analytical Automation Specialists, Inc., Panel Case No. 1999-1, the CPO advised the Panel of HHS's request. Although the using agency has specifically requested cancellation, the determination whether to grant the request is not one the CPO takes lightly. As the Panel noted in Analytical Automation Specialists: The Panel takes this opportunity to caution agencies to carefully consider before requesting cancellation and resolicitation, especially when a protest has been filed, as the request may appear to be an attempt to circumvent the procurement process. The Panel encourages the CPOs to continue to cautiously and carefully exercise the authority to cancel and resolicit procurements, especially when a protest has been filed. HHS now considers the proposal by Southeast to be non-responsive, leaving the CPO little choice but to grant the request, and to order resolicitation of the contract. **FINAL DETERMINATION:** In order to cancel the award, the CPO determines that the automatic stay shall be lifted pursuant to S.C. Code Ann. § 11-35-4210(7). 2 Pursuant to Regulation 19-445-2085(C), the award to Southeastrans, Inc., and Solicitation No. 5400008382, are cancelled. Signed by Michael P. Spicer, CPO for IT.

Several TAC members expressed frustration with the length of time of the procurement process and the protest period. Robert Pikkard, guest of a TAC Member, discussed the amount of money his company spent in preparation of the new contract and how displeased he was with the lack of transparency during this process. Courtney reminded the TAC Members that a contract was never awarded during the procurement, it was an intent to award, that was suspended due to submission of a protest. Other TAC members expressed concern that the Committee wasn't immediately notified of the Written Determination. Courtney stated, in the future she will ensure communication that is allowable will be shared immediately.

- V. **Gross Reporting:** During the March 10, 2016 TAC Meeting, Providers spoke to the cost to their business for Rider No Shows; when the provider arrives at the residence or facility and the member is not there or refuses transport, without cancelling prior to transportation enroute. The data that is reported on the Report Cards, is based on

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verified paid trips, and trips that are cancelled due to Rider No Shows is quantified in the Gross Data. A conference call and follow up conversation was conducted during the June 23, 2016 TAC Meeting regarding what other useful data or parameters could be analyzed using the Gross Data. At this time, only Rider No Show data was a topic of interest. SCDHHS and LogistiCare have been tracking and addressing Rider No Shows, based on the recently publicized Rider Rights and Responsibilities. Based on the TAC's request, data was pulled and presented during the June 23, 2016 meeting. During the September 22, 2016 meeting the TAC Members discussed some revisions were suggested for the data table; the TAC would like to see the data of unduplicated members, duplicated members, rider breakdown, and distribution of this document quarterly. SCDHHS and LogistiCare took notes, would discuss internally, and would present a more comprehensive document during the next TAC meeting. The TAC Committee has been tasked to determine if any useful reports aligning with our Purpose can be derived from this data. The discussion will continue during the December 08, 2016 TAC Meeting.

- VI. Program Monitoring Tools / Activities:** Reporting for the TAC has been modified; Reporting is Statewide versus Regional. Provider Retention was added; Report of Injuries/Incidents was modified; removal of DHHS internal Complaint Tracking; Transportation Provider Performance Reports and Summary was modified. TAC was allotted several minutes to review and discussion would follow. Motion to approved new reporting format, all seconded; so ordered. TAC will revisit if necessary.
- a. Transportation Broker Performance Reports (April - June 2016) – Trips, Denials, and Complaints Statewide (SFY 2016, SFY 2015):** On March 10, 2016, SCDHHS and Logisticare presented a list of proposed glossary terms, recommendations were made, the discussion lengthened, and TAC Members were advised to email Courtney Sanders with further recommendations. During the September 22, 2016 TAC Meeting no discussion or comment occurred. Discussion will continue at the December 08, 2106 TAC Meeting to wrap up end of year items.
 - b. Transportation Provider Performance Reports:** The report was summarized into a one pager versus the multiple pages. No comments or discussion.
 - c. Complaint by Provider Type:** No comments or discussion.
 - d. Transportation Broker Accounts Payable Aging Report:** No comments or discussion.
 - e. Transportation Provider Retention:** No comments or discussion.
 - f. Report of Injuries / Incidents:** Due to the absence of Dr. Keith Guest Report on the September 22, 2016 meeting, discussion regarding the revised table and examples will occur during the December 08, 2016 TAC Meeting.
 - g. Report of Meetings:** No comments or discussion.

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Advisory Committee – Current Issues/Concerns: Coretta will be working with the Office of Aging to secure representation to fill the mandate vacancy on the TAC.

Questions arose regarding the correlation between the utilization of the broker system and healthy outcomes for members.

On Wednesday, September 14, 2106 Courtney Sanders received an email from TAC Member Heath Hill, please see below:

Courtney- As I pointed out earlier today, I have come across some puzzling figures as it relates to the current RFP up for bid. I understand it is still in the process and not sure what the legalities of that are. However I would like for these concerns be made available to Ms. Bedsole as the Chairman, as well as the other members of the TAC. I do not have full numbers on the impact of this program all the way back to its inception but I will try to point out some questionable numbers that I have come across. First, in the LAC report that was responded to by Director Forkner in 2009, it was explained that the actuary's projections would have had state costs in 2007-08 to be \$52.5 million up to \$60.6 million. When I look at the awards for AMR and Logisticare for the 2010-11 rebids, they were awarded \$162 million and \$72 million respectively over a 5 year contract. That comes in to be an average of \$32.4 million and \$14.5 million respectively. Being that the state was covered by both of these providers that would be a combined cost of \$47.9 million. I do not have information prior to that on the award amounts for the MTM/ Logisticare shared broker service that originated in 2006. That leads me to my next question of how the most recent award could go to Southeasterntans earlier this year for \$94.6 million over a 7 year period. That comes in at \$13.5 million per year. This is much below what previous estimates and awards have been. This leads me to question what the level and quality of service would have been had this award not been appealed. Now when I read the appeal that Logisticare placed in reference to the award to Southeasterntans, it states that Logisticare values the contract at about \$80 million. That is a much different number than what has been covered previously in this email. However, if you take the high end estimate of \$60 million as was alluded to by Director Forkner, and project a 3% increase over the last 10 years, that comes in roughly at \$80.6 million. That being said, I have some serious concerns about the wide range of these numbers. Let alone the question of whether this could be done in the old format of dealing directly with the transportation providers. There has been a lot of unnecessary burdens--cost and labor-- that have arisen over the last 10 years due this program that did not exist when you could just pick up the phone and schedule a transport. This may be an appropriate program to mitigate costs out in the community but it is not a suitable program for patients in a nursing home setting. Like was done within 3 years of this program's inception, I find it appropriate that the TAC request to have the LAC do another audit on the suitability of this program. At a time when the contract is still up in the air, I find that the TAC would be doing it's due diligence in making this request. If you have any questions about this email, or if I have mistaken any of this information, please feel free to let me know.

Heath, read aloud the email, and made the suggestion to the TAC Members that a Legislative Audit should be performed on the Transportation Broker System. Coretta posed the proposal to the TAC with caveat that five members of the Legislation has to support the Audit in order for consideration. Coretta opened the meeting for discussion; several TAC members supported the Audit and made several comments regarding the cost, stability, and overall cost saving of the Broker System. Several TAC Members referenced the 'good ole days' prior to the Broker System, and how they would like to return to the days prior to the Broker System, where providers were called, and services rendered, as known as demand response. The TAC

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members will continue to communicate outside our scheduled meetings regarding the Legislative Audit.

LogistiCare and SCDHHS recently approved an escort policy that was shared with facilities and providers on July 13, 2016 in a memo, stating that all Nursing Home members must have escorts on the vehicle during transportation. Additionally, the memo further defined LogistiCare's expectation of escorts, eligibility of member's to have an escort, and age requirements. SCDHHS and LogistiCare explained that when an individual qualifies for Nursing Home Medicaid, they have met a certain level of diminished capacity, and by the definition of escort, the Nursing Home members required an escort. Mr. Randy Lee, President of the South Carolina Health Care Association, guest of a TAC Member, expressed grave concerns about the cost to the nursing home for mandating an escort for every individual trip. SCDHHS and LogistiCare discussed our concern about the complaints received from the field. Several complaints have been filed against the nursing home from providers, stating that the staff is asking or expecting the drivers to communicate medical information to the doctor on behalf of the member and the medical staff at the Nursing Home. After considerable discussions, there were differing views on the escort policy. Mr. Lee stated prior to the meeting he attempted to contact some executive level staff members regarding these policy, but was unable to reach them and will continue to follow up outside the TAC for a resolution to the Nursing Home escort policy. LogistiCare will adhere to any decision made by SCDHHS. The escort policy will be discussed further at the December 08, 2016 TAC Meeting.

The meeting adjourned at 11:55 a.m.

All meetings will be conducted at the South Carolina Department of Health and Human Services from 10:00 a.m. to 12: 00 p.m.