

TennCare Policy Manual	Section: Providers
Policy No: PRO 22-003 (Rev. 1)	Date: June 9, 2022

Transportation Network Companies Providing NEMT Services

Background and Purpose

When TennCare members lack the transportation necessary to access covered medical services, TennCare may provide transportation to the services in question. This benefit is referred to as nonemergency medical transportation, or “NEMT.” Like other TennCare benefits, NEMT is administered as part of TennCare’s managed care program through the managed care organizations (MCOs) under contract with TennCare to furnish covered services to members.

TennCare acknowledges transportation network companies (TNCs) as a type of NEMT provider that may be used by the MCOs to provide covered transportation services to members. TNCs are companies that use a digital network to connect members to drivers who provide prearranged rides. TNCs differ from other types of transportation providers in that they generally partner with individual drivers using their personal vehicles to provide transportation. A TNC is not deemed to control, direct, or manage the personal vehicles or drivers that connect to its digital network, except where agreed to by written contract.

An MCO/NEMT broker may contract with TNCs to provide NEMT services to TennCare members. Any addition of a TNC to an MCO’s NEMT provider network must be prior approved in writing by TennCare and shall be subject to ongoing review and approval by TennCare. The objective of this policy is to establish the required criteria for TNCs providing NEMT services to TennCare members.

Note that the purpose of this policy is only to identify requirements that are unique to TNC providers. TNC providers are also subject to the same requirements that are common to all providers participating in the TennCare program. For example, TNC providers must complete TennCare’s provider registration process and comply with standards and requirements for the delivery of NEMT services. Any matter relating to TNC providers and to the delivery of NEMT services that is not directly addressed in this policy is governed by the Contract Risk Agreement between TennCare and the MCO.

This policy is organized into sections as follows:

- Section 1: Requirements for TNCs,
- Section 2: Requirements for TNC Drivers,
- Section 3: Individuals Prohibited from Being TNC Drivers,
- Section 4: TennCare Members Eligible to Use TNC Services,
- Section 5: Vehicle Requirements, and
- Section 6: Complaint Procedures.

Section 1: Requirements for TNCs

TNCs participating in the TennCare program providing medically necessary NEMT services to TennCare members must comply with the following requirements:

- 1.1** Use a software application or web site to display a picture of the driver and the license plate number of the motor vehicle utilized for providing the prearranged ride before the member enters the driver's motor vehicle. The software application or web site shall be capable of:

TennCare Policy Manual	Section: Providers
Policy No: PRO 22-003 (Rev. 1)	Date: June 9, 2022

- a. Providing the TNC, from the NEMT broker, only the following information:
 - i. The first and last name of the member;
 - ii. The member’s phone number;
 - iii. The address where the member will be picked up;
 - iv. The address where the member will be dropped off; and
 - v. The date and time of the service.

- b. Limiting the information provided by the TNC to the driver to the following information:
 - i. The first name of the member;
 - ii. The member’s phone number;
 - 1) The digital network software application shall provide the driver a “masked” phone number for the driver to contact the member, and
 - 2) The number provided to the driver will not be the member’s actual phone number but using the masked number the digital network or software application will connect the driver to the member.
 - iii. The address where the member will be picked up;
 - iv. The address where the member will be dropped off; and
 - v. The date and time of the service.

- c. Maintaining a record of the actual service provided by the driver including:
 - i. The address where the member was picked up;
 - ii. The address where the member was dropped off; and
 - iii. The date and time the service was rendered; and

- d. Complying with HIPAA and MCO security requirements.

1.2 Maintain a zero-tolerance policy on the use of drugs or alcohol by drivers while a driver is providing a prearranged ride or is logged into the TNC’s digital network but is not providing a prearranged ride and provide notice of this policy on its web site.

1.3 Maintain:

- a. Individual trip records for each driver for at least two (2) years from the date each trip was provided by the driver; and
- b. Driver records for no less than two (2) years from the date on which a driver's activation on the transportation network company's digital network has ended;

1.4 Upon initial hire and every seven (7) years thereafter, conduct, or have a third-party conduct, a local and national criminal background check on any potential driver that includes a multistate criminal records locator or other similar commercial nationwide database with validation and screening of all potential drivers for driving under the influence or driving while intoxicated offenses.

1.5 Conduct a national sex offender registry search and verify that any potential driver is not listed on the national Sex Offender Registry.

TennCare Policy Manual	Section: Providers
Policy No: PRO 22-003 (Rev. 1)	Date: June 9, 2022

- 1.6** Only provide services to TennCare members, and bill for services through an NEMT broker pursuant to the NEMT broker’s contract with a TennCare MCO.
- 1.7** Only receive scheduled member rides from an NEMT broker. The TNC is not allowed to take member calls unless the call pertains to the member’s ride. The TNC is not allowed to schedule rides directly with the member.
- 1.8** Maintain all records regarding driver information (including criminal background and federal health care program exclusion checks), reports, services, trips, and enforcement actions for a minimum of six (6) complete calendar years.
- 1.9** Maintain automobile insurance coverage as required for TNCs by Tennessee state law, including additional liability insurance to cover accidents and incidents not covered by the TNC driver's insurance.
- 1.10** Only use drivers that do not have a history of or otherwise known by the TNC as abusers of alcohol, narcotics, illegal drugs, or prescription medication.
- 1.11** Ensure that TNC drivers are not accepting payment for trips directly from the members.
- 1.12** Document the member’s name, the pickup and drop-off locations, the date and time the services were furnished, and the number of miles traveled with the member in the vehicle. TNC drivers should document the number of miles traveled while there is a member in the vehicle and not the miles traveled to pick up a member or after dropping a member off.
- 1.13** Document proof the vehicle belongs to the correct entity and the identification number matches the ownership papers; the vehicle is legally licensed; the vehicle license plate is on the correct vehicle; and the vehicle is in good condition, safe for transport, and receives regular maintenance.
- 1.14** Require proof the vehicle has the current State-required liability insurance.
- 1.15** Attest that the TNC and the individual driver have not been convicted of a criminal offense related to involvement with Medicare, Medicaid, or the federal Title XX services programs (see Section 1128 of the Social Security Act and 42 CFR § 455.106) and are not listed on the exclusion list of the Inspector General of the U.S. Department of Health and Human Services.
- 1.16** Maintain a process to address any violation of a State drug law and to identify any drug convictions and make information about the TNC’s process available to TennCare upon request.
- 1.17** Maintain a process to disclose and make available upon request to TennCare, the NEMT broker, and the MCO the driving history, including any traffic violations, of each including any traffic violations. Obtain motor vehicle records for any potential driver.
- 1.18** Provide and maintain proof that is available upon request that each TNC or provider driver has a valid driver’s license and an acceptable driving history.

TennCare Policy Manual	Section: Providers
Policy No: PRO 22-003 (Rev. 1)	Date: June 9, 2022

- 1.19 Adopt a policy of nondiscrimination with respect to passengers and potential passengers and notify TNC drivers of the policy.
- 1.20 If a motor vehicle accident occurs involving a motor vehicle that is being used to provide a prearranged ride, including when the driver is logged into or otherwise using the TNC's digital network, the TNC shall provide documentation, upon request by a law enforcement officer, that the driver was logged into the TNC's digital network at the time of the accident.
- 1.21 Comply with any law enforcement investigation in which the TNC trip data may be pertinent.

Section 2: Requirements for TNC Drivers

All TNC drivers providing medically necessary NEMT services to TennCare members and receiving payments under TennCare must meet the following requirements:

- 2.1 Must be at least nineteen (19) years of age;
- 2.2 Have a valid driver's license;
- 2.3 Shall not use or abuse alcohol, narcotics, illegal drugs, or prescription medication that impacts their ability to perform while on duty;
- 2.4 Shall not use handheld devices including texting or headphones while the vehicle is moving except to facilitate a ride;
- 2.5 Must be licensed to operate the vehicle used;
- 2.6 Meet delivery standards for delivery and pick-up trips;
- 2.7 Receive initial and ongoing training as well as resources for any level of service which they are providing;
- 2.8 Comply with all applicable laws regarding nondiscrimination against TennCare passengers and potential passengers;
- 2.9 Comply with all applicable laws relating to accommodation of service animals;
- 2.10 Shall not accept cash payments or any other form of payment from TennCare members;
- 2.11 Shall not accept any street hails; and
- 2.12 Shall carry proof of statutorily required insurance coverage at all times during the driver's use of a vehicle in connection with services for TennCare members. In the event of an accident, a TNC driver must provide insurance coverage information to the directly involved parties, automobile insurers, and investigating police officers, upon request. Upon such request, a TNC driver must also disclose to directly involved parties, automobile insurers, and investigating police officers, whether the

TennCare Policy Manual	Section: Providers
Policy No: PRO 22-003 (Rev. 1)	Date: June 9, 2022

driver was logged on to the TNC’s digital network or on a prearranged ride at the time of the accident.

Section 3: Individuals Prohibited from Being TNC Drivers

In accordance with state and federal law¹, TNCs must not permit any individual to act as a driver providing NEMT services to TennCare members who:

- 3.1** Has been convicted of more than three (3) moving violations in the prior three-year period, or one (1) major violation in the past three-year period, including, but not limited to, attempting to evade the police, reckless driving, or driving on a suspended or revoked license.
- 3.2** Has been convicted, within the past seven (7) years of driving under the influence of drugs or alcohol, fraud, any sexual offense, use of a motor vehicle to commit a felony, a crime involving property damage, theft, any crime involving acts of violence, or acts of terror.
- 3.3** Is a match in the national Sex Offender Registry.
- 3.4** Does not possess proof of registration for any motor vehicle used to provide a fee-based transportation.
- 3.5** Does not possess proof of personal automobile liability insurance that satisfies the Tennessee state law for any motor vehicle used to provide fee-based transportation.
- 3.6** Has been convicted of a criminal offense related to involvement with Medicare, Medicaid, or the federal Title XX services programs (see Section 1128 of the Social Security Act and 42 CFR 455.106).

Section 4: TennCare Members Eligible to Use TNC Services

All TennCare members are eligible to receive NEMT services when needed in order to access covered TennCare services. However, in order to utilize NEMT services from TNCs, TennCare members must meet the following criteria. TennCare members who do not meet these criteria will receive NEMT services from other transportation providers in their MCO’s network.

- 4.1** Member must be able to understand texted information about the trip and TNC transportation process or determined as an eligible participant by the MCO and/or their case manager or releasing facility.
- 4.2** Member must be able to redirect driver if at the wrong address.
- 4.3** Members enrolled in programs for individuals with physical, intellectual, or developmental disabilities may not receive NEMT services from TNCs unless approved by a case manager or parent/guardian. This includes individuals enrolled in CHOICES, Employment and Community First CHOICES, or a 1915(c)-waiver program for individuals with intellectual disabilities.

¹ See T.C.A. § 65-15-306 and Section 1902(a)(87) of the Social Security Act.

TennCare Policy Manual	Section: Providers
Policy No: PRO 22-003 (Rev. 1)	Date: June 9, 2022

- 4.4 Member must be at least eighteen (18) years of age or if under eighteen (18) years of age be accompanied by his or her legal guardian. Members requiring car seats are excluded.
- 4.5 Members requiring hand-to-hand or door-to-door assistance are excluded.
- 4.6 Any member who does not want to participate in TNC rides has the option to opt out. TennCare members are not required to participate in TNC rides.
- 4.7 Any member needing assistance due to mobility issues is excluded.
- 4.8 Members whose escort needs assistance from the driver are excluded.

Section 5: Vehicle Requirements

Vehicles used by TNCs to provide NEMT services to TennCare members must meet the following requirements:

- 5.1 Vehicles must be titled and licensed in the state of Tennessee.
- 5.2 Vehicles must be smoke-free, including no smoking for TennCare members, their escorts, or drivers.
- 5.3 Vehicles must have adequate heating and air conditioning systems.
- 5.4 Vehicles must have two (2) rear view mirrors – one on each side.
- 5.5 The number of passengers shall not exceed the car manufacturers seating capacity.

Section 6: Complaint Procedures

The following requirements also apply to TNCs providing NEMT services to TennCare members:²

- 6.1 The TNC must establish procedures to report any complaint about a driver with whom a member was matched and whom the member reasonably suspects was under the influence of drugs or alcohol during the course of the trip.
- 6.2 The TNC must make its member complaint procedures available to TennCare, the NEMT broker, and the MCO for review, upon request. Upon receipt of a member complaint alleging a violation of the zero-tolerance policy, the TNC shall immediately suspend the driver's access to the TNC's network and shall conduct an investigation into the reported complaint. The suspension shall last the duration of the investigation.
- 6.3 The TNC must make all member complaints and investigation findings available to TennCare, the NEMT broker, and the MCO, upon request.

² See also T.C.A. § 65-15-305.

TennCare Policy Manual	Section: Providers
Policy No: PRO 22-003 (Rev. 1)	Date: June 9, 2022

- 6.4** The TNC must maintain records relevant to a member complaint made for a period of at least two (2) years from the date that a complaint is received by the TNC.
- 6.5** If the TNC is informed through the complaint procedure that a rider reasonably suspects that a driver was under the influence of drugs or alcohol during the course of a trip, the TNC shall instruct the rider who filed the complaint to also report the driver's suspected drug or alcohol use to a local law enforcement agency having jurisdiction over any criminal offense that may have occurred as a result of a driver being under the influence of drugs or alcohol. The TNC shall comply with any investigation by the local law enforcement agency.³

Definitions

Confidential Information – Any non-public, confidential, or proprietary information, whether written, graphic, oral, electronic, visual, or fixed in any tangible medium or expression. Any such information relating to TennCare members, which is provided to or obtained during the arrangement, transportation, or any other activity related to providing members NEMT services, shall also be treated as “Confidential Information” to the extent that confidential status is afforded such information under state and federal laws or regulations. All Confidential Information shall not be subject to disclosure under the Tennessee Public Records Act.

Managed Care Organization (MCO) – an organization that has contracted with the State of Tennessee, Division of TennCare as a primary contractor under the TennCare Medicaid Program.

Member – a TennCare enrollee who enrolls in a MCO.

NEMT Broker – an entity contracted with a MCO to provide NEMT services to TennCare members.

Transportation Network Company (TNC) – a corporation, partnership, sole proprietorship, or other entity operating in this state that uses a digital network to connect members to TNC drivers who provide prearranged rides. A transportation network company shall not be deemed to control, direct, or manage the personal vehicles or transportation network company drivers that connect to its digital network, except where agreed to by written contract.

TNC driver or driver – an individual who:

- (a) Receives connections to potential passengers and related services from a transportation network company in exchange for payment of a fee to the transportation network company; and
- (b) Uses a personal vehicle to offer or provide a prearranged ride to members upon connection through a digital network controlled by a transportation network company in return for compensation or payment of a fee.

Office of Primary Responsibility

Managed Care Operations

³ See T.C.A. § 65-15-311.

TennCare Policy Manual	Section: Providers
Policy No: PRO 22-003 (Rev. 1)	Date: June 9, 2022

Additional Information

For more information about requirements for TNCs in Tennessee, see Tennessee Code Annotated, Title 65, Chapter 15, Part 3.

For more information about requirements for Medicaid NEMT providers, see Section 1902(a)(87) of the Social Security Act and implementing guidance—*Medicaid Coverage of Certain Medical Transportation under the Consolidated Appropriations Act, 2021* (CMCS Informational Bulletin released July 12, 2021).

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