



January 19, 2011

To: OCTAP Steering and Safety Committees
From: Patrick Sampson, OCTAP Administrator
Subject: Non-Emergency Medical Transportation

Overview

California Government Code §53075 and the Orange County Taxi Administration Program (OCTAP) Regulations Section 11 require that local regulatory agencies (OCTAP participating agencies) investigate services that may be operating as a taxi service, without a proper taxicab permit. Bandit services of any form, including bandit taxicab services, pose a serious threat to public safety. These services often operate uninsured or under-insured, have not undergone any form of eligibility verification, driving history check, criminal history check, drug and alcohol monitoring, or driver and vehicle license monitoring.

OCTAP regularly receives complaints of bandit taxicab operators in Orange County. While investigating these complaints, OCTAP has identified that some of these "bandit services" appear to be operating under the category of "non-emergency medical transportation." While many non-emergency medical transportation providers appear to concentrate their efforts towards providing Medicare, Medicaid, Medi-Cal and other "insurance paid" medical related trips, OCTAP has noticed that some advertise for, and may be providing, services that more closely fall under the jurisdiction of the Public Utilities Commission (PUC) or under local jurisdiction as taxicab operators. It appears that non-emergency medical transportation providers in Orange County, excluding licensed ambulance services, are not monitored or regulated by any agency.

Background

OCTAP has received a number of complaints and has made a number of observations relating to transportation providers operating "non-emergency medical" transportation. Complaints have included vehicles picking up or dropping off at locations that do not appear to be for medical-related trips. Observations have included advertising that appears to include services that would not be considered medical-related.

Staff has contacted several well-established basic life support (BLS) and advance life support (ALS) ambulance service providers that also provide non-emergency medical transportation services as part of their service model, in an effort to learn more about the industry. Through this contact, staff has learned:

- BLS and ALS emergency service providers, including those that utilize BLS and ALS fleet vehicles to provide non-emergency services, are regularly monitored and inspected by the California Highway Patrol (CHP).
- Non-emergency medical service providers generally restrict their services to trips direct-billed to Medicare, Medicaid, or other insurance carriers.
- Trips most often include transportation from one hospital or medical facility to another, where BLS and ALS services are not required. Insurance carriers will frequently transfer patients from a non-network provider medical facility to a member-network provider medical facility as a method of managing and controlling medical service costs.
- Other services are often provided for patients who require treatment at a dialysis center, reside in a skilled nursing facility (SNF) or intermediate care facility (ICF), who require medical treatment that can not be provided at their facilities, need transportation home or to a SNF or ICF after being discharged from the hospital, or are eligible with the California Children's Services (CCS).

Additional research has revealed:

- The California Department of Motor Vehicles (DMV) licenses ambulance and armored car vehicles under CVC Section 2510. Vehicle licensing requirements include certification by the CHP that the vehicle is in compliance with codes and regulations adopted by the Commissioner of the CHP. Ambulance vehicles must be inspected by the department not less than annually. Additional information is available at the DMV website, <http://dmv.ca.gov/pubs/vctop/d02/vc2510.htm>
- The California DMV licenses ambulance drivers under CVC Section 2512. Licensing requirements include passing an ambulance driver written examination, submission of a Livescan Service form, completion of a medical examiners report DL51, possession of a valid emergency medical technician (EMT) certificate, and passing a criminal background and driving record check. Additional specific information is available at the DMV website, http://dmv.ca.gov/dl/ambu_drvr_cert.htm

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- California Public Utilities (CPUC) Code Section 5353(i) specifically lists medical transportation vehicles as being exempt from PUC licensing. Additional information is available at the CPUC website, <ftp://ftp.cpuc.ca.gov/carriers/PUCCode226and5353.pdf>
 - While the CPUC lists medical transportation vehicles as exempt from PUC permitting requirements, some non-emergency medical providers do claim to be licensed through the CPUC. Most providers do not actually disclose their Transportation Charter Party (TCP) carrier number in their web advertising, as required by the CPUC, if licensed through the CPUC. Observations also indicate that some Orange County providers do not list TCP numbers on their vehicles, as required, if licensed through the CPUC.
 - Title XIX of the Social Security Act and accompanying regulations require that in state Medicaid programs, states cover medical care and services *and* fulfill administrative requirements necessary to operate the Medicaid program efficiently. Among these administrative requirements is the mandate that a State plan “specify that the Medicaid agency will ensure necessary transportation for recipients to and from providers and describe methods that the agency will use to meet this requirement”. While transportation may not always be a medical service, it ensures that individuals can get to and from needed care and thus is necessary for the effective administration of Medicaid-funded health care services. In order to claim federal matching funds, states may cover “necessary” transportation either as an administrative expense or an optional state plan item of medical assistance, or under both categories. There do not appear to be any guidelines related to transportation provider licensing.
 - The State of California implementation of Medicaid transportation requirements appear to include non-emergency medical transportation that is subject to prior authorization, except when provided to a patient being transferred under circumstances specified by the state, and that is covered when necessary to obtain program covered services if the patient’s condition precludes use of ordinary public or private conveyances. According to the State’s explanation of coverage, transportation is limited to the least expensive of the following modes that is medically appropriate and available: (a) air ambulance; (b) ambulance; (c) litter van; or (d) wheelchair van. There do not appear to be any guidelines related to transportation provider licensing.

Initial investigation have concluded that some non-emergency medical transportation services may be operating in a manner where they are not permitted or monitored for compliance with regulations designed to improve public safety. Being specifically excluded from PUC requirements, and by carrying less than eight passengers including the driver, it appears that these vehicles and services, those not properly licensed by the DMV and inspected by the CHP as ambulance service providers, may actually fall under local city jurisdiction.

Discussion

OCTAP has reached out to other local jurisdictions and have found that non-emergency medical transportation services in Los Angeles are regulated through Los Angeles Municipal Code, and that non-emergency medical transportation services in the Metropolitan San Diego Area are regulated through the San Diego Metropolitan Transit Development Board.

Recommendation

Staff would like to solicit input from member agency representatives as to how non-emergency medical transportation services and providers are licensed and monitored in their city.

Staff recommends that the Steering Committee Chairman establish a sub-committee to further investigate the issue of non-emergency medical transportation service providers in Orange County, and to develop recommendations to the committee as how to address the concern.