

# Non-Emergency Medical Transportation Regulations



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# Article I

## TITLE 13 NAVAJO DEPARTMENT OF HEALTH REGULATIONS

### 13.1.100 NON-EMERGENCY MEDICAL TRANSPORTATION (NEMT) REGULATIONS

#### 13.1.101 Authority

The Department is authorized by Navajo Nation Council Resolution #CO-50-14 to regulate NEMT providers

#### 13.1.102 Purpose

The purpose of these regulations is to ensure the safe and efficient transportation of individuals from their homes to their medical appointments and back home, by qualified NEMT companies.

#### 13.1.103 Definitions

- A. "AHCCS" means Arizona Health Care Cost Containment System, who is the payor for NEMT services in Arizona.
- B. "Application" means the documents required to obtain a NEMT permit.
- C. "Business days" means the days during the work week, Monday to Friday, excluding Saturday, Sunday and holidays.

D. "Business License" means a license issued by the Navajo Division of Economic Development authorizing a company to operate a business on the Navajo Nation.

E. "Calendar Days" means every day on the calendar, Monday to Sunday, including holidays.

F. "Class C CDL" means a Class C Commercial Driver's License, which is required when transporting at least 16 passengers, including the driver.

G. "Clients" means citizens of the Navajo Nation who are qualified for NEMT services.

H. "Department" means the Navajo Nation Department of Health and its internal Regulatory Program that regulates Non-Emergency Medical Transportation companies.

I. "Health Director" means the top-level administrator within the Department.

J. "HIPPA" means Health Insurance Portability and Accountability Act, which is a United States Law that provides privacy standards to protect patients' medical records and other health information provided to health care providers.

# Article 1

K. "Meeting" is an administrative appeal before the Regulatory Program Manager in which an NEMT company may present evidence in an informal setting to remove a fine, obtain, or reinstate an NEMT permit.

L. "Navajo Nation" means all lands contained within the exterior boundaries of the Navajo Nation, pursuant to Navajo Nation Code 7~254. *Territorial Jurisdiction*.

M. "NEMT" means Non-Emergency Medical Transportation companies.

N. "NEMT Permit" means authorization by the Navajo Department of Health for a NEMT to provide services on the Navajo Nation.

O. "New Mexico Medicaid" means the payor for NEMT services in New Mexico

P. "Regulatory Program" means the program established within the Navajo Department of Health to regulate Non-Emergency Medical Transportation companies.

Q. "Regulatory Program Manager" means the employee who serves as a supervisor or director or manager of the Regulatory Program.

R. "Utah Medicaid: means the payor for NEMT services in Utah.

## 13.1.104 Powers and Authorities of the Department

- A. To grant, suspend or revoke NEMT permits
- B. To enforce fines on NEMTs.
- C. To request and access NEMT business documentation for the purposes of investigation to ensure the safe and efficient transportation of clients.
- D. To monitor and evaluate business activities of NEMTs, ensuring complete and accurate records of operational and administrative costs and records that validate company billing and patient utilization of services.
- E. To monitor and evaluate the maintenance of NEMT vehicle license plate, driver's license, business license, all state and/or local required insurance coverage for protection of its vehicles, clients, and personnel.
- F. To examine and/or audit transportation documentation for client, insurance, licensure, and certification records.

# Article I

G. To investigate any fraudulent activities.

H. To randomly inspect NEMT vehicles and driver credentials.

I. To enforce reporting of any changes to Federal Employment Identification Number, Social Security Numbers, any changes of application information or invoice documentation.

J. To ensure NEMT vehicles are annually inspected by a state-qualified inspector.

K. To collaborate with the Navajo Nation Business Regulatory Department and state Medicaid agencies to enforce NEMT regulations.

L. To establish a Funds Management Plan Policy to oversee the funds accumulated by the NEMT regulations.



M. To request the suspension of an NEMT Navajo Nation Business License and report the suspension to the appropriate state Medicaid agency if an NEMT is operating on the Navajo Nation without an NEMT permit or has not applied for an NEMT permit within thirty (30) of the effective date herein to Article 7, 13.7.706 Effective Date.

N. To request the suspension of an NEMT Navajo Nation Business License and report the suspension to the appropriate state Medicaid agency if an NEMT is found to be fraudulently claiming Indian-Preference.

# Article 2 NEMT PERMIT APPLICATION

## 13.2.200 NEMT Permits Required

A. ALL NEMTs providing services to clients residing on the Navajo Nation must apply for a permit from the Department and the Department shall be the only Navajo Nation office to issue such permits.

B. TERM. Permits shall be active from the date of issuance and valid for 1 year, unless otherwise revoked pursuant to Article 7, herein.

C. NONTRANSFERABLE. Permits may not be transferred or sold to any other NEMT.

D. RENEWAL. Permits must be renewed thirty (30) calendar days in advance of expiration.

**NONRENEWAL.** The department, in its discretion, may refuse to renew the NEMT permit. Appeals may be filed pursuant to Article 7 Section 13.7.703.

## 13.2.201 Application Fee

A. \$2,000.00 / Non-Indian

\$6,000.00 Non Refundable

B. Annual Renewal Fee \$1,000.00 / Non-Indian \$3,000.00

C. Money Orders/ Cashiers

Checks made payable to Navajo Nation Department of Health P.O. Box 1390 Window Rock, Az 86515.


## 13.2.202 Application

NEMTs shall complete and submit a permit application to the Department. Applications shall be signed before a notary attesting that all of the information is true and accurate.



## 13.2.203 Supporting Documents for Application

The following current and up-to-date documents shall be submitted with the application:

- A. Navajo Nation Business License
  - B. Certificate of Incorporation or proof of status of legal formation of the NEMT
  - C. Current Liability Insurance
  - D. Copy of state vehicle registration for all NEMT vehicles
  - E. Copy of state Medicaid certification including the provider ID number
  - F. Copies of Driver's License for all NEMT drivers, including class C CDL
  - G. Copies of driving records for each NEMT driver for from each state department of Motor Vehicles in which the NEMT provides services.
  - H. Copies of criminal background checks for all NEMT drivers
  - I. Copies of drug test for all NEMT drivers
  - J. Copies of state, Federal and Navajo criminal background checks for all NEMT drivers
  - K. Copies of Defensive Driving Course record for all NEMT drivers
  - L. Fingerprint clearance card for all NEMT drivers from states in which the NEMT provides services
  - M. State Department of Transportation physical exam report for all NEMT drivers
  - N. Current vehicle inspections for all NEMT vehicles from state qualified inspector dated within three (3) months of application submittal
  - O. Copy of NEMT maintenance program
  - P. Photographs of all NEMT vehicles
  - Q. Copy of NEMT's drug, alcohol, sexual harassment policy
  - R. Name and Telephone Number of Contact Person to receive any complaints
  - S. First Aid and CPR Cards for each NEMT driver
  - T. Copy of NEMT's HIPPA Policy ensuring client confidentiality
  - U. Notarized release allowing the Department to verify insurance status and to inform NEMT clients of insurance company and contacts.
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### **13.2.204 Complete applications**

Applications must be submitted to the Executive office, in the Navajo Department of Health, Administration 2 building No. 2296 Window Rock Boulevard, located at Window Rock, Az 86515

### **13.2.205 Incomplete applications NOT Accepted**

**Applications which are not complete, do not have all supporting documents, or without payment of the application fee will not be accepted.**

### **13.2.206 Permit Issued**

Upon approval of application, the Department shall issue to the NEMT one permit decal per NEMT vehicle, which shall be displayed on the upper right hand corner of the window shield of each vehicle.

### **13.2.207 Denial of Application**

Upon denial of an application, the NEMT will receive a formal notification letter of reason for denial. The applicant shall have fourteen (14) days from receipt of the notice to submit a written request for a Meeting with the Regulatory Program Manager to appeal the decision. If request for meeting is not received by the Department within fourteen (14) days, the disapproval decision shall be final. Meetings may be requested pursuant to Article 7, 13.7.702.



# Article 3 NEMT REQUIREMENTS

## 13.3.300 Insurance

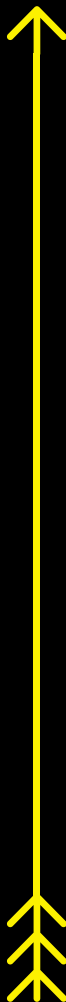
A. All NEMTs are required to carry the following minimum insurance:

### 13.3.301 Driver Requirements

1. SIX (6) PERSONS OR FEWER: NEMTs who are motor carriers providing service in vehicles with a seating capacity of six (6) persons or fewer, excluding driver, must maintain a combined single-limit public liability insurance policy of at least one million dollars (\$1,000,000.00) per occurrence for bodily injury to or death of all persons injured or killed, and property damage.

2. SEVEN (7) TO FIFTEEN (15) PERSONS: NEMTs who are motor carriers providing service in vehicles with a seating capacity of seven (7) to fifteen (15) persons, excluding the driver, must maintain a combined single-limit public liability insurance policy of at least one million five hundred thousand dollars (\$1,500,000.00) per occurrence for bodily injury to or death of all persons injured or killed, and property damage.

3. SIXTEEN (16) PERSONS OR MORE: NEMTs who are motor carriers of persons providing service in vehicles with a seating capacity of sixteen (16) persons or more, including driver, must maintain a combined single-limit public liability insurance policy of at least five million dollars (\$5,000,000.00). Drivers operating this type of NEMT must hold a Class C CDL from all states in which the NEMT operates.





## B. Maximum Deductible

No NEMT motor carrier insurance policy shall have a deductible in excess of two thousand dollars (\$2,000.00), except that the Navajo Nation may approve a higher deductible for a motor carrier that files a surety bond with the Navajo Nation in an amount equal to the difference between five thousand dollars (\$5,000.00), and the amount of the high deductible.

## C. Insurance Fraud

If it is discovered that an NEMT is operating under the use of fake or fraudulent insurances, then the Department shall have authority to immediately revoke an NEMT permit.

## 13.3.301 Driver Requirements

Documentation of these requirements must be submitted to the Department annually:

- A. Proof of completion of Defensive driving Course for each NEMT driver
- B. Emergency Procedures, First Aid (CPR) Course
- C. Vehicle Orientation, pre-transportation inspection training
- D. Passenger Confidentiality - HIPPA Training
- E. State fingerprint-based criminal background check
- F. Proof of valid insurance

## 13.3.302 Vehicle Usage Requirements

- A. Vehicles 7 years or older with a odometer reading higher than 300,000 may not be used as a NEMT vehicle.
- B. Personal use of vehicles shall not be permitted to prevent instances that may cause violation to client safety

### 13.3.303 Accident Requirements

NEMTs are required to immediately notify the Department, within (7) calendar days, of any accident or incident that occurs while transporting a client(s), whether or not it results in injury or fatality. Not reporting an accident or incident to the department shall result in a fine, herein to Article 6, 13.6.600



### 13.3.304 Requirement to keep documentation up to date

NEMTs are required to keep all necessary documentation, pursuant to Article 2 Section 13.2.203 and Article 3 Section 13.3.301, up to date.

### 13.3.305 Falsification of Indian Preference

Any NEMT who violates their Indian Preference standing or is caught falsifying or manipulating contract to obtain Indian Preference may have their NEMT permit revoked by the Department

# Article 4 Violations to Client Safety

## 13.4.400 Actions

NEMTs are required to provide safe and efficient services. Actions that are considered violations to client safety include:

A. Failure to resolve a client complaint

B. Failure to cooperate with the Department during an investigation of the NEMT.

C. Failure to maintain necessary business documentation such as vehicle license plate, business license, all state and/or local required insurance coverage for protection of its vehicles, clients, and personnel.

D. Cases involving sexual harassment, behavioral misconduct or anything determined to pose a danger to the client(s).



E. Use of illegal substances by any NEMT employee

F. Driving records revealing criminal activity

G. Use of vehicles that did not pass inspection, do not display a permit, are over seven (7) years old or have an odometer over 300,000 miles.

H. Fraudulent activities, examples include:

1. Non-delivery of services: Fraud occurring when a payment is received by the services requested are never received by the clients(s).
2. Submitting fraudulent client(s) care reports which claim services were rendered when they where not.

# Article 5 Complaints

## 13.5.500 Complaints

Complaints from the public about NEMTs will be taken in writing at the following email, mailing or physical address. If unable to submit in writing, complaints may be filed with the Executive Office Specialist over the telephone:

A. EMAIL:

nemt.registration@nndoh.org

B. Mailing Address: P.O. Box 1390  
Window Rock, AZ 86515

C. Physical Address:

Administrative Bldg. #2 (Building  
No. 2296) Window Rock  
Boulevard

D. Telephone: (928) 871-6350

## 13.5.501 Notice

A. The Department shall notify the NEMT of a complaint within 14 calendar days of receiving it.

B. The NEMTs shall have (14) calendar days in which to resolve the complaint and provide notice to the Department of such resolution.

## 13.5.502 Determination

The Department shall document the complaint, the response of the NEMT. If the Department receives similar complaints about the same NEMT, the Department may in its discretion:

A. Revoke the NEMT permit; and  
/or

B. Report the complaints to the Navajo Nation Business Regulatory Department and appropriate state agencies.



# Article 6 FINES

## 13.6.600 Fines for Violations

The Department may impose fines on an NEMT when violating any NEMT requirement or in any instance where their services or employees violates client safety. The fine schedule is set as follows:

- A. 1st Violation-at least \$500.00; Non-Indian Preference NEMT at least \$1,000.00.
- B. 2nd Violation-at least \$750.00; Non-Indian Preference NEMT at least \$1,500.00.
- C. 3rd Violation-at least \$1,000.00; Non-Indian Preference NEMT at least \$2,000.00.
- D. Further Violations-at least \$1,250.00; Non-Indian Preference NEMT at least \$2,500.00.
- E. If any NEMT vehicle is discovered providing services without a permit, the NEMT will be fined \$500.00 a day until a permit is displayed. Non-Indian Preference will be fined \$1,000.00 a day.

## 13.6.601 Fine Notice

- A. The Department shall provide a written notification to the NEMT stating the violation and fine amount.
- B. The NEMT shall pay a fine within thirty (30) days, of receipt of the notice, unless a request for a Meeting has been submitted.
- C. Money orders or Cashier Checks can be made to the Navajo Nation Department of Health P.O. Box 1390 Window Rock, Arizona 86515.  
No cash, credit cards, debit cards, or personal checks will be accepted



# Article 7 Permit Revocation and Business License Revocation

## 13.7.700 Noncompliance

The Department may suspend or revoke a NEMT permit at any time for the following reasons:

- A. Failure to pay necessary fees
- B. Failure to pay fines
- C. Violations to NEMT

Requirements

- D. Violations to client(s) safety

## 13.7.701 Notice

A. The Department shall issue written notice to the NEMT that its permit may be suspended or revoked.

B. The NEMT shall have thirty (30) calendar days from the date of mailing of the written notice to either:

- 1. Cure the deficiency; or
- 2. Request a Meeting

## 13.7.702 Meeting

The Meeting is an informal process to discuss concerns.

A. The Regulatory Program Manager shall schedule a Meeting within ten (10) business days.

B. The NEMT may bring documentary evidence, witnesses and attorneys to the Meeting to support its position.

C. The Department may bring documentary evidence, witnesses and Navajo Nation Department of Justice attorneys to the Meeting to support its position.

D. The Regulatory Program Manager shall issue a written decision within ten (10) business days of the Meeting.



E. Failure to proceed through this appeal process shall constitute a waiver of any further appeals.

F. The NEMT must comply with the Regulatory Program Manager's decision or the NEMT permit will be revoked, unless an appeal pursuant to Section 13.7.703, herein, is submitted.

### **13.7.703 Appeal to Office of Hearings and Appeals.**

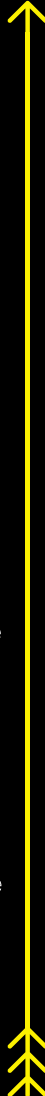
A. A NEMT may appeal an adverse decision by the Regulatory Program Manager, after a Meeting has been conducted, to the Navajo Nation Office of Hearings and Appeals within fourteen (14) calendar days of the Regulatory Program Manager's decision.

B. The appeal request shall be in writing and a copy shall be submitted to the Department simultaneously. The NEMT principle owner, or its legal counsel, must sign the request for hearing.

C. If a written appeal request is not received by the Navajo Nation Office of Hearings and Appeals within fourteen (14) calendar days, the Regulatory Program Manager's decision shall be final.

D. The Office of Hearings and Appeals shall have jurisdiction to preside over an appeal for:

1. Denial of a NEMT permit application or renewal of an application;
2. Revocation of a NEMT permit by the Department;
3. Any fine assessed for violation of the NEMT Regulations;
4. Any challenges to the validity of the NEMT Regulations or the authority of the Department to regulation NEMT activities.



E. If properly appealed, any fines assessed by the Department shall remain until a final decision is issued by the Office of Hearings and Appeals.

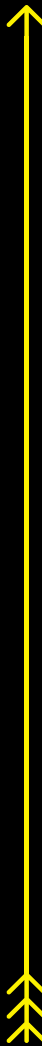
F. The NEMT may bring documentary evidence, witnesses and have an attorney represent them, at their own expense.

G. The Department may bring documentary evidence, witnesses and have the Navajo Nation Department of Justice represent them.

H. Appeals pursuant to this subsection shall not be de novo and shall be limited to the determination of whether the Department's decision was not supported by the evidence, or was arbitrary, capricious, an abuse of discretion, beyond its authority, or otherwise contrary to applicable law.

I. The Hearing Officer shall issue a final order, which shall be available for public inspection.


J. The decision of the Office of Hearings and Appeals shall be final.



## 13.7.704 Permit Revocation

A. Failure to comply with the Regulatory Program Manager's decision, or if appealed, the Navajo Nation Office of Hearing and Appeals order, will result in a permit revocation, which will be reported to the Navajo Nation Business Regulatory Department with a request to suspend the Navajo Nation Business License and suspension shall be reported to the appropriate state Medicaid agency.

B. The NEMT will receive written notice of the permit revocation within fourteen calendar (14) days.





### 13.7.706 Effective Date

These regulations shall be effective thirty (30) calendar days after approved from the Health Education and Human Services Committee of the Navajo Nation Council.



### 13.7.705 Severability

The provisions of these regulations are severable and if any provisions of these regulations or its application to any person or circumstance is held invalid by final judgement of a court of competent jurisdiction, such a decision shall not affect the validity of the remaining regulations.



### 13.7.706 Amendments

These regulations may be amended recommended by the Department to the Health, Education and Human Services as necessary.

