

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 3935  
OFFERED BY MR. CÁRDENAS OF CALIFORNIA**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Protecting Patients  
3 Transportation to Care Act”.

**4 SEC. 2. MEDICAID COVERAGE OF CERTAIN MEDICAL  
5 TRANSPORTATION.**

6       (a) CONTINUING REQUIREMENT OF MEDICAID COV-  
7 ERAGE OF NECESSARY TRANSPORTATION.—

8           (1) REQUIREMENT.—Section 1902(a)(4) of the  
9 Social Security Act (42 U.S.C. 1396a(a)(4)) is  
10 amended—

11           (A) by striking “and including provision  
12 for utilization” and inserting “including provi-  
13 sion for utilization”; and

14           (B) by inserting after “supervision of ad-  
15 ministration of the plan” the following: “, and,  
16 subject to section 1903(i), including a specifica-  
17 tion that the single State agency described in  
18 paragraph (5) will ensure necessary transpor-

1           tation for beneficiaries under the State plan to  
2           and from providers and a description of the  
3           methods that such agency will use to ensure  
4           such transportation”.

5           (2) APPLICATION WITH RESPECT TO BENCH-  
6           MARK BENEFIT PACKAGES AND BENCHMARK EQUIV-  
7           ALENT COVERAGE.—Section 1937(a)(1) of the Social  
8           Security Act (42 U.S.C. 1396u–7(a)(1)) is amend-  
9           ed—

10                   (A) in subparagraph (A), by striking “sub-  
11                   section (E)” and inserting “subparagraphs (E)  
12                   and (F)”;

13                   (B) by adding at the end the following new  
14                   subparagraph:

15                           “(F) NECESSARY TRANSPORTATION.—Not-  
16                           withstanding the preceding provisions of this  
17                           paragraph, a State may not provide medical as-  
18                           sistance through the enrollment of an individual  
19                           with benchmark coverage or benchmark equiva-  
20                           lent coverage described in subparagraph (A)(i)  
21                           unless, subject to section 1903(i)(9) and in ac-  
22                           cordance with section 1902(a)(4), the bench-  
23                           mark benefit package or benchmark equivalent  
24                           coverage (or the State)—

1                   “(i) ensures necessary transportation  
2                   for individuals enrolled under such package  
3                   or coverage to and from providers; and

4                   “(ii) provides a description of the  
5                   methods that will be used to ensure such  
6                   transportation.”.

7                   (3) LIMITATION ON FEDERAL FINANCIAL PAR-  
8                   TICIPATION.—Section 1903(i) of the Social Security  
9                   Act (42 U.S.C. 1396b(i)) is amended by inserting  
10                  after paragraph (8) the following new paragraph:

11                  “(9) with respect to any amount expended for  
12                  non-emergency transportation authorized under sec-  
13                  tion 1902(a)(4), unless the State plan provides for  
14                  the methods and procedures required under section  
15                  1902(a)(30)(A); or”.

16                  (4) EFFECTIVE DATE.—The amendments made  
17                  by this subsection shall take effect on the date of the  
18                  enactment of this Act and shall apply to transpor-  
19                  tation furnished on or after such date.

20                  (b) MEDICAID PROGRAM INTEGRITY MEASURES RE-  
21                  LATED TO COVERAGE OF NONEMERGENCY MEDICAL  
22                  TRANSPORTATION.—

23                  (1) GAO STUDY.—Not later than two years  
24                  after the date of the enactment of this Act, the  
25                  Comptroller General of the United States shall con-

1 duct a study, and submit to Congress, a report on  
2 coverage under the Medicaid program under title  
3 XIX of the Social Security Act of nonemergency  
4 transportation to medically necessary services. Such  
5 study shall take into account the 2009 report of the  
6 Office of the Inspector General of the Department of  
7 Health and Human Services, titled “Fraud and  
8 Abuse Safeguards for Medicaid Nonemergency Med-  
9 ical Transportation” (OEI-06-07-003200). Such  
10 report shall include the following:

11 (A) An examination of the 50 States and  
12 the District of Columbia to identify safeguards  
13 to prevent and detect fraud and abuse with re-  
14 spect to coverage under the Medicaid program  
15 of nonemergency transportation to medically  
16 necessary services.

17 (B) An examination of transportation bro-  
18 kers to identify the range of safeguards against  
19 such fraud and abuse to prevent improper pay-  
20 ments for such transportation.

21 (C) Identification of the numbers, types,  
22 and outcomes of instances of fraud and abuse,  
23 with respect to coverage under the Medicaid  
24 program of such transportation, that State

1 Medicaid Fraud Control Units have investigated  
2 in recent years.

3 (D) Identification of commonalities or  
4 trends in program integrity, with respect to  
5 such coverage, to inform risk management  
6 strategies of States and the Centers for Medi-  
7 care & Medicaid Services.

8 (2) STAKEHOLDER WORKING GROUP.—

9 (A) IN GENERAL.—Not later than one year  
10 after the date of the enactment of this Act, the  
11 Secretary of Health and Human Services,  
12 through the Centers for Medicare & Medicaid  
13 Services, shall convene a series of meetings to  
14 obtain input from appropriate stakeholders to  
15 facilitate discussion and shared learning about  
16 the leading practices for improving Medicaid  
17 program integrity, with respect to coverage of  
18 nonemergency transportation to medically nec-  
19 essary services.

20 (B) TOPICS.—The meetings convened  
21 under subparagraph (A) shall—

22 (i) focus on ongoing challenges to  
23 Medicaid program integrity as well as lead-  
24 ing practices to address such challenges;  
25 and

1 (ii) address specific challenges raised  
2 by stakeholders involved in coverage under  
3 the Medicaid program of nonemergency  
4 transportation to medically necessary serv-  
5 ices, including unique considerations for  
6 specific groups of Medicaid beneficiaries  
7 meriting particular attention, such as  
8 American Indians and tribal land issues or  
9 accommodations for individuals with dis-  
10 abilities.

11 (C) STAKEHOLDERS.—Stakeholders de-  
12 scribed in subparagraph (A) shall include indi-  
13 viduals from State Medicaid programs, brokers  
14 for nonemergency transportation to medically  
15 necessary services that meet the criteria de-  
16 scribed in section 1902(a)(70)(B) of the Social  
17 Security Act (42 U.S.C. 1396a(a)(70)(B)), pro-  
18 viders (including transportation network compa-  
19 nies), Medicaid patient advocates, and such  
20 other individuals specified by the Secretary.

21 (3) GUIDANCE REVIEW.—Not later than 18  
22 months after the date of the enactment of this Act,  
23 the Secretary of Health and Human Services,  
24 through the Centers for Medicare & Medicaid Serv-  
25 ices, shall assess guidance issued to States by the

1 Centers for Medicare & Medicaid Services relating to  
2 Federal requirements for nonemergency transpor-  
3 tation to medically necessary services under the  
4 Medicaid program under title XIX of the Social Se-  
5 curity Act and update such guidance as necessary to  
6 ensure States have appropriate and current guidance  
7 in designing and administering coverage under the  
8 Medicaid program of nonemergency transportation  
9 to medically necessary services.

10 (4) NEMT TRANSPORTATION PROVIDER AND  
11 DRIVER REQUIREMENTS.—

12 (A) STATE PLAN REQUIREMENT.—Section  
13 1902(a) of the Social Security Act (42 U.S.C.  
14 1396a(a)) is amended—

15 (i) by striking “and” at the end of  
16 paragraph (85);

17 (ii) by striking the period at the end  
18 of paragraph (86) and inserting “; and”;  
19 and

20 (iii) by inserting after paragraph (86)  
21 the following new paragraph:

22 “(87) provide for a mechanism, which may in-  
23 clude attestation, that ensures that, with respect to  
24 any provider (including a transportation network  
25 company) or individual driver of nonemergency

1 transportation to medically necessary services receiv-  
2 ing payments under such plan (but excluding any  
3 public transit authority), at a minimum—

4 “(A) each such provider and individual  
5 driver is not excluded from participation in any  
6 Federal health care program (as defined in sec-  
7 tion 1128B(f)) and is not listed on the exclu-  
8 sion list of the Inspector General of the Depart-  
9 ment of Health and Human Services;

10 “(B) each such individual driver has a  
11 valid driver’s license;

12 “(C) each such provider has in place a  
13 process to address any violation of a State drug  
14 law; and

15 “(D) each such provider has in place a  
16 process to disclose to the State Medicaid pro-  
17 gram the driving history, including any traffic  
18 violations, of each such individual driver em-  
19 ployed by such provider, including any traffic  
20 violations.”.

21 (B) EFFECTIVE DATE.—

22 (i) IN GENERAL.—Except as provided  
23 in clause (ii), the amendments made by  
24 subparagraph (A) shall take effect on the  
25 date of the enactment of this Act and shall



1 apply to services furnished on or after the  
2 date that is one year after the date of the  
3 enactment of this Act.

4 (ii) EXCEPTION IF STATE LEGISLA-  
5 TION REQUIRED.—In the case of a State  
6 plan for medical assistance under title XIX  
7 of the Social Security Act which the Sec-  
8 retary of Health and Human Services de-  
9 termines requires State legislation (other  
10 than legislation appropriating funds) in  
11 order for the plan to meet the additional  
12 requirement imposed by the amendments  
13 made by subparagraph (A), the State plan  
14 shall not be regarded as failing to comply  
15 with the requirements of such title solely  
16 on the basis of its failure to meet this ad-  
17 ditional requirement before the first day of  
18 the first calendar quarter beginning after  
19 the close of the first regular session of the  
20 State legislature that begins after the date  
21 of the enactment of this Act. For purposes  
22 of the previous sentence, in the case of a  
23 State that has a 2-year legislative session,  
24 each year of such session shall be deemed

1                   to be a separate regular session of the  
2                   State legislature.

3                   (5) ANALYSIS OF T-MSIS DATA.—Not later  
4                   than one year after the date of the enactment of this  
5                   Act, the Secretary of Health and Human Services,  
6                   through the Centers for Medicare & Medicaid Serv-  
7                   ices, shall analyze, and submit to Congress a report  
8                   on, the nation-wide data set under the Transformed  
9                   Medicaid Statistical Information System to identify  
10                  recommendations relating to coverage under the  
11                  Medicaid program under title XIX of the Social Se-  
12                  curity Act of nonemergency transportation to medi-  
13                  cally necessary services.

