**South Carolina General Assembly**

118th Session, 2009-2010

**H. 3842**

**STATUS INFORMATION**

Joint Resolution

Sponsors: Reps. D.C. Moss, Knight, Edge, Gambrell, Bowen, Hodges, Anthony, Chalk, Spires, Erickson, Huggins, Agnew, Alexander, Allen, Allison, Anderson, Bales, Bowers, Brady, Branham, G.A. Brown, H.B. Brown, R.L. Brown, Clyburn, Delleney, Dillard, Duncan, Forrester, Funderburk, Gilliard, Gullick, Gunn, Hardwick, Harrell, Harrison, Hart, Hayes, Horne, Hosey, Hutto, Jefferson, Jennings, Kennedy, Kirsh, Limehouse, Littlejohn, McLeod, Merrill, Miller, Millwood, Mitchell, Nanney, J.M. Neal, Neilson, Ott, Parker, Parks, Pinson, E.H. Pitts, M.A. Pitts, Rice, Simrill, D.C. Smith, J.R. Smith, J.E. Smith, Stringer, Thompson, Vick, Weeks, Viers and Williams

Document Path: l:\council\bills\nbd\11405ac09.docx

Companion/Similar bill(s): 653

Introduced in the House on April 1, 2009

Currently residing in the House Committee on **Medical, Military, Public and Municipal Affairs**

Summary: Nonemergency medical transportation program

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

4/1/2009 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2009\04-01-09.docx)‑12

4/1/2009 House Referred to Committee on **Medical, Military, Public and Municipal Affairs** [HJ](file:///h:\HJ%20Archive\2009\04-01-09.docx)‑13

4/1/2009 House Member(s) request name removed as sponsor: Bedingfield

4/2/2009 House Member(s) request name removed as sponsor: Sellers, Cato, Cobb‑Hunter, J.H.Neal, King, Howard, Scott

4/21/2009 House Member(s) request name removed as sponsor: Harvin

**VERSIONS OF THIS BILL**

[4/1/2009](file:///p:\pprever\2009-10\3842_20090401.docx)

**A** **JOINT RESOLUTION**

TO PROVIDE THAT THE SOUTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES SHALL COMPLY WITH THE RECOMMENDATIONS OF THE SOUTH CAROLINA LEGISLATIVE AUDIT COUNCIL CONCERNING THE NONEMERGENCY MEDICAL TRANSPORTATION PROGRAM OPERATED BY THE DEPARTMENT AND TO REPORT TO THE GENERAL ASSEMBLY ON THE DEPARTMENT’S PROGRESS.

Whereas, members of the General Assembly requested the Legislative Audit Council to review the nonemergency medical transportation (NEMT) program managed by the South Carolina Department of Health and Human Services; and

Whereas, the department operates the NEMT program to provide transportation for Medicaid clients to get to and from medical facilities for nonemergency reasons, such as physician appointments, dialysis, and physical therapy. The objective of this program is to provide better assurance that clients are receiving the services covered by Medicaid; and

Whereas, until 2007, the department managed the NEMT program by contracting directly with independent transportation providers throughout South Carolina. Under this system clients called department staff in-house to schedule transportation; and

Whereas, in 2007, the department entered into contracts with two private brokers to subcontract with independent transportation providers and to schedule transportation for clients. The length of these contracts is three years, ending in 2010, with an option for two one-year extensions. Total payments to the brokers are projected to be approximately $140 million for the three-year contract period and up to $233 million if the two one-year extension options are exercised; and

Whereas, in its report, the Legislative Audit Council summarized its findings as follows with regard to the NEMT in-house system in operation until 2007:

1. The Department of Health and Human Services contracted with local transportation providers without using the competitive procurement methods required by state law.

2. Goals and performance measures were not established for the cost of the program.

3. Goals and performance measures were not established regarding quality of service.

4. Internal controls for deterring fraud and abuse were minimal until 2006; and

Whereas, in its report, the Legislative Audit Council summarized its findings as follows with regard to the procurement of the NEMT broker-services:

1. Before deciding to purchase the services of transportation brokers, the Department of Health and Human Services did not conduct a written cost/benefit analysis of its in-house NEMT system versus a broker-based system.

2. The department decided to implement the broker-based system statewide without a pilot project or phase-in period.

3. The department did not document the reasons for selecting the companies to which it awarded broker contracts.

4. Due to an error in the procurement process, the department awarded rate increases to the NEMT brokers after the contract period began. The contracts, however, did not specify the circumstances under which broker rates could be adjusted or the methodology for calculating rate adjustments.

5. The department has made payments to the NEMT brokers at the beginning of each month while the broker contracts require payment at the end of each month. Assuming a three percent interest rate, this improper timing of payments will cost the federal government and South Carolina approximately $365,000 for a three-year period; and

Whereas, in its report, the Legislative Audit Council summarized its findings as follows with regard to the NEMT broker-based system, which began operating in 2007:

1. There is evidence that expenditures in the first year of the broker-based system increased less than they would have if no changes had been made to the in-house system, based on data from an independent actuary. However, efficiency measures implemented under the broker-based system could also have been implemented under an in-house system.

2. A broker-based transportation system provides incentive to operate efficiently, assuming the department has an effective system of purchasing and monitoring the brokers’ services.

3. The department does not have adequate performance measures or goals for the cost of the NEMT program.

4. Because the department did not calculate quality of service data under its in-house system, the Legislative Audit Council could not determine whether the quality of service changed under the broker system. Monitoring quality of service is important and can be implemented under either system.

5. The department does not report performance data regarding the punctuality and length of trips provided to Medicaid clients.

6. The department has begun onsite reviews of the work processes of the brokers and transportation providers and has developed detailed plans to begin onsite audits of the accuracy of performance data. The department, however, has not conducted audits to ensure that, when the brokers deny transportation, it is for reasons authorized by federal law, state law, and the broker contracts.

7. Long-term savings can be realized using a less expensive mode of transportation when clients need to be moved while lying down but do not need an ambulance.

8. The Medicaid Transportation Advisory Committee, established by the General Assembly, is not adequately independent of the Department of Health and Human Services.

9. The department could enter into improved broker contracts by re-soliciting proposals from vendors for the service period beginning in 2010; and

Whereas, the Legislative Audit Council also found that the Department OF Health and Human Services’ FY 06-07 accountability report identified a lack of accountability, inefficiency, escalating costs, poor services, and fraud and abuse by transportation providers as reasons for switching to the brokerage firm. However, because the department did not have adequate measures or internal controls for cost, quality of service, or fraud under the NEMT in-house system, its decision in 2004 to change to a broker-based system was based on limited data and restricts the department in its ability to make comparisons with the new brokerage system; and

Whereas, overall, the Legislative Audit Council found no evidence indicating whether the in-house system or a broker-based system is inherently better for minimizing cost and maximizing quality of service. Effective management by the department is important to the success of either system. However, the department did not use sufficient analysis or data in the operation of its former in-house system or in the process it used to purchase broker services. Although the department has improved its use of analysis and data in managing the NEMT program, further improvements are needed; and

Whereas, among the recommendations contained in the Legislative Audit Council report, are the following:

1. The Department of Health and Human Services should adhere to the timing specified in its contracts with Medicaid nonemergency medical transportation brokers for monthly payments to the brokers.

2. The department should develop and report, at least quarterly, additional performance measures and goals regarding the cost of and the quality of service of the NEMT program.

3. The department should report, at least annually, quality of service comparisons between regions of the state, brokers, transportation providers, and fiscal or contract years, regarding punctuality and length of trips.

4. The department should procure new broker contracts for the NEMT program, which would take effect when the current contracts expire in 2010. Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. (A)The South Carolina Department of Health and Human Services shall comply with the recommendations of the Legislative Council Audit Report on the Nonemergency Medical Transportation (NEMT) program operated by the department, including, but not limited to making payments to the NEMT program transportation brokers at the end of the month rather than at the beginning of the month and procuring new transportation broker contracts for the NEMT program explicitly in accordance with the South Carolina Procurement Code.

(B) The department shall report to the General Assembly at least quarterly on the progress the department is making in complying with these recommendations.

SECTION 2. This joint resolution takes effect upon approval by the Governor.

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