

Decision No. C24-0735

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24A-0402BP-ETA

IN THE MATTER OF THE APPLICATION OF MEDRIDE, LLC FOR EMERGENCY TEMPORARY AUTHORITY TO OPERATE AS A CONTRACT CARRIER BY MOTOR VEHICLE FOR HIRE.

**COMMISSION DECISION DENYING
EMERGENCY TEMPORARY AUTHORITY**

Issued Date: October 11, 2024

Adopted Date: October 9, 2024

I. BY THE COMMISSION

A. Statement, Findings, and Conclusions

1. On September 20, 2024, MedRide, LLC (“MedRide”), filed an Application for emergency temporary authority to conduct operations as a contract carrier of passengers by motor vehicle for hire.

2. MedRide requests emergency temporary authority for 30 days to operate as a contract carrier and provide transportation for: a) Mesa County Valley School District No. 51, 2115 Grand Avenue, Grand Junction, Colorado; b) VOANS Senior Community Care of Colorado, Inc. (“SCCCO PACE”), 2377 Robins Way, Montrose, Colorado, and 11485 Highway 65 Eckert, Colorado; and c) St. Mary’s Regional Hospital, operated by IHC Health Services, Inc., 2635 North 7th Street, Grand Junction, Colorado.

3. MedRide describes the service to be provided for each of the three entities as “contracted medical shuttle service”.

4. The geographic areas where the services are to be provided are: a) Mesa County Valley School District No. 51, between all points in Mesa County, and between all points in Mesa County, and all points in Colorado; b) VOANS Senior Community Care of Colorado, 1) between all points in Mesa County, and between all points in Mesa County, and all points in Colorado; 2) between all points in Delta County, and between all points in Delta County, and all points in Colorado, 3) between all points in Montrose County, and between all points in Montrose County, and all points in Colorado; and c) St. Mary's Regional Hospital, between all points in Mesa County, and all points in Colorado.

5. In support of the emergency temporary authority, MedRide states in part:

As the population of the Western Slope region of Colorado has grown, existing transportation infrastructure has failed to keep pace with such population growth, specifically with respect to non-emergency medical transportation ("NEMT"). Hospital patients and other individuals seeking NEMT are presently and systemically unable to obtain it in a fast and reliable manner. This results in NEMT riders in the Western Slope being late to or entirely missing their appointments, returning home late from the hospital to loved ones or caretakers several hours after the riders' original expected return, and waiting extended periods to be transferred between medical facilities that the riders must all visit in one day.

Here is where MedRide can enter to ameliorate this urgent situation. The contract carrier services that MedRide will offer to the Customers listed below provide them with additional vehicles and drivers that these Customers would not otherwise be able to provide themselves. The provision thereof will immediately help to cure these existing NEMT deficiencies.

6. MedRide also submitted summaries of the services to be provided for each customer:

a) For Mesa County Valley School District No. 51, MedRide will tailor its transportation service to provide NEMT for students and staff, freeing up school district transportation resources for other uses unrelated to NEMT.

- b) For VOANS Senior Community Care of Colorado (SCCCO PACE), MedRide will tailor its transportation service to provide NEMT services for SCCCOPACE participants to and from their medical appointments.
- c) For St. Mary’s Regional Hospital, operated by IHC Health Services, Inc. (“SMRH”), MedRide will tailor its transportation service to provide NEMT services for patients to and from SMRH’s hospitals and clinics in Mesa County.

7. Each of the customers also submitted a support letter for the emergency temporary authority application.

8. The transportation director of Mesa County Valley School District No. 51 states, in part:

I am writing to express our strong support for MedRide being granted contract-carrier authority for us by the Colorado Public Utilities Commission. Their non-emergency medical transportation (NEMT) will be invaluable to our School District. Our need is for transportation district-wide.

We look forward to their partnership and their services come highly recommended. NEMT is especially important due to limited resources in are area.

9. The executive director of VOANS Senior Community Care of Colorado states, in part:

VOANS Senior Community Care of Colorado, Inc. is entering into an agreement with MedRide to provide transportation services to and from medical appointments for SCCCOPACE participants, and SCCCOPACE supports the granting of MedRide’s application for contract-carrier authority related to that agreement.

SCCCOPACE provides transportation for our participants who reside in Delta and Montrose counties. We currently have a fleet of 20 vehicles and 16 drivers who provide the majority of transportation services to our 300+participants. SCCCOPACE has the need to retain a contracted provider to assist in providing transportation in the event SCCCOPACE does not have the availability to do so due to a busy schedule, limitation of vehicles, out of county appointments (Mesa County & Denver Metro Area), need for a smaller vehicle, or other reasons where transportation cannot be provided by our internal fleet.

10. The regional director of operations of St. Mary's Regional Hospital states, in part:

Please find this letter as evidence of the support that St. Mary's Regional Hospital has for granting MedRide, LLC's application for contract-carrier authority regarding our transportation agreement with them.

St. Mary's Regional Hospital cares for patients across Colorado's Western Slope, as well as into Utah and New Mexico. As transportation options are limited within Mesa County, they are more limited in our rural regions outside of Mesa County. We look forward to having a transportation partner to help provide non-medical and medical support in patients transition to and from our hospitals and clinics. Current transportation vendors are inadequate to support our community's need – which causes delays in patients getting to and from their oncology appointments, home from the hospital and transferring to outlying facilities. We request authority is granted to MedRide, LLC to provide transportation services according to our agreement.

11. Pursuant to § 40-10.1-204(1), C.R.S., the Commission is authorized to grant temporary authority when “there appears to be an immediate and urgent need to any point or within a territory having no such service capable of meeting the need.” Section § 40-10.1-204(4), C.R.S., further states: “If the Commission determines that an emergency exists, it may issue temporary authority or approval at once by making specific reference in its order to the circumstances constituting the emergency, in which case no notice need be given, but any such emergency authority or approval expires no later than thirty days after it was issued.”

12. The support letters from each customer do express a need for additional non-medical and nonemergency medical passenger transportation service.

13. The written support provided by MedRide also includes references to payment for the non-emergency medical transportation (“NEMT”) service to be provided for each customer.

14. MedRide states, in part:

a) Pursuant to Section 2 (Payment) and Attachment B (Payment Schedule) of the Services Agreement between Mesa County Valley School District No. 51 and MedRide, dated August 15, 2024, Mesa County Valley School District No. 51

will pay MedRide for the NEMT services that MedRide provides, at the rates set forth therein. The Services Agreement is added to this Application as an Attachment for Section 20(e).

- b) Pursuant to Section 2 (Compensation) and Exhibit B (Compensation) of the Services Agreement between SCCC Pace and MedRide, dated June 24, 2024, SCCC Pace will pay MedRide for the NEMT services that MedRide provides, at the rates set forth therein. The Services Agreement is added to this Application as an Attachment for Section 20(e).
- c) Pursuant to Section 3 (Rates and Payment) and Exhibit A (Rate Schedule) of the Agreement for Non-Emergency Medical Transportation between SMRH and MedRide, dated August 16, 2024, either SMRH or Medicaid will pay MedRide for the NEMT services that MedRide provides, at the rates set forth therein. Notwithstanding anything to the contrary in Section 3(c) of the Agreement for Non-Emergency Medical Transportation, patients will not pay MedRide directly for the NEMT services. The Agreement for Non-Emergency Medical Transportation is added to this Application as an Attachment for Section 20(e).

15. However, effective June 18, 2021, HB21-1206 modified § 40-10.1-301 and 302 C.R.S., removing the requirement for Medicaid transportation providers to obtain a Medicaid Client Transport (“MCT”) from the CPUC. Therefore, the transportation of Medicaid clients is not regulated by the CPUC.

16. Additionally, section § 40-10-1-105, C.R.S. excludes much of the transportation MedRide seeks to provide under its Application from PUC regulation. The following transportation services are not subject to regulation by the CPUC:

§ 40-10-1-105

- (e) Transportation by motor vehicles designed and used for the nonemergency transportation of individuals with disabilities as defined in section 42-7-510(2)(b), C.R.S;
- (j) Transportation performed by the federal government, a state, or any agency or political subdivision of either, whether through an intergovernmental agreement, contractual arrangement, or otherwise;
- (l) Transportation by motor vehicles when those motor vehicles are being used for nonmedical transportation and nonemergency medical transportation provided through Medicaid pursuant to section § 25.5-1-802.

17. Therefore, the Commission finds that several of the passenger transportation services discussed by MedRide and the customers as support for this application are not regulated by the CPUC and therefore the Commission cannot grant any authority to offer those services. In particular, because school districts are political subdivisions of the state,¹ subsection (j) (quoted above) exempts the requested service for Mesa County Valley School District No. 51 from Commission regulation. Our understanding of the requested authority for VOANS Senior Community Care of Colorado, Inc. means it, too, falls outside of Commission regulated service under subsections (e) and (l) quoted above. Finally, to the extent MedRide seeks to offer Medicaid NEMT service to St. Mary's Regional Hospital, the Commission has no power to grant any authority for that service as specified by subsection (l). This leaves the non-Medicaid NEMT service MedRide seeks to offer for St. Mary's as the lone authority over which the Commission has jurisdiction. However, the Application indicates that passengers will pay for this non-Medicaid NEMT service, which is prohibited by Rule 6208 (f)(II) and (III) of the Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* 723-6.

18. Finally, based on our review of the Application for Emergency Temporary Authority it is unclear that an emergency justifying the issuance of Emergency Temporary Authority exists with respect to these proposed services. While MedRide asserts that currently some individuals may occasionally miss medical appointments due to transportation issues, the letters in support of the Application do not describe such a situation. Instead, the letters indicate that the contracting entities are excited to partner with MedRide and that the additional transportation will be helpful.

¹ Decision No. R21-0750, ¶¶ 40-43 (the Administrative Law Judge concluding that school districts are political subdivisions of the state).

19. This Application for emergency temporary authority is denied.

II. ORDER

A. The Commission Orders That:

1. The application filed on September 20, 2024, by MedRide, LLC, for emergency temporary authority to conduct operations as a contract carrier of passengers by motor vehicle for hire is denied.

2. The 20-day time period provided by § 40-6-114(1), C.R.S., to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the Commission mails or serves this Decision.

3. This Decision is effective on its Issued Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
October 9, 2024.**

(S E A L)



ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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MEGAN M. GILMAN

TOM PLANT

Commissioners

Rebecca E. White,
Director