

SENATE BILL No. 135

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-18-2-13; IC 16-31-14.

Synopsis: Ambulance fee dispute resolution. Provides that: (1) when an individual covered by a health plan is provided emergency ambulance service by a nonparticipating ambulance service provider, the health plan operator shall pay toward the compensation of the nonparticipating ambulance service provider the amount that the health plan operator considers reasonable compensation for the emergency ambulance service; and (2) after the health plan operator pays this amount and after any deductible, copayment, and coinsurance amount is paid, neither the nonparticipating ambulance service provider nor the health plan operator may seek to obtain any further amount from the covered individual. Provides that if the nonparticipating ambulance service provider considers the amount paid to be insufficient, the nonparticipating ambulance service provider: (1) may initiate negotiations with the health plan operator; and (2) if negotiations do not produce a result satisfactory to the nonparticipating ambulance service provider, may initiate arbitration of the ambulance fee dispute. Provides for the selection of an arbitrator and establishes a procedure by which the arbitrator determines a figure representing fair compensation for the emergency ambulance service. Provides that an arbitrator's determination as to fair compensation is binding on the parties and is admissible in any court proceeding. Empowers the insurance commissioner to reprimand, impose a civil penalty on, or suspend the certificate of authority of a health plan operator that fails upon request to provide information on compensation paid to participating ambulance service providers, refuses to negotiate in good
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Effective: July 1, 2022.

Ford Jon

January 4, 2022, read first time and referred to Committee on Health and Provider Services.



Digest Continued

faith, or refuses to compensate a nonparticipating ambulance service provider in accordance with an arbitrator's determination. Requires the Indiana emergency medical services commission to adopt rules concerning the certification of arbitrators and the administration of the ambulance fee dispute resolution process.



Introduced

Second Regular Session of the 122nd General Assembly (2022)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in *this style type*, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2021 Regular Session of the General Assembly.

SENATE BILL No. 135

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 16-18-2-13 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 13. "Ambulance", for
3 purposes of IC 16-31, **except IC 16-31-14**, means a conveyance on:
4 (1) land;
5 (2) sea; or
6 (3) air;
7 that is used or is intended to be used for the purpose of responding to
8 emergency life-threatening situations and providing emergency
9 transportation service.
10 SECTION 2. IC 16-31-14 IS ADDED TO THE INDIANA CODE
11 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2022]:
13 **Chapter 14. Resolution of Ambulance Fee Disputes**
14 **Sec. 1. As used in this chapter, "ambulance" refers only to a**
15 **vehicle that is used to provide emergency ambulance service on**



- 1 **land.**
- 2 **Sec. 2. As used in this chapter, "ambulance fee dispute" means**
- 3 **a dispute as to the compensation to be paid to an ambulance service**
- 4 **provider for emergency ambulance service.**
- 5 **Sec. 3. As used in this chapter, "ambulance service provider"**
- 6 **means a person that:**
- 7 **(1) provides emergency ambulance service; and**
- 8 **(2) holds a valid certificate issued by the commission under**
- 9 **IC 16-31-3 authorizing the person to provide emergency**
- 10 **ambulance service.**
- 11 **Sec. 4. As used in this chapter, "arbitrator" means a person that**
- 12 **holds a certificate issued by the commission under this chapter to**
- 13 **authorize the person to resolve ambulance fee disputes under this**
- 14 **chapter.**
- 15 **Sec. 5. As used in this chapter, "commission" refers to the**
- 16 **Indiana emergency medical services commission created by**
- 17 **IC 16-31-2-1.**
- 18 **Sec. 6. As used in this chapter, "cost sharing" means the total**
- 19 **amount paid:**
- 20 **(1) by a covered individual; or**
- 21 **(2) on behalf of a covered individual by any person other than**
- 22 **the health plan under which the individual is covered;**
- 23 **in the form of a deductible, copayment, or coinsurance, for**
- 24 **emergency ambulance service provided to the covered individual.**
- 25 **Sec. 7. As used in this chapter, "emergency ambulance service"**
- 26 **has the same meaning as "emergency ambulance services" set**
- 27 **forth in IC 16-18-2-107.**
- 28 **Sec. 8. As used in this chapter, "health plan" means any of the**
- 29 **following:**
- 30 **(1) A self-insurance program established under IC 5-10-8-7(b)**
- 31 **to provide group coverage.**
- 32 **(2) A prepaid health care delivery plan through which health**
- 33 **services are provided under IC 5-10-8-7(c).**
- 34 **(3) A policy of accident and sickness insurance as defined in**
- 35 **IC 27-8-5-1, but not including any insurance, plan, or policy**
- 36 **set forth in IC 27-8-5-2.5(a).**
- 37 **(4) An individual contract (as defined in IC 27-13-1-21) or a**
- 38 **group contract (as defined in IC 27-13-1-16) with a health**
- 39 **maintenance organization that provides coverage for basic**
- 40 **health care services (as defined in IC 27-13-1-4).**
- 41 **Sec. 9. As used in this chapter, "health plan operator" means**
- 42 **the following:**



1 (1) In the case of a health plan described in section 8(1) or 8(2)
2 of this chapter, the state of Indiana.

3 (2) In the case of a health plan described in section 8(3) of this
4 chapter, the insurer that issued the policy.

5 (3) In the case of a health plan described in section 8(4) of this
6 chapter, the health maintenance organization that entered
7 into the contract.

8 **Sec. 10. For purposes of this chapter:**

9 (1) an ambulance service provider that provides emergency
10 ambulance service to an individual covered by a health plan
11 is "nonparticipating" with respect to the health plan if the
12 ambulance service provider has not, by contract, affiliation,
13 agreement, or any other means, agreed to be compensated by
14 the health plan at no more than a certain amount or rate for
15 the emergency ambulance service; and

16 (2) an ambulance service provider that provides emergency
17 ambulance service to an individual covered by a health plan
18 is "participating" with respect to the health plan if the
19 ambulance service provider has agreed to be compensated by
20 the health plan at no more than a certain amount or rate for
21 the emergency ambulance service.

22 **Sec. 11. As used in this chapter, "person" means an individual,
23 a corporation, a limited liability company, a partnership, or
24 another legal entity.**

25 **Sec. 12. As used in this chapter, the "usual and customary cost"
26 for emergency ambulance service provided in a particular case
27 means the eightieth percentile of charges recorded in the data base
28 maintained according to the rules adopted under section 13(6) of
29 this chapter for emergency ambulance services provided in the
30 same geographical area in which the particular emergency
31 ambulance service was provided.**

32 **Sec. 13. Before January 1, 2023, the commission shall adopt
33 rules under IC 4-22-2 to implement this chapter, including rules
34 concerning the following:**

35 (1) The procedure for initiating and conducting negotiations
36 under section 16 of this chapter.

37 (2) The procedure for initiating arbitration, selecting an
38 arbitrator, and resolving an ambulance fee dispute through
39 arbitration under section 17 of this chapter, and for payment
40 of fair compensation to the arbitrator.

41 (3) The minimum qualifications that a person must meet to be
42 certified as an arbitrator under this chapter.



1 **(4) The certification of persons who apply for certification as**
 2 **arbitrators and meet the qualifications established under**
 3 **subdivision (3).**

4 **(5) The creation and publication on the Internet of a roster of**
 5 **certified arbitrators.**

6 **(6) The establishment and maintenance of a data base of**
 7 **information on compensation paid for emergency ambulance**
 8 **service provided in particular geographical areas of Indiana.**

9 **(7) The use of the data base maintained under subdivision (6)**
 10 **to determine the usual and customary cost of emergency**
 11 **ambulance service in particular geographical areas of Indiana**
 12 **for the purposes of section 17(c)(6) of this chapter.**

13 **Sec. 14. (a) If a health plan provides coverage for emergency**
 14 **ambulance service, and if an individual covered by the health plan**
 15 **is provided emergency ambulance service by a nonparticipating**
 16 **ambulance service provider, the health plan operator shall pay**
 17 **toward the compensation of the nonparticipating ambulance**
 18 **service provider the amount that the health plan operator**
 19 **considers:**

20 **(1) its legal obligation to pay; and**

21 **(2) reasonable compensation;**

22 **for the emergency ambulance service, minus the cost sharing paid**
 23 **by or on behalf of the covered individual.**

24 **(b) The entire amount paid by a health plan to a**
 25 **nonparticipating ambulance service provider:**

26 **(1) under subsection (a); and**

27 **(2) if applicable, at the conclusion of:**

28 **(A) negotiations under section 16 of this chapter; or**

29 **(B) arbitration under section 17 of this chapter;**

30 **shall be paid directly to the nonparticipating ambulance service**
 31 **provider and shall not be remitted to the covered individual for**
 32 **payment by the covered individual to the nonparticipating**
 33 **ambulance service provider.**

34 **(c) After:**

35 **(1) the health plan operator pays toward the compensation of**
 36 **the nonparticipating ambulance service provider the amount**
 37 **required under subsection (a); and**

38 **(2) the full amount of cost sharing is paid to the**
 39 **nonparticipating ambulance service provider by or on behalf**
 40 **of the covered individual;**

41 **neither the nonparticipating ambulance service provider nor the**
 42 **health plan operator may seek to obtain any further amount from**



1 the covered individual in compensation for the emergency
 2 ambulance service provided to the covered individual by the
 3 nonparticipating ambulance service provider.

4 **Sec. 15. (a) For purposes of:**

5 (1) evaluating the sufficiency of the amount paid by a health
 6 plan operator under section 14(a) of this chapter; and

7 (2) preparing for and conducting:

8 (A) negotiations under section 16 of this chapter; or

9 (B) arbitration under section 17 of this chapter;

10 a nonparticipating ambulance service provider may obtain from
 11 the health plan operator, and the health plan operator shall
 12 provide to the nonparticipating ambulance service provider upon
 13 request, information on compensation that the health plan
 14 operator has paid to participating ambulance service providers for
 15 emergency ambulance service.

16 (b) If a health plan operator fails or refuses to provide
 17 information on compensation paid to participating ambulance
 18 service providers for emergency ambulance service as required by
 19 subsection (a), the insurance commissioner appointed under
 20 IC 27-1-1-2 may:

21 (1) reprimand; or

22 (2) in the case of a health plan operator described in section
 23 9(2) or 9(3) of this chapter, after notice and hearing under
 24 IC 4-21.5:

25 (A) impose a civil penalty on; or

26 (B) suspend the certificate of authority of;

27 the health plan operator.

28 **Sec. 16. (a) If a nonparticipating ambulance service provider**
 29 **considers the amount paid by a health plan operator under section**
 30 **14(a) of this chapter, in addition to any cost sharing paid by or on**
 31 **behalf of the covered individual, to be insufficient compensation**
 32 **for the emergency ambulance service provided to the covered**
 33 **individual, the nonparticipating ambulance service provider may**
 34 **initiate negotiations with the health plan operator according to the**
 35 **rules adopted under section 13(1) of this chapter concerning the**
 36 **adequacy of the amount paid by the health plan operator.**

37 (b) In negotiations initiated under subsection (a), a health plan
 38 operator shall negotiate in good faith and shall consider the facts
 39 advanced by the nonparticipating ambulance service provider in
 40 support of its position that the amount paid by a health plan
 41 operator is insufficient compensation for the emergency ambulance
 42 service provided to the covered individual.



1 (c) If a health plan operator fails or refuses to negotiate in good
 2 faith in negotiations initiated under subsection (a) or section
 3 17(b)(3) of this chapter, the insurance commissioner appointed
 4 under IC 27-1-1-2 may:

5 (1) reprimand; or

6 (2) in the case of a health plan operator described in section
 7 9(2) or 9(3) of this chapter, after notice and hearing under
 8 IC 4-21.5:

9 (A) impose a civil penalty on; or

10 (B) suspend the certificate of authority of;
 11 the health plan operator.

12 (d) If, fifteen (15) days after negotiations are initiated under this
 13 section, the negotiations do not result in an agreement to pay to the
 14 nonparticipating ambulance service provider an amount that the
 15 nonparticipating ambulance service provider considers sufficient,
 16 the nonparticipating ambulance service provider may initiate
 17 arbitration of the ambulance fee dispute under section 17 of this
 18 chapter.

19 Sec. 17. (a) If a nonparticipating ambulance service provider, in
 20 accordance with the rules adopted under section 13(2) of this
 21 chapter, initiates arbitration of the ambulance fee dispute, the
 22 commission shall select an arbitrator through a random drawing
 23 of the name of one (1) certified arbitrator from the roster
 24 maintained and published according to the rules adopted under
 25 section 13(5) of this chapter.

26 (b) The arbitrator selected under subsection (a) shall determine
 27 an amount that is fair compensation for the emergency ambulance
 28 service provided to the covered individual according to the
 29 following procedure:

30 (1) The nonparticipating ambulance service provider and the
 31 health plan operator shall submit to the arbitrator the figure
 32 each considers to be fair compensation for the emergency
 33 ambulance service provided to the covered individual, along
 34 with whatever additional information the nonparticipating
 35 ambulance service provider and the health plan operator wish
 36 to submit in support of the figure submitted.

37 (2) If the arbitrator, based on an analysis conducted under
 38 subsection (c), determines that one (1) of the figures submitted
 39 under subdivision (1) represents fair compensation for the
 40 emergency ambulance service provided to the covered
 41 individual, the arbitrator shall declare that figure to be fair
 42 compensation.



1 (3) If the arbitrator determines, based upon the figures and
 2 information submitted under subdivision (1), that:

3 (A) a settlement between the health plan operator and the
 4 nonparticipating ambulance service provider is reasonably
 5 likely; or

6 (B) the figures submitted by the nonparticipating
 7 ambulance service provider and the health plan operator
 8 represent unreasonable extremes;

9 the arbitrator may direct both parties to resume negotiations
 10 concerning the compensation for the emergency ambulance
 11 service. The arbitrator may pause the dispute resolution
 12 process under this section for not more than ten (10) business
 13 days for negotiations under this subdivision. If the parties
 14 reach a settlement through negotiations under this
 15 subdivision, the dispute resolution process under this section
 16 is concluded. If the parties do not reach a settlement through
 17 negotiations under this subdivision, the dispute resolution
 18 process shall continue under subdivision (4).

19 (4) If the arbitrator, based on an analysis conducted under
 20 subsection (c), determines that neither of the figures
 21 submitted under subdivision (1) represents fair compensation
 22 for the emergency ambulance service provided to the covered
 23 individual, and negotiations conducted under subdivision (3),
 24 if any, do not result in a settlement of the ambulance fee
 25 dispute, the arbitrator shall calculate an amount that
 26 represents fair compensation for the emergency ambulance
 27 service provided to the covered individual.

28 (c) In reaching a determination under subsection (b)(2) or
 29 (b)(4), the arbitrator shall conduct an analysis according to the
 30 following factors:

31 (1) Whether there is a gross disparity between:

32 (A) the figure submitted by the nonparticipating
 33 ambulance service provider under subsection (b)(1); and

34 (B) fees paid by the health plan operator to participating
 35 ambulance service providers for comparable emergency
 36 ambulance service.

37 (2) The level of life support that the nonparticipating
 38 ambulance service administered to the covered individual
 39 before or during the transportation of the covered individual
 40 in the ambulance.

41 (3) The distance that the nonparticipating ambulance service
 42 transported the covered individual in the ambulance.



- 1 **(4) The usual charge of the nonparticipating ambulance**
 2 **service for comparable emergency ambulance service.**
 3 **(5) The circumstances and complexity of the emergency**
 4 **ambulance service provided to the covered individual,**
 5 **including the time and place of the service.**
 6 **(6) The usual and customary cost of emergency ambulance**
 7 **service in the particular geographical area in which the**
 8 **nonparticipating ambulance service provided the emergency**
 9 **ambulance service, as determined according to the rules**
 10 **adopted under section 13(7) of this chapter.**
 11 **(d) The arbitrator shall conclude an arbitration process under**
 12 **this section not more than sixty (60) days after the selection of the**
 13 **arbitrator under subsection (a).**
 14 **(e) The determination of the arbitrator under subsection (b)(2)**
 15 **or (b)(4):**
 16 **(1) is binding on the health plan operator and the**
 17 **nonparticipating ambulance service provider; and**
 18 **(2) is admissible in any court proceeding between the health**
 19 **plan operator and the nonparticipating ambulance service**
 20 **provider.**
 21 **(f) The health plan operator and the nonparticipating**
 22 **ambulance service provider shall each pay fifty percent (50%) of**
 23 **the compensation to be paid to the arbitrator according to the rules**
 24 **adopted under section 13(2) of this chapter.**
 25 **(g) The insurance commissioner appointed under IC 27-1-1-2**
 26 **may:**
 27 **(1) reprimand; or**
 28 **(2) in the case of a health plan operator described in section**
 29 **9(2) or 9(3) of this chapter, after notice and hearing under**
 30 **IC 4-21.5:**
 31 **(A) impose a civil penalty on; or**
 32 **(B) suspend the certificate of authority of;**
 33 **a health plan operator that refuses to compensate a**
 34 **nonparticipating ambulance service provider in accordance with**
 35 **the determination made by an arbitrator under subsection (b)(2)**
 36 **or (b)(4), if the amount determined by the arbitrator under**
 37 **subsection (b)(2) or (b)(4) to be fair compensation exceeds the**
 38 **amount paid by the health plan operator under section 14(a) of this**
 39 **chapter.**

