

1 AN ACT relating to the regulation of air ambulance services.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF SUBTITLE 5 OF KRS CHAPTER 304 IS
4 CREATED TO READ AS FOLLOWS:

5 *(1) An air ambulance service or other entity that directly or indirectly, whether*
6 *through an affiliated entity, agreement with a third-party entity, or otherwise,*
7 *solicits air ambulance membership subscriptions, accepts membership*
8 *applications, or charges membership fees shall:*

9 *(a) Be considered an insurer; and*

10 *(b) Obtain and maintain a certificate of authority or license from the*
11 *commissioner in accordance with:*

12 *1. KRS 304.38A-020; or*

13 *2. Other applicable provisions of this chapter which permit the offering*
14 *of a limited health service benefit plan.*

15 *(2) An air ambulance membership:*

16 *(a) Shall be considered a limited health service benefit plan; and*

17 *(b) Shall be subject to the provisions of this chapter applicable to limited health*
18 *service benefit plans.*

19 ➔SECTION 2. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 304
20 IS CREATED TO READ AS FOLLOWS:

21 *An entity selling air ambulance memberships shall make the following general*
22 *disclosures, in writing, bold type, and not less than twelve (12) point font, on any*
23 *advertisement, marketing material, brochure, or contract terms and conditions made*
24 *available to the public:*

25 *(1) If eligible and covered by Medicaid or Medicaid managed care, the prospective*
26 *member is already covered, with no out-of-pocket cost liability, for air ambulance*
27 *services; and*

1 (2) If eligible and covered under Medicare, or a Medicare Advantage or Medicare
 2 supplement plan, or both, the prospective member may already be covered for air
 3 ambulance services and should consult with a representative of the Medicare
 4 program, or a representative of the prospective member's Medicare Advantage or
 5 Medicare supplement plan to determine:

6 (a) The level of existing coverage the prospective member has for air
 7 ambulance services;

8 (b) Any out-of-pocket costs applicable to the coverage referenced under
 9 paragraph (a) of this subsection; and

10 (c) Whether the program or plan provider recommends additional
 11 supplemental insurance coverage for air ambulance services.

12 ➔SECTION 3. A NEW SECTION OF SUBTITLE 17C OF KRS CHAPTER 304
 13 IS CREATED TO READ AS FOLLOWS:

14 (1) An air carrier selling, marketing, or otherwise servicing air ambulance
 15 memberships shall implement a patient advocacy program, which shall include,
 16 at a minimum, the following components:

17 (a) A dedicated patient hotline number and dedicated patient resource e-mail
 18 address to:

19 1. Process patient billing and claims; and

20 2. Address patient questions, complaints, and concerns;

21 (b) A dedicated patient advocacy page on the air ambulance carrier's Web site
 22 that:

23 1. Is clearly marked as the "patient portal" or "patient advocacy" page;

24 2. Is easily navigated to; and

25 3. Contains clearly-written and comprehensive resources for patients,
 26 including:

27 a. A layperson's explanation of what to expect during the claims

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process;

b. Frequently asked questions and answers;

c. Frequently used forms;

d. Information regarding the air ambulance carrier's financial assistance or charity care program required under paragraph (f) of this subsection; and

e. Additional resources for patients, including but not limited to:

i. Contact information for the Department of Transportation Consumer Affairs Division;

ii. Contact information for state and federal health agencies and insurance departments; and

iii. Other health consumer informational resources;

(c) Dedicated individuals assigned to review patient complaints and disputes about air ambulance billing and to respond to patients, governmental agencies, and any other concerned parties no later than thirty (30) calendar days from the date the complaint is received;

(d) The inclusion of the patient hotline number and e-mail address required by paragraph (a) of this subsection on all patient communication materials, including but not limited to Web sites, brochures, letters, invoices, or billing statements, that are sent to or made available to patients;

(e) Mandatory annual patient advocacy training for all air ambulance carrier personnel who have direct interaction with patients, or family members of patients, via written, verbal, or electronic communications; and

(f) A financial assistance or charity care program to assist patients suffering financial hardship with resolving any unpaid balance owed to the air ambulance carrier.

(2) This section shall not be enforced in a manner that conflicts with federal law,

1 *including federal preemption of state regulation of air carriers.*

2 ➔Section 4. KRS 304.1-120 is amended to read as follows:

3 No provision of this code shall apply to:

- 4 (1) Fraternal benefit societies (as identified in Subtitle 29), except as stated in Subtitle
5 29.
- 6 (2) Nonprofit hospital, medical-surgical, dental, and health service corporations (as
7 identified in Subtitle 32) except as stated in Subtitle 32.
- 8 (3) Burial associations (as identified in KRS Chapter 303), except as stated in Subtitle
9 31.
- 10 (4) Assessment or cooperative insurers (as identified in KRS Chapter 299), except as
11 stated in KRS Chapter 299.
- 12 (5) Insurance premium finance companies (as identified in Subtitle 30), except as stated
13 in Subtitle 30.
- 14 (6) Qualified organizations which issue charitable gift annuities within the
15 Commonwealth of Kentucky. For the purposes of this subsection:
- 16 (a) A "qualified organization" means one which is:
- 17 1. Exempt from taxation under Section 501(c)(3) of the Internal Revenue
18 Code as a charitable organization, if it files a copy of federal form 990
19 with the Division of Consumer Protection in the Office of the Attorney
20 General; or
- 21 2. Exempt from taxation under Section 501(c)(3) of the Internal Revenue
22 Code as a religious organization; or
- 23 3. Exempt as a publicly owned or nonprofit, privately endowed educational
24 institution approved or licensed by the State Board of Education, the
25 Southern Association of Colleges and Schools, or an equivalent public
26 authority of the jurisdiction where the institution is located; and
- 27 (b) A "charitable gift annuity" means a giving plan or method by which a gift of

1 cash or other property is made to a qualified organization in exchange for its
2 agreement to pay an annuity.

3 (7) A religious organization, as identified in this subsection, or its participants, that:

4 (a) Is a nonprofit religious organization;

5 (b) Is limited to participants who are members of the same denomination or
6 religion;

7 (c) Matches its participants who have financial, physical, or medical needs with
8 participants who choose to assist with those needs;

9 (d) 1. Includes the following notice for delivery to all participants, printed in
10 not less than ten (10) point, bold-faced type on or accompanying all
11 applications, guideline materials, or any similar documents:

12 "NOTICE: UNDER KENTUCKY LAW, THE RELIGIOUS
13 ORGANIZATION FACILITATING THE SHARING OF MEDICAL
14 EXPENSES IS NOT AN INSURANCE COMPANY, AND ITS
15 GUIDELINES, PLAN OF OPERATION, OR ANY OTHER
16 DOCUMENT OF THE RELIGIOUS ORGANIZATION DO NOT
17 CONSTITUTE OR CREATE AN INSURANCE POLICY.
18 PARTICIPATION IN THE RELIGIOUS ORGANIZATION OR A
19 SUBSCRIPTION TO ANY OF ITS DOCUMENTS SHALL NOT BE
20 CONSIDERED INSURANCE. ANY ASSISTANCE YOU RECEIVE
21 WITH YOUR MEDICAL BILLS WILL BE TOTALLY VOLUNTARY.
22 NEITHER THE ORGANIZATION OR ANY PARTICIPANT SHALL
23 BE COMPELLED BY LAW TO CONTRIBUTE TOWARD YOUR
24 MEDICAL BILLS. WHETHER OR NOT YOU RECEIVE ANY
25 PAYMENTS FOR MEDICAL EXPENSES, AND WHETHER OR
26 NOT THIS ORGANIZATION CONTINUES TO OPERATE, YOU
27 SHALL BE PERSONALLY RESPONSIBLE FOR THE PAYMENT

1 OF YOUR MEDICAL BILLS."

2 2. A participant shall acknowledge receipt of the "Notice" by signing
3 below the "Notice" on the application;

4 (e) Suggests amounts to give that are voluntary among the participants, with no
5 assumption of risk or promise to pay either among the participants or between
6 the participants and the organization.

7 (8) (a) A public or private ambulance service licensed and regulated by the Cabinet
8 for Health and Family Services to the extent that it solicits membership
9 subscriptions, accepts membership applications, charges membership fees,
10 and furnishes prepaid or discounted ambulance services to subscription
11 members and designated members of their households.

12 **(b) This subsection shall not apply to air ambulance services.**

13 (9) A direct primary care agreement established under KRS 311.6201, 311.6202,
14 314.198, and 314.199.

15 ➔Section 5. KRS 304.17C-010 is amended to read as follows:

16 As used in this subtitle, unless the context requires otherwise:

17 (1) "At the time of enrollment" means the same as defined in KRS 304.17A-005(2);

18 (2) "Enrollee" means an individual who is enrolled in a limited health service benefit
19 plan;

20 (3) "Health care provider" or "provider" means the same as defined in KRS 304.17A-
21 005(23);

22 (4) "Insurer" means any insurance company, health maintenance organization, self-
23 insurer or multiple employer welfare arrangement not exempt from state regulation
24 by ERISA, provider-sponsored integrated health delivery network, self-insured
25 employer-organized association, nonprofit hospital, medical-surgical, dental, health
26 service corporation, or limited health service organization authorized to transact
27 health insurance business in Kentucky who offers a limited health service benefit

1 plan; and

2 (5) "Limited health service benefit plan":

3 **(a)** Means any policy or certificate that provides services for dental, vision,
4 mental health, substance abuse, chiropractic, pharmaceutical, podiatric, or
5 other such services as may be determined by the commissioner to be offered
6 under a limited health service benefit plan.

7 **(b)** [~~A limited health service benefit plan~~] **Except for air ambulance**
8 **memberships under Section 1 of this Act,** shall not include hospital, medical,
9 surgical, or emergency services except as these services are provided
10 incidental to the plan.

11 ➔Section 6. This Act shall take effect April 1, 2022.