

HOUSE BILL NO. HB0194

Air ambulance coverage-Medicaid.

Sponsored by: Representative(s) Barlow, Nicholas, Pelkey and Stith and Senator(s) Baldwin, Rothfuss and Scott

A BILL

for

1 AN ACT relating to Medicaid; making legislative findings;
2 providing for air ambulance transport coverage under Medicaid
3 as specified; requiring a copay; creating an account;
4 imposing a premium assessment on certain insurers for the
5 purposes of this act; requiring reimbursements from state
6 agencies for air ambulance transport services; authorizing
7 the submission of federal Medicaid state plan amendments and
8 other necessary waivers and agreements; making conforming
9 amendments; requiring reports and certain other actions;
10 requiring the promulgation of rules; specifying
11 applicability; and providing for effective dates.

12

13 *Be It Enacted by the Legislature of the State of Wyoming:*

14

15 **Section 1.**

1

2 (a) The legislature finds it necessary, through this
3 act, to ensure affordable air ambulance transport services
4 are provided in this state and to safeguard the future health
5 and safety of Wyomingites for the following reasons:

6

7 (i) Air ambulance transport expenses cost
8 Wyomingites a significant portion of their yearly income,
9 often ranging from twenty-five thousand dollars (\$25,000.00)
10 to seventy-five thousand dollars (\$75,000.00), with no
11 ability to compare air ambulance providers or negotiate costs
12 because of an emergency or medically necessary situation;

13

14 (ii) The Airline Deregulation Act, 49 U.S.C. §
15 41713, broadly preempts state regulation of air ambulance
16 providers, but does not extend to Medicaid;

17

18 (iii) Both private and public payors, including
19 workers' compensation and private health benefit plans, often
20 only pay a portion of air ambulance providers' fees,
21 frequently resulting in Wyomingites receiving a large bill
22 from these providers for unpaid fees;

23

1 (iv) As a result, most Wyomingites cannot
2 reasonably afford to pay air ambulance providers' fees and
3 often face significant financial challenges, including
4 bankruptcy, as the result of medical costs they cannot
5 reasonably control or predict;

6

7 (v) Many insurers who provide private health
8 benefit plans are forced to charge higher premiums and
9 deductibles because of the exceptional cost of air ambulance
10 transport services;

11

12 (vi) Wyoming's Medicaid program, in partnership
13 with the federal government, is designed to assist
14 individuals and families who cannot reasonably afford basic
15 medical care, including air ambulance transport services;

16

17 (vii) Because of the unusual and extraordinary
18 nature of air ambulance costs in Wyoming, air ambulance
19 transport services are generally beyond the financial means
20 of the vast majority of Wyoming's population, representing a
21 serious concern to the health and safety of this state;

22

1 (viii) Providing air ambulance coverage to
2 additional Wyoming residents through Medicaid, while charging
3 a reasonable copay and limiting the total amount that can be
4 charged in both emergency and medically necessary situations,
5 will enable many Wyomingites to receive the medical care they
6 need while not forcing them into financial hardship.

7

8 **Section 2.** W.S. 9-3-219 and 42-4-123 are created to
9 read:

10

11 9-3-219. Air ambulance transport services for
12 employees, officials and dependents; reimbursement.

13

14 (a) Emergency and medically necessary air ambulance
15 transport services for employees, officials and their
16 dependents shall be covered under W.S. 42-4-123, subject to
17 availability and any limitations specified by the department
18 of health under W.S. 42-4-123(a).

19

20 (b) The department of administration and information
21 shall pay reimbursement for services under this section to
22 the department of health, as specified under W.S. 42-4-123.

23

1 **42-4-123. Air ambulance transport services for Wyoming**
2 **residents.**

3

4 (a) With the consent of the governor, the department
5 shall apply, in the form of any necessary federal waiver,
6 state plan amendment or other agreement, to the United States
7 department of health and human services and endeavor to make
8 coverage of air ambulance transport services through Medicaid
9 available to all Wyoming residents, except that coverage may
10 be limited to specified groups of Wyoming residents as
11 necessary to obtain approval.

12

13 (b) Contingent on federal approval under subsection (a)
14 of this section, there is created the air ambulance transport
15 services program under the department.

16

17 (c) Coverage for air ambulance transport services under
18 this section shall be provided through retroactive
19 eligibility. A Wyoming resident or air ambulance provider may
20 make a claim for payment of air ambulance transport services
21 to the department. A claim shall be submitted within ninety
22 (90) days of air ambulance transport services occurring,
23 except for good cause as determined by the department. An air

1 ambulance provider shall provide services under this section
2 if the provider otherwise makes air ambulance transport
3 services available to persons in Wyoming who are eligible for
4 Medicaid independent of the coverage provided by this
5 section. Except as otherwise provided in subsection (d) of
6 this section, an air ambulance provider who provides services
7 under this section shall accept payment under this subsection
8 as full satisfaction of all charges, costs and fees relating
9 to air ambulance transport services.

10

11 (d) An air ambulance provider shall collect a copay or
12 other cost sharing requirement for services covered under
13 this section, as established by the department and consistent
14 with federal requirements, based on the following:

15

16 (i) For persons who are eligible for Medicaid
17 independent of the coverage provided by this section, any
18 copay or other cost sharing requirement shall be consistent
19 with the copay or cost sharing requirement specified for other
20 services under Medicaid;

21

22 (ii) For persons who are not eligible for Medicaid
23 independent of the coverage provided by this section, any

1 copay or cost sharing requirement shall be proportionate,
2 based on income and shall not be greater than twenty percent
3 (20%) of the allowable costs for air ambulance transport under
4 this section, as determined by the department.

5

6 (e) All premium assessments and reimbursements received
7 under this section shall be deposited into the air ambulance
8 coverage account and shall be used by the department to pay
9 air ambulance transport claims covered under this section, as
10 well as to administer this section.

11

12 (f) Consistent with subsection (a) of this section, all
13 air ambulance transport services otherwise provided or
14 covered by any program administered by the state of Wyoming,
15 including, but not limited to, the State Employees and
16 Officials Group Insurance Act and the Wyoming Worker's
17 Compensation Act, shall be covered under this section. Other
18 than paying reimbursements under this section, state agencies
19 shall not have a duty to provide or cover air ambulance
20 transport services after the department begins providing
21 services under this section, except for persons otherwise not
22 covered pursuant to subsection (a) of this section.

23

12

13 (h) The department may enter into agreements with the
14 following persons for the purposes of this section:

15

16 (i) Air ambulance providers;

17

18 (ii) Persons who provide dispatch for air
19 ambulance transport services;

20

21 (iii) A third party administrator;

22

(iv) Any other person or entity necessary to implement this section, except as otherwise provided by subsection (j) of this section.

4

5 (j) The insurance commissioner may enter into
6 agreements with employee welfare benefit plans, as defined in
7 29 U.S.C. § 1002, and other health insurance plans operating
8 in this state not subject to state regulation, in order to
9 make air ambulance transport coverage available under this
10 section to insured persons covered by those plans. If a plan
11 enters into an agreement under this paragraph, the plan shall
12 pay an assessment on net premiums and net considerations in
13 this state to the insurance commissioner as otherwise
14 provided in W.S. 26-4-103(n) but shall not be required to
15 file a report under W.S. 26-4-103(a).

16

17 (k) There is created the air ambulance coverage
18 account. Premium assessments collected by the insurance
19 commissioner and state agency reimbursements paid to the
20 department of health under this section shall be deposited
21 into the account and used by the department to cover air
22 ambulance transport services under this section and to
23 implement this section. Other funds used to provide air

1 ambulance coverage, including federal funds, may be deposited
2 into the account. The account may be divided into subaccounts
3 for purposes of administrative management. Funds in the
4 account and any amounts earned from those funds are
5 continuously appropriated and shall not lapse at the end of
6 any fiscal period. For accounting and investing only,
7 subaccounts shall be treated as separate accounts.

8

9 (m) The rules of the department governing
10 administrative hearings under Medicaid shall apply to any
11 action of the department under this section.

12

13 (n) Federal funds shall only be expended under this
14 section for persons who are eligible for Medicaid independent
15 of the coverage provided by this section, or as otherwise
16 provided by federal law or any waiver, state plan amendment
17 or agreement executed with the federal government.

18

19 (o) This section shall not apply to Wyoming residents
20 eligible for Medicare.

21

22 (p) The department shall adopt all necessary rules to
23 implement this section, including:

1

2 (i) Payment rates, which shall be cost based and
3 ensure availability of services under this section. The
4 department may adjust payment rates as necessary based on
5 cost and service quality; and

6

9

10 (q) As used in this section:

11

12 (i) "Air ambulance coverage account" means the
13 account created by subsection (k) of this section;

14

15 (ii) "Air ambulance provider" means a person who
16 provides air ambulance transport services in Wyoming;

17

18 (iii) "Air ambulance transport" means medical
19 conveyance by air in the following situations:

20

21 (A) Emergency circumstances;

22

1 (B) Nonemergency, but medically necessary
2 circumstances, as determined by a licensed health care
3 provider, pursuant to rule of the department.

4

5 (iv) "Emergency" means a situation in which
6 immediate medical care is necessary to prevent death or
7 serious injury, or additional serious injury, pursuant to
8 rule of the department;

9

10 (v) "Wyoming resident" means a natural person who
11 is either of the following:

12

13 (A) Domiciled in Wyoming;

14

15 (B) Covered by the Wyoming Worker's
16 Compensation Act.

17

18 **Section 3.** W.S. 9-3-203(a)(xvii), 26-4-102(b) by
19 creating a new paragraph (iii), 26-4-103(m) and by creating
20 a new subsection (n), 27-14-401 by creating a new subsection
21 (j) and 42-4-103(a) by creating a new paragraph (xxxii) are
22 amended to read:

23

1 **9-3-203. Definitions.**

2

3 (a) As used in this act:

4

5 (xvii) "This act" means W.S. 9-3-202 through
6 ~~9-3-218~~ 9-3-219.

7

8 **26-4-102. Record of receipts; payment to treasurer;**
9 **credit to fund.**

10

11 (b) The commissioner shall promptly deposit all monies
12 he receives from any charges to the general fund, with receipt
13 and acknowledgement submitted to the state treasurer, except
14 that:

15

16 (iii) Premium assessments collected under W.S.
17 26-4-103(n), which shall be transferred to the air ambulance
18 coverage account not more than thirty (30) days after receipt.

19

20 **26-4-103. Premium taxes; generally; preemption by**
21 **state.**

22

1 (m) The amount of tax credits for which an insurer
2 qualifies under W.S. 9-12-1301 through 9-12-1312 shall be
3 allowed as a credit against premium tax owed by the insurer
4 under subsections (a) through (k) of this section.

5

6 (n) At the same time a report under subsection (a) of
7 this section is filed, an insurer making private health
8 benefit plans available in this state, and any plan which has
9 entered into agreement under W.S. 42-4-123(j), shall pay to
10 the commissioner a three-quarter percent (.75%) assessment
11 upon net premiums and net considerations. The commissioner
12 shall, not more than thirty (30) days after receipt, transfer
13 premium assessments paid under this subsection to the air
14 ambulance coverage account.

15

16 27-14-401. Medical, hospital and ambulance expenses;
17 review of claim; employer and division designated providers;
18 contracts for bill review, case management and related
19 programs; air ambulance reimbursement.

20

21 (j) Emergency and medically necessary air ambulance
22 transport services for an employee shall be covered under
23 W.S. 42-4-123, subject to availability and any limitations

1 specified by the department under W.S. 42-4-123(a). The
2 department of workforce services shall pay reimbursement for
3 services under this section to the department of health as
4 specified under W.S. 42-4-123.

5

6 **42-4-103. Authorized services and supplies.**

7

8 (a) Services and supplies authorized for medical
9 assistance under this chapter include:

10

11 (xxxii) Air ambulance transport services,
12 consistent with W.S. 42-4-123.

13

14 **Section 4.** The department of the health, with the
15 consent of the governor, shall pursue all necessary and
16 prudent state plan amendments, federal waivers under 42
17 U.S.C. §§ 1315 and 18052 and other agreements necessary to
18 implement this act and to access all available federal funds,
19 which may include modifying eligibility under Medicaid for
20 specified income groups for air ambulance transport services
21 only. The department is also authorized to take all necessary
22 actions to obtain an exemption for insurers, plans who enter
23 into an agreement under W.S. 42-4-123(j) and other qualified

1 health plans from essential benefits requirements specified
2 by federal law. Any action taken under this section shall
3 only relate to the coverage of air ambulance transport
4 services as provided by this act. Upon applying for a state
5 plan amendment, waiver or other agreement under this section,
6 the department of health shall provide a report to the joint
7 labor, health and social services interim committee and the
8 joint appropriations committee detailing the reasons for the
9 application and the reasons why the state plan amendment,
10 waiver or agreement is viable and fiscally advantageous for
11 the state of Wyoming and its residents. A report shall be
12 submitted as soon as possible after an application is made.

13

14 **Section 5.**

15

16 (a) The department of health shall seek approval from
17 the governor to proceed under section 4 of this act on or
18 before April 1, 2019.

19

20 (b) The department of health shall transmit a copy of
21 this act to the Wyoming congressional delegation. The
22 department shall seek the support of the Wyoming
23 congressional delegation in relation to any necessary state

1 plan amendments, federal waivers or other agreements with the
2 federal government.

3

4 **Section 6.** This act applies to air ambulance transport
5 services provided on or after October 1, 2019.

6

7 Section 7.

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13

14 (b) Except as otherwise provided in subsection (a) of
15 this section, this act is effective October 1, 2019.

16

17 (END)