

SENATE FILE NO. SF0053

Private ground ambulance service provider assessment act.

Sponsored by: Joint Labor, Health & Social Services Interim
Committee

A BILL

for

1 AN ACT relating to public welfare; establishing a private
2 ground ambulance service provider assessment as specified;
3 providing for the use of assessments to obtain federal
4 matching funds; providing for payments to private ground
5 ambulance service providers as specified; establishing an
6 account; providing definitions; providing regulatory
7 authority; providing penalties; clarifying an
8 intergovernmental transfer provision; and providing for an
9 effective date.

10

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

12

13 **Section 1.** W.S. 42-11-101 through 42-11-109 are
14 created to read:

15

1

CHAPTER 11

2

PRIVATE GROUND AMBULANCE SERVICE PROVIDER ASSESSMENT ACT

3

4

42-11-101. Short title.

5

6

This chapter shall be known and may be cited as the

7

"Wyoming Private Ground Ambulance Service Provider

8

Assessment Act."

9

10

42-11-102. Definitions.

11

12

(a) As used in this chapter:

13

14

(i) "Account" means the private ground ambulance
service provider assessment account created by W.S.

15

42-11-103;

16

17

18

(ii) "Ambulance" has the same meaning as defined
in W.S. 33-36-102(a)(i)(A) and (B);

19

20

21

(iii) "Department" means the department of
health;

22

23

1 (iv) "Fiscal year" means the twelve (12) month
2 period beginning October 1 and ending September 30;

3

4 (v) "Private ground ambulance service provider"
5 means any person operating a licensed ambulance service
6 designed to operate on the ground, which is not owned or
7 operated by the state or any city, town, county, special
8 district or other political subdivision of the state or
9 local government;

10

11 (vi) "License" and "licensed" means an ambulance
12 business license issued under W.S. 33-36-104 that is not
13 expired and has not been revoked or suspended;

14

15 (vii) "Medicaid" means the medical assistance
16 program established by title XIX of the federal Social
17 Security Act and administered in this state by the
18 department pursuant to the Wyoming Medical Assistance and
19 Services Act;

20

21 (viii) "Net patient revenue" means all amounts
22 received by a private ground ambulance service provider
23 licensed under W.S. 33-36-104 for the provision of

1 licensed, ground ambulance services in the state of
2 Wyoming. The department shall establish a procedure for
3 determining net patient revenue for purposes of the
4 assessment provided under W.S. 42-11-104;

5

6 (ix) "Quarterly adjustment payment" means the
7 quarterly payments made to private ground ambulance service
8 providers that the department may establish and distribute
9 pursuant to W.S. 42-11-106;

10

11 (x) "Rate enhancement" means Medicaid
12 reimbursement rate increases to private ground ambulance
13 service providers, as determined by the department and
14 approved by the Centers for Medicare and Medicaid Services;

15

16 (xi) "Upper payment limit" means a limitation on
17 aggregate Medicaid payments to private ground ambulance
18 service providers, or another applicable class of Medicaid
19 payees, as established by the Centers for Medicare and
20 Medicaid Services;

21

22 (xii) "Upper payment limit gap" means the amount
23 calculated annually by the department constituting the

1 difference between the applicable upper payment limit and
2 Medicaid payments made subject to that limit in a fiscal
3 year, excluding any payments authorized by this chapter.

4

5 **42-11-103. Private ground ambulance service provider**
6 **assessment account.**

7

8 (a) The private ground ambulance service provider
9 assessment account is created.

10

11 (b) The state treasurer shall invest amounts
12 deposited in the account in accordance with law and all
13 investment earnings shall be credited back to the account.
14 Funds in the account are continuously appropriated to the
15 department for the purposes specified in this section.

16

17 (c) The account shall consist of:

18

19 (i) Amounts collected or received by the
20 department from private ground ambulance service provider
21 assessments under this chapter;

22

1 (ii) All federal matching funds received by the
2 department as a result of expenditures made by the
3 department pursuant to this chapter.

4

5 (d) The account shall be used exclusively for the
6 following purposes:

7

8 (i) To pay administrative expenses incurred by
9 the department or its agent in performing the activities
10 authorized by this chapter, provided that these expenses
11 shall not exceed a total of three percent (3%) of the
12 aggregate assessment funds collected in the fiscal year;

13

14 (ii) To secure federal matching funds available
15 through the state Medicaid plan as approved pursuant to
16 W.S. 42-11-108, which shall be used to make quarterly
17 adjustment payments or to provide rate enhancements to
18 private ground ambulance service providers as provided by
19 this chapter;

20

21 (iii) To repay to the federal government any
22 excess payments received or made to private ground
23 ambulance service providers if the state plan, after

1 approval by the Centers for Medicare and Medicaid Services,
2 is subsequently disapproved for any reason and after the
3 state has exhausted all appeals. Private ground ambulance
4 service providers shall refund any excess payments to the
5 assessment account. If a private ground ambulance service
6 provider is unable to refund payments as provided in this
7 paragraph, the department shall develop a payment plan to
8 recoup deficient payments and accordingly deduct amounts
9 from future Medicaid payments. The department shall refund
10 the federal government for the federal portion of those
11 overpayments;

12

13 (iv) To refund assessments paid by private
14 ground ambulance service providers for payments which were
15 earned but not paid by the department, but only after the
16 payments authorized by paragraphs (i) and (iii) of this
17 subsection have been made.

18

19 **42-11-104. Assessments.**

20

21 (a) Each private ground ambulance service provider
22 shall pay a private ground ambulance service provider

1 assessment to the department in accordance with this
2 section.

3
4 (b) The assessment due under this section shall be
5 imposed each fiscal year in an amount calculated as a
6 uniform percentage of each private ground ambulance service
7 provider's net patient revenue. The assessment rate shall
8 be determined by the department on a prospective basis and
9 shall be based on the percentage of private ground
10 ambulance service provider net patient revenue necessary to
11 generate an amount not to exceed the nonfederal portion of
12 the upper payment limit gap plus the fee authorized by W.S.
13 42-11-103(d)(i). If a rate enhancement is paid to private
14 ground ambulance service providers pursuant to this
15 chapter, the assessment rate shall include a uniform
16 percentage of each private ground ambulance service
17 provider's net patient revenue necessary to generate the
18 nonfederal portion of all enhanced rates paid under this
19 chapter plus the fee authorized by W.S. 42-11-103(d)(i).
20 In no event shall assessments or the assessment rate exceed
21 the indirect guarantee threshold amount established by 42
22 C.F.R. 433.68(f)(3)(i) or other federal law.

23

1 (c) Unless otherwise determined by the department,
2 the department shall collect and each private ground
3 ambulance service provider shall pay the assessment
4 required by this section on a quarterly basis, each payment
5 constituting twenty-five percent (25%) of the annual
6 assessment determined by the department. The initial
7 payment shall be due not later than forty-five (45) days
8 after the state plan has been approved by the Centers for
9 Medicare and Medicaid Services unless a later date is set
10 by the department. Subsequent payments are due not later
11 than forty-five (45) days after the end of each calendar
12 quarter unless a later date is set by the department.

13

14 (d) If a private ground ambulance service provider
15 ceases to operate as an ambulance service or for any reason
16 ceases to be subject to the assessment imposed under this
17 chapter, the assessment for the fiscal year in which the
18 cessation occurs shall be adjusted by multiplying the
19 annual assessment by a fraction, the numerator of which is
20 the number of days in the year during which the private
21 ground ambulance service provider is subject to the
22 assessment and the denominator of which is three hundred
23 sixty-five (365). Immediately upon ceasing to operate as

1 an ambulance service provider, or otherwise ceasing to be
2 subject to this chapter, the private ground ambulance
3 provider shall pay the assessment for each quarter as
4 adjusted, to the extent not previously paid.

5

6 **42-11-105. Penalties for failure to pay assessment.**

7

8 (a) If a private ground ambulance service provider
9 fails to pay an assessment due under this chapter, there
10 shall be added to the assessment a penalty equal to five
11 percent (5%) of the amount of the assessment that was not
12 paid when due. The penalty under this section may be
13 waived by the department for good cause. Any payments made
14 after a penalty is assessed under this section shall be
15 credited first to unpaid assessment amounts rather than to
16 penalty amounts, beginning with the most delinquent
17 installment.

18

19 (b) In addition to the penalty under subsection (a)
20 of this section, the department may implement any of the
21 following remedies for failure of a private ground
22 ambulance service provider to pay its assessment when due
23 under this chapter:

1

2 (i) Withhold any Medicaid payments, including
3 any quarterly adjustment payments or rate enhancements,
4 until the assessment is paid;

5

6 (ii) Develop a plan that requires the private
7 ground ambulance service provider to pay any delinquent
8 assessment in installments;

9

10 (iii) Suspend or revoke the private ground
11 ambulance service provider's license.

12

13 **42-11-106. Payments to private ground ambulance**
14 **service providers.**

15

16 (a) Subject to W.S. 42-11-107, the initiation of
17 assessments under W.S. 42-11-104(c) and the federal
18 approval authorized in W.S. 42-11-108, the department shall
19 make quarterly adjustment payments to or implement rate
20 enhancements for private ground ambulance service providers
21 as set forth in this section.

22

1 (b) Each private ground ambulance service provider
2 that pays assessments under this chapter and meets the
3 eligibility standards set by subsection (c) of this section
4 shall be eligible to receive quarterly adjustment payments
5 as provided in this section. The department shall
6 distribute quarterly adjustment payments in amounts up to
7 but not to exceed the applicable upper payment limit gap.
8 The department shall establish a uniform methodology by
9 which to distribute payments in compliance with applicable
10 federal and state Medicaid laws and regulations.

11

12 (c) Unless otherwise prohibited by federal law, only
13 private ground ambulance service providers who meet all of
14 the following requirements shall be eligible to receive a
15 quarterly adjustment payment authorized in subsection (b)
16 of this section:

17

18 (i) Private ground ambulance service providers
19 who provide ground ambulance services to Medicaid
20 beneficiaries;

21

1 (ii) Private ground ambulance service providers
2 who provide ground ambulance services to Medicare
3 beneficiaries;

4

5 (iii) Private ground ambulance service providers
6 who accept as full payment for ground ambulance services
7 any payments made under Wyoming's worker's compensation
8 system; and

9

10 (iv) Private ground ambulance service providers
11 who:

12

13 (A) Are network providers for all insurers
14 offering private health benefit plans in this state who
15 maintain not less than a twenty percent (20%) share of the
16 state's individual or small group health insurance market;
17 or

18

19 (B) Have made a bonafide and reasonable
20 offer to become a network provider to all of the insurers
21 identified in subparagraph (A) of this paragraph by
22 offering to accept as network provider reimbursement not
23 more than double the Medicaid reimbursement rate for

1 relevant medical services. The offer required by this
2 subparagraph may be higher to the extent the private ground
3 ambulance service provider demonstrates to the department
4 that the actual cost of providing relevant medical services
5 plus six percent (6%) of the actual cost is an amount
6 higher than double the Medicaid reimbursement rate for the
7 relevant medical services.

8

9 (d) To the extent rate enhancements are approved by
10 the Centers for Medicare and Medicaid Services and subject
11 to the collection of assessments under W.S. 42-11-104(b),
12 the department shall provide rate enhancement payments to
13 private ground ambulance service providers consistent with
14 applicable federal and state requirements.

15

16 (e) Quarterly payments or rate enhancements shall not
17 be used to offset any other payment by Medicaid for ground
18 ambulance services to Medicaid beneficiaries, including
19 without limitation any fee-for-service, per diem,
20 adjustment or cost settlement payments.

21

22 (f) No private ground ambulance service provider is
23 guaranteed, expressly or otherwise, that quarterly

1 adjustment payments or rate enhancements will equal or
2 exceed the amount of private ground ambulance service
3 provider assessments due under this chapter.

4

5 (g) Monies made available by this chapter shall not
6 be used to replace other general revenues appropriated and
7 funded by the legislature or other revenues used to support
8 Medicaid.

9

10 **42-11-107. Discontinuation of the assessment and**
11 **payments.**

12

13 (a) The assessments imposed by this chapter shall be
14 discontinued or not allowed if:

15

16 (i) The state plan amendment or other agreement
17 with the Centers for Medicare and Medicaid Services
18 reflecting the payments authorized by this chapter is not
19 approved by the Centers for Medicare and Medicaid Services.
20 The department may modify the payment or qualification
21 provisions as necessary to obtain the Centers for Medicare
22 and Medicaid Services approval if the changes do not exceed
23 the authority and purposes of this chapter;

1

2 (ii) Federal financial participation to match
3 assessments under this chapter becomes unavailable under
4 federal law. In this event, the department shall terminate
5 the imposition of assessments beginning on the date the
6 federal statutory, regulatory or interpretive change takes
7 effect.

8

9 (b) If the collection of assessments is discontinued
10 as provided in this section, payments or rate enhancements
11 under this chapter shall be discontinued and, after payment
12 of all amounts under W.S. 42-11-103(d)(i) and (iii), any
13 assessments remaining in the account shall be returned to
14 the private ground ambulance service providers from which
15 the assessments were collected on the same basis as they
16 were collected.

17

18 (c) If the department is collecting assessments for
19 both quarterly adjustment payments and rate enhancements
20 and both collections are not discontinued, the department
21 shall continue to maintain the account as required by this
22 chapter for the type of assessment that continues to be
23 collected.

1

2 **42-11-108. Approval of state plan; rulemaking.**

3

4 (a) The department shall seek necessary federal
5 approval in the form of state plan amendments or otherwise
6 in order to implement the provisions of this chapter. The
7 department shall be deemed to satisfy this requirement by
8 seeking approval for the operation of an upper payment
9 limit program that provides for quarterly adjustment
10 payments, by seeking approval for rate enhancements, or
11 both. While seeking federal approval under this
12 subsection, the department may modify payment or
13 qualification provisions as necessary to obtain the Centers
14 for Medicare and Medicaid Services approval if the changes
15 do not exceed the authority and purposes of this chapter.

16

17 (b) The department shall adopt rules and regulations
18 necessary to implement the provisions of this chapter.

19

20 **42-11-109. Multiple ambulance services.**

21

22 If a person conducts, operates or maintains more than one
23 (1) private ground ambulance service provider licensed by

1 the department, the person shall pay the assessment for
2 each private ground ambulance service provider separately.

3

4 **Section 2.** W.S. 42-4-104(b)(ix) is amended to read:

5

6 **42-4-104. Powers and duties of department of health;**
7 **state Medicaid agent appointed by governor.**

8

9 (b) In carrying out subsection (a) of this section,
10 the department may:

11

12 (ix) Enter into intergovernmental transfer
13 arrangements with qualifying facilities and providers,
14 including but not limited to hospitals, nursing homes,
15 hospital owned and operated professional service providers
16 and ground ambulance service providers, in which all
17 federal funding received as a result of the
18 intergovernmental transfer arrangements shall be
19 distributed to participating facilities and providers in
20 accordance with the terms of an approved state plan
21 amendment or other agreement with the centers for Medicare
22 and Medicaid services. Notwithstanding, if consistent with
23 the state plan amendment or agreement, the department may

1 use funds derived from such intergovernmental transfers to
2 pay administrative expenses incurred by the department or
3 its agent in performing the activities authorized under
4 this subsection, provided that these expenses shall not
5 exceed a total of three percent (3%) of the aggregate
6 intergovernmental transfer funds collected in the fiscal
7 year;

8
9 **Section 3.** This act is effective immediately upon
10 completion of all acts necessary for a bill to become law
11 as provided by Article 4, Section 8 of the Wyoming
12 Constitution.

13

14

(END)