

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO.

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 ground
2 ambulance service provider assessment as specified;
3 providing for the use of assessments to obtain federal
4 matching funds; providing for payments to ground ambulance
5 service providers; establishing an account; providing
6 definitions; providing regulatory authority; providing
7 penalties; and providing for an effective date.

8

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

10

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

1

2

CHAPTER 11 - GROUND AMBULANCE SERVICE PROVIDER

3

ASSESSMENT ACT

4

5

42-11-101. Short title.

6

7

This chapter shall be known and may be cited as the

8

"Wyoming Ground Ambulance Service Provider Assessment Act."

9

10

42-11-102. Definitions.

11

12

(a) As used in this chapter:

13

14

(i) "Account" means the ground ambulance service provider assessment account created by W.S. 42-11-103;

16

17

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

19

20

(iii) "Ground ambulance service provider" means any person operating a licensed ambulance service designed to operate on the ground;

23

1 (iv) "Department" means the department of
2 health;

3
4 (v) "Fiscal year" means the twelve (12) month
5 period beginning October 1 and ending September 30;

6
7 (vi) "License" and "licensed" means an ambulance
8 business license issued under W.S. 33-36-104 that is not
9 expired and has not been revoked or suspended;

10

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

16

17 (viii) "Net patient revenue" means all amounts
18 received by a ground ambulance service provider licensed
19 under W.S. 33-36-104 for the provision of licensed, ground
20 ambulance services in the State of Wyoming. The department
21 shall establish a procedure for determining net patient
22 revenue for purposes of the assessment provided under W.S.
23 42-11-104;

1

2 (ix) "Rate enhancement" means Medicaid
3 reimbursement rate increases to ground ambulance service
4 providers, as determined by the department and approved by
5 the Centers for Medicare and Medicaid Services;

6

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

11

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

17

18 (xii) "Upper payment limit gap" means the amount
19 calculated annually by the department constituting the
20 difference between the applicable upper payment limit and
21 Medicaid payments made subject to that limit in a fiscal
22 year, excluding any payments authorized by this chapter.

23

1 **42-11-103. Ground ambulance service provider**
2 **assessment account.**

3
4 (a) The ground ambulance service provider assessment
5 account is created.

6
7 (b) The state treasurer shall invest amounts
8 deposited in the account in accordance with law and all
9 investment earnings shall be credited back to the account.
10 Funds in the account are continuously appropriated to the
11 department for the purposes specified in this section.

12
13 (c) The account shall consist of:

14
15 (i) Amounts collected or received by the
16 department from ground ambulance service provider
17 assessments under this chapter;

18
19 (ii) All federal matching funds received by the
20 department as a result of expenditures made by the
21 department pursuant to this chapter.

22

1 (d) The account shall be used exclusively for the
2 following purposes:

3
4 (i) To pay administrative expenses incurred by
5 the department or its agent in performing the activities
6 authorized by this chapter, provided that these expenses
7 shall not exceed a total of one percent (1%) of the
8 aggregate assessment funds collected in the fiscal year;

9
10 (ii) To secure federal matching funds available
11 through the state Medicaid plan as approved pursuant to
12 W.S. 42-11-108, which shall be used to make quarterly
13 adjustment payments or to provide rate enhancements to
14 ground ambulance service providers as provided by this
15 chapter;

16 *****

17 STAFF COMMENT

18 Unlike Wyoming's other two UPL programs (one for
19 nursing care facilities and one for private
20 hospitals), the account set up here can be used
21 for either a UPL program or for enhanced Medicaid
22 reimbursement rates. As LSO understands the
23 proposal, enhanced rates would simply be the
24 result of permission by CMS to provide higher
25 reimbursement rates for specified ground
26 ambulance services. Under Wyoming's FMAP, the
27 federal government would cover 50% of the
28 increased rate and the state would cover the
29 other 50% of the increased rate. LSO assumes the

1 **assessment required by this bill would be set at**
 2 **an amount that would cover the state's 50% share.**
 3 *****
 4

5 (iii) To repay to the federal government any
 6 excess payments received or made to ground ambulance
 7 service providers if the state plan, after approval by the
 8 Centers for Medicare and Medicaid Services, is subsequently
 9 disapproved for any reason and after the state has
 10 exhausted all appeals. Ground ambulance service providers
 11 shall refund any excess payments to the assessment account.
 12 If a ground ambulance service provider is unable to refund
 13 payments as provided in this paragraph, the department
 14 shall develop a payment plan to recoup deficient payments
 15 and accordingly deduct amounts from future Medicaid
 16 payments. The department shall refund the federal
 17 government for the federal portion of those overpayments;

18

19 (iv) To refund assessments paid by ground
 20 ambulance service providers for payments which were earned
 21 but not paid by the department, but only after the payments
 22 authorized by paragraphs (i) and (iii) of this section have
 23 been made.

24

1 **42-11-104. Assessments.**

2

3 (a) Each ground ambulance service provider shall pay
4 a ground ambulance service provider assessment to the
5 department in accordance with this section.

6

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

1 guarantee threshold amount established by 42 C.F.R.
2 433.68(f)(3)(i) or other federal law.

3

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

16

17 (d) If a ground ambulance service provider ceases to
18 operate as an ambulance service or for any reason ceases to
19 be subject to the assessment imposed under this chapter,
20 the assessment for the fiscal year in which the cessation
21 occurs shall be adjusted by multiplying the annual
22 assessment by a fraction, the numerator of which is the
23 number of days in the year during which the ground

1 ambulance service provider is subject to the assessment and
2 the denominator of which is three hundred sixty-five (365).
3 Immediately upon ceasing to operate as an ambulance service
4 provider, or otherwise ceasing to be subject to this
5 chapter, the ground ambulance provider shall pay the
6 assessment for each quarter as adjusted, to the extent not
7 previously paid.

8

9 **42-11-105. Penalties for failure to pay assessment.**

10

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

20

21 (b) In addition to the penalty under subsection (a)
22 of this section, the department may implement any of the
23 following remedies for failure of a ground ambulance

1 service provider to pay its assessment when due under this
2 chapter:

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

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

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

14 *****
15 STAFF COMMENT
16 Paragraph (iii), above, is added for the
17 Committee's consideration. License suspension is
18 provided as a penalty in Wyoming's nursing care
19 facility UPL program but is not included as a
20 penalty in Wyoming's private hospital UPL
21 program.
22 *****

23
24 42-11-106. Payments to ground ambulance service
25 providers.

26

27

1 *****

2 STAFF COMMENT

3 This section provides for the separate treatment
4 of rate enhancements and quarterly adjustment
5 payments since the two programs can operate
6 independently.

7
8 Consistent with Chairman Scott's request, this
9 section is amended to include a new subsection
10 setting eligibility standards for providers who
11 seek to receive quarterly adjustment payments
12 under the UPL program. Note: as currently
13 drafted, the eligibility standards do not apply
14 to rate enhancement payment eligibility.

15 *****

16

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

23

24 (b) Each ground ambulance service provider that pays
25 assessments under this chapter and meets the eligibility
26 standards set by subsection (c) of this section shall be
27 eligible to receive quarterly adjustment payments as
28 provided in this section. The department shall distribute
29 quarterly adjustment payments in amounts up to but not to
30 exceed the applicable upper payment limit gap. The

1 department shall establish a uniform methodology by which
2 to distribute payments in compliance with applicable
3 federal and state Medicaid laws and regulations.

4

5 (c) Unless otherwise prohibited by federal law, only
6 ground ambulance service providers who meet all of the
7 following requirements shall be eligible to receive a
8 quarterly adjustment payment authorized in subsection (b)
9 of this section:

10

11 (i) Ground ambulance service providers who
12 provide ground ambulance services to Medicaid beneficiaries
13 and who received a Medicaid payment during the quarter
14 prior to the quarter in which a quarterly adjustment
15 payment is due under this chapter;

16

17 (ii) Ground ambulance service providers who
18 accept as full payment for ground ambulance services any
19 payments made under Wyoming's worker's compensation system;
20 and

21

22 (iii) Ground ambulance service providers who:

23

1 (A) Are network providers for all insurers
2 offering private health benefit plans in this state who
3 maintain not less than a twenty percent (20%) share of the
4 state's individual and small group health insurance market;
5 or

6
7 (B) Have made a bonafide and reasonable
8 offer to become a network provider to all of the insurers
9 identified in subparagraph (A) of this paragraph by
10 offering to accept as network provider reimbursement not
11 more than double the Medicaid reimbursement rate for
12 relevant medical services. This subparagraph shall be
13 deemed satisfied even if a ground ambulance service
14 provider is not a network provider if the ground ambulance
15 service provider demonstrates to the department that the
16 actual cost of providing relevant medical services plus six
17 percent (6%) of the actual cost is an amount higher than
18 double the Medicaid reimbursement rate for the relevant
19 medical services.

20

21 (d) To the extent rate enhancements are approved by
22 the Centers for Medicare and Medicaid Services and subject
23 to the collection of assessments under W.S. 42-11-104(b),

1 the department shall provide rate enhancement payments to
2 ground ambulance service providers consistent with
3 applicable federal and state requirements.

4

5 (e) Quarterly payments or rate enhancements shall not
6 be used to offset any other payment by Medicaid for ground
7 ambulance services to Medicaid beneficiaries, including
8 without limitation any fee-for-service, per diem,
9 adjustment or cost settlement payments.

10

11 (f) No ground ambulance service provider is
12 guaranteed, expressly or otherwise, that quarterly
13 adjustment payments or rate enhancements will equal or
14 exceed the amount of ground ambulance service provider
15 assessments due under this chapter.

16

17 (g) Monies made available by this chapter shall not
18 be used to replace other general revenues appropriated and
19 funded by the legislature or other revenues used to support
20 Medicaid.

21

22 **42-11-107. Discontinuation of the assessment and**
23 **payments.**

1

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

4

5 (i) The state plan amendment or other agreement
6 with the Centers for Medicare and Medicaid Services
7 reflecting the payments authorized by this chapter is not
8 approved by the Centers for Medicare and Medicaid Services.
9 The department may modify the payment or qualification
10 provisions as necessary to obtain the Centers for Medicare
11 and Medicaid Services approval if the changes do not exceed
12 the authority and purposes of this chapter;

13

14 (ii) Federal financial participation to match
15 assessments under this chapter becomes unavailable under
16 federal law. In this event, the department shall terminate
17 the imposition of assessments beginning on the date the
18 federal statutory, regulatory or interpretive change takes
19 effect.

20

21 (b) If the collection of assessments is discontinued
22 as provided in this section, payments or rate enhancements
23 under this chapter shall be discontinued and, after payment

1 of all amounts under W.S. 42-11-103(d)(i) and (iii), any
2 assessments remaining in the account shall be returned to
3 the ground ambulance service providers from which the
4 assessments were collected on the same basis as they were
5 collected.

6

7 (c) If the department is collecting assessments for
8 both quarterly adjustment payments and rate enhancements
9 and both collections are not discontinued, the department
10 shall continue to maintain the account as required by this
11 chapter for the type of assessment that continues to be
12 collected.

13

14 42-11-108. Approval of state plan; rulemaking.

15 *****

16

STAFF COMMENT

17

This section requires the Department of Health to
18 pursue either approval for an upper payment limit
19 payment program or enhanced provider
20 reimbursement rates, or both. Discretion is
21 granted to the Department to determine which
22 option to pursue, or to pursue both options.

23

24

Similar to statutory language in Wyoming's other
25 UPL programs, the department is granted
26 discretion to modify payment or qualification
27 provisions as necessary to obtain federal
28 approval.

29

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

13

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

16

17 **42-11-109. Multiple ambulance services.**

18

19 If a person conducts, operates or maintains more than one
20 (1) ground ambulance service provider licensed by the
21 department, the person shall pay the assessment for each
22 ground ambulance service provider separately.

23

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10

 STAFF COMMENT
 Section 2, below, is added at the Committee's
 request to make more clear that Wyoming's
 existing intergovernmental transfer provisions
 allow transfers for the operation of UPL
 programs.

11

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

12

13

42-4-104. Powers and duties of department of health;

14

state Medicaid agent appointed by governor.

15

16

(b) In carrying out subsection (a) of this section,

17

the department may:

18

19

(ix) Enter into intergovernmental transfer

20

arrangements with qualifying facilities in which all

21

federal funding received as a result of the

22

intergovernmental transfer arrangements shall be

23

distributed to participating facilities. Qualifying

24

facilities may include those entities that pay assessments

25

pursuant to the Nursing Care Facility Assessment Act, the

26

Private Hospital Assessment Act, the Ground Ambulance

1 Service Provider Assessment Act and any substantially
2 similar law;

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

8
9 *****
10 **STAFF COMMENT**
11 The act is made effective immediately in order to
12 allow the Department of Health to begin planning
13 and working with CMS. Note that no assessment
14 will be due from a ground ambulance service
15 provider until CMS approves a state plan
16 amendment or otherwise approves enhanced
17 payments. See 42-11-104(c).

18 *****
19

20 (END)