Blue Cross Blue Shield of North Dakota
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Good Morning, Chairman Ruby and members of the House Human Services committee. My name is Megan Hruby and I am with Blue Cross Blue Shield of North Dakota. Thank you for having me this morning.

Blue Cross is opposed to House Bill 1322, relating to ambulance service provider reimbursement, on the basis that it would disincentivize provider networks which increases costs, it sets reimbursement pricing in state law and parts of it have already been litigated by the State in federal court. However, understanding that the federal No Surprises Act (NSA) left balance billing provisions to the states to determine, with several amendments, we could potentially get to a place where we could support the bill.

If the intentions of the bill sponsors were to address issues solely in ground ambulance sustainability, that is unclear. The term "ambulance services provider" in the bill means a service entity licensed under chapter 23-27 as a basic life support or advance life support service. Section 23-27-01 requires DHHS to license emergency medical services operations. "Emergency medical services operation" is defined at NDCC 23-27-02(3) to include air ambulance services. Under the holding from the 8th circuit case from 2021 (*Guardian Flight LLC v. Godfread,* 991 F.3d 916 (8th Cir. 2021)), the bill as it applies to air ambulances would likely be pre-empted by the federal Airline Deregulation Act. We would suggest the following amendment to ensure air ambulances are removed from this legislation:

Page 1, line 7, after "entity" insert ", other than air ambulance services,"

BCBSND is proud to be the dominant health carrier in the state with a provider network that includes 99% of doctors and hospitals in the state, out of state and international coverage with our BlueCard program, and 95% of ground ambulance services. In addition, we are proud to call over 450,000 North Dakotans Blue Cross Blue Shield policy holders and members.

One of the tenets of a free-market economy is voluntary participation. In health insurance, we have in network and out of network providers. In network providers have chosen to contract with us, agreed to pricing and are subject to our standards. As previously mentioned, over 90% of the state's ambulance service providers are in network with BCBSND. Providers who have a contract with us are not allowed to balance bill our members. It is a provision that we put into our contract to protect our members from additional and exorbitant medical costs and stress. It is again unclear if the authors of this legislation intended to include in network providers, but as currently written, the legislation does include providers under current contract with us. This legislation would negate all of those contracts. If we wanted to amend this bill to have these provisions only apply to out of network and non-participating providers, we would suggest the following amendments:

Page 2, line 5, after "insurer", insert "to a non-participating or out of network ambulance service provider"

Page 2, line 6, after "the" insert "non-participating or out of network"

Page 2, line 8, remove "an", and insert "a non-participating or out of network"

Page 2, line 9, after "the", insert "non-participating or out of network"

As you may know, self-funded plans, or those that are paid for by the employer, are not subject to state law or mandate. (See attached handout on self-funded versus fully insured plans.) They are governed by ERISA, or federal law. Therefore, we would suggest removing lines 16-19 on page two. Also, at page 1, line 23, the bill seems to attempt to apply its provisions to "some" self-funded health plans, which again is pre-empted under ERISA. The language says the term "health care insurer", which is required to do all the things noted above, includes "A sponsor

of a nonfederal, self-funded governmental plan." There are two issues with this provision: (1) this language is pre-empted by ERISA; and (2) what exactly is a nonfederal, self-funded government plan? Would that term include ND PHIT, all city and county government plans, all school district plans, etc.? If so, these provisions would add a lot of costs for ambulance services to these employer funded plans by requiring a higher amount of payment for ambulance services. Therefore, BCBSND would suggest the following amendment:

Page 1, line 22, remove "; and"

Page 1, line 23, remove "A sponsor of a nonfederal, self-funded governmental plan"

Lastly, the bill attempts to set mandated reimbursement rates in state statute. In 2022 and 2023 respectively, BCBSND paid $252,999,681.05 and $274,249,893.31 for ND state legislature-imposed health insurance mandates. Over the last 7-8 years we have seen mandates have anywhere from a $250million-nearly $300million impact on our members' costs annually. We've seen that start to level off more consistently as we've worked together on sound non-mandated-based policy. Further, our ability to contract with each ambulance provider allows us some flexibility to determine if, for example, a rural ambulance might need a slightly higher rate than an urban ambulance service. Setting a blanket reimbursement rate in code does nothing but increase costs to our members while reducing incentives to keep healthcare standards high and costs lower.

Thank you, Chairman Ruby, and members of the committee. I'll stand for any questions you may have.