15.0688.02000

FISCAL NOTE

Requested by Legislative Council
04/02/2015

Amendment to: HB 1255

1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1255 classifies ambulance services for health insurance, workers' compensation benefits and for medical assistance into either an emergency response or advanced life support assessment.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The Department has reviewed HB 1255 in conjunction with Workforce Safety and Insurance and neither agency believes there will be an identifiable fiscal impact due to the classification changes.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: Debra McDermott
Agency: Department of Human Services
Telephone: 701 328-3695
Date Prepared: 04/06/2015

15.0688.01000

FISCAL NOTE
Requested by Legislative Council
01/14/2015

Bill/Resolution No.: HB 1255

1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

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HB 1255 classifies ambulance services for health insurance, workers' compensation benefits and for medical assistance into either an emergency response or advanced life support assessment.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The Department has reviewed HB 1255 in conjunction with Workforce Safety and Insurance and neither agency believes there will be an identifiable fiscal impact due to the classification changes.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: Debra McDermott
Agency: Department of Human Services
Telephone: 701 328-3695
Date Prepared: 01/22/2015

2015 HOUSE HUMAN SERVICES

HB 1255

2015 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

HB 1255
1/26/2015
Job #22500

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Vicky Crabtree

Explanation or reason for introduction of bill/resolution:

Relating to ambulance services for health insurance and workers' compensation benefits.

Minutes: Testimony #1

Chairman Weisz opened the hearing on HB 1255.

Rep. Todd Porter: From District 34 introduced and supported HB 1255. I own part of the ambulance service in Bismarck and Mandan. We also do billing for 45 different ambulance services across the country. Inside that billing operation we do their ambulance billing within about a five or six state radius. Up until 1997 it was simple and all done the same way. You billed a base rate and mileage and then for each individual item you used. After the Budget Reconciliation Act in 1997 then Medicare took over ambulance service billing and the regulations behind it. There was consolidation of all of the codes. Everything was bundled into the codes and then created base rate codes and mileage codes. All of the individual items were then done. All the insurance companies and Medicaid systems, then adopted even though they didn't have to, that system of reimbursement. Inside of that they recognized there are two different classes of ambulance service. There is a life support ambulance service that operates with a license from the Health Dept. as an advanced life support service. There is also the ability to bill advanced life support if you are part time advanced life support. If a full time paramedic in one city is a part time paramedic in another city and they receive a call, they can bill advanced life support. The reimbursement follows both the licensure from the state and the certification of the individual.

4:53
Chairman Weisz: Would it automatically qualify for advanced life support billing having that licensed paramedic on that run?

Rep. Porter: We will get into that next. Inside of the Medicare system which in ND represents the vast majority of our calls. Ambulance services within their compliance programs, use us as a billing service because of our high level of integrity and compliance. The individual staff has to be on the lookout for what is going on with the call. Inside of ND we have mandates from the Health Dept. If you are a community over a certain population

I think it is 12,000 you are mandated to have a full time ALS paramedic ambulance service. If you are under that population you can operate any combination thereof. Inside of the ambulance services, Medicare recognized early on that they made a mistake. You can't take the total number of calls and the total number of dollars spent and divide one into the other and come up with a rate structure. It doesn't meet the cost of operating the service. They have never been able to fix that because it is a money issue. The reimbursement system has never been funded properly. Ambulance services will tell you that their Medicaid reimbursement is $700-$800 below their cost of operating. Inside a 911 call, inside of Medicare, so Medicare came out and said, we recognize lower value systems and the fact that communities can't have both basic and life support systems operating at the same time. It is impossible because there is not enough volume to do that. They implemented a set of guidelines that allows for the reimbursement at the advanced level based upon how the call is dispatched out of the 911 center. There is a code in place now that Medicare recognizes to distinguish between the advanced level and other emergency calls. Inside of this complicated system and talking with DHS, they felt they should be able to down code to basic life support level when necessary. If I wanted to put a BLS service and Mandan and use Bismarck as the ALS responder, I couldn't do that because Mandan's population is above the threshold. The only way you can do it is to merge it into an existing license and there is not enough business to support that model of care in any city of ND. We felt as ambulance services that it was necessary to adopt the very same guidelines that Medicare has adopted for the DHS and private insurance companies. It won't change financially, but it will allow the ambulance services to have a level of compliance. The insurance companies and the DHS can't have different reimbursement systems than everyone else, especially Medicare. About 60% of our call volume is billed to Medicare first. From a compliance standpoint it would be very difficult for us to train our people to stay compliant with all of the different insurance companies and others that reimburse us, if we don't use the standard that has been established by the Medicare system. That is what this bill does. The verbiage in the bill is right out of Medicare manual, system and rules. It is so everything stays in compliance.

12:55
Rep. Oversen: The reimbursements are already happening where the ALS is reimbursed at the appropriate rate? This is just getting the language up to par?

Rep. Porter: Yes.

14:38
Rep. Oversen: Is there an additional cost to the person who made the call?

Rep. Porter: There might be a deductible for out of pocket expense.

Chairman Weisz: If you have a volunteer service that is a basic life support and gets a call of shortness of breath, they would be reimbursed at a lower rate than your service, correct?

Rep. Porter: That is correct. They would be in the basic life support codes.

Chairman Weisz: If the BLS has a paramedic that happens to be there when they make the run, how would that be billed?

Rep. Porter: They would then be able to bill it in the advanced life support code. In the situation where the Goodrich ambulance is on the call and then they realize they are in over their head and they need help, they will call the ALS service in Bismarck to intercept with them. Once our paramedic gets into their ambulance, that call turns into an advanced life support call.

Chairman Weisz: How is reimbursement determined between Goodrich and Bismarck?

Rep. Porter: That is a whole other complicated situation. We have written agreements with our volunteer services and split the reimbursement 50/50.

Chairman Weisz: The reimbursement would go the Goodrich ambulance.

Rep. Porter: That is correct. Only the transporting ambulance is allowed to be reimbursed. If they don't have an agreement and don't want to do that they will physically remove the patient from that ambulance and put them into their ambulance and then they can do it differently. We do not operate that way.

18:48
Rep. Rich Becker: Does this bill address the issue of rural areas where they can't afford to offer the service to what they are being reimbursed?

Rep. Porter: Not so much in the rural. More rural areas are hiring paramedics. It won't increase reimbursement, it codifies the existing system so it can't be changed. It will protect those services from any future changes, but won't increase their reimbursement under the current scenarios. There are bills from the past that are now in the budget of the Health Dept. that deals with rural EMS grants, training grants, personnel grants and a significant amount of money of impact grants that went out into the oil affected counties.

22:
Adam Parker: Paramedic for a Bismarck hospital and the Southwest Director of the ND Emergency Medical Services Association. (See Testimony #1)

25:11
Rep. Mooney: Are other states adopted this similar type of platform?

Parker: I believe so. I don't know for a fact, but could follow up and get back to you on that.

NO OPPOSITION

Chairman Weisz closed the hearing on HB 1255.

2015 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

HB 1255
1/27/2015
Job #22644

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Vicky Crabtree

Explanation or reason for introduction of bill/resolution:

Classification of ambulance services for medical assistance.

Minutes: "Click to enter attachment information."

Chairman Weisz took up HB 1255.

Chairman Weisz: Any questions or discussion? What are the committee's wishes?

Rep. Seibel: I recommend a Do Pass on HB 1255.

Rep. Mooney: Second.

Rep. Porter: With the discussion with the department and Maggie over the interim, they get dinged on their performance audits based on compliance issues. This language is exact from the Medicare manual into this form will help them with their compliance audits and will have a basis for reimbursement.

Chairman Weisz: You are speaking of Medicaid.

Rep. Porter: Yes, Medicaid.

Roll Call Vote: 11 y 0 n 2 absent
MOTION CARRIED

Bill Carrier: Rep. D. Anderson

Date: 1-27-15
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1255

House Human Services Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Seibel Seconded By Rep. Mooney

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz	✓		Rep. Mooney	✓	
Vice-Chair Hofstad	✓		Rep. Muscha	✓	
Rep. Bert Anderson	✓		Rep. Oversen	A	
Rep. Dick Anderson	✓				
Rep. Rich S. Becker	A				
Rep. Damschen	✓				
Rep. Fehr	✓				
Rep. Kiefert	✓				
Rep. Porter	✓				
Rep. Seibel	✓				

Total (Yes) 11 No 0

Absent 2

Floor Assignment Rep. D. Anderson

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1255: Human Services Committee (Rep. Weisz, Chairman) recommends **DO PASS** (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1255 was placed on the Eleventh order on the calendar.

2015 SENATE HUMAN SERVICES

HB 1255

2015 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

HB 1255
3/16/2015
24860

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Donald Mueller

Explanation or reason for introduction of bill/resolution:

A bill relating to classifications of ambulance services for health insurance and workers' compensation benefits; and relating to classification of ambulance services for medical assistance.

Minutes:

Attach #1: Ambulance Claims Manual Chapter 15
Attach #2: Testimony by Lynn Hartman
Attach #3: Draft Amendment

Representative Todd Porter, District 34, introduced HB 1255 to the Senate Human Services Committee. Representative Porter's full time job is being a paramedic and part owner of an ambulance service. We also operate a billing organization that bills for over 40 different ambulance services across the United States. We are required to follow different guidelines across the insurance spectrums, and one of those is Medicare. The language you have in front of you is the Medicare language. The reason you have the language is that Department of Human Services goes through the compliance audits from the federal and state auditors, making sure they are reimbursing in compliance to the federal programs so they can track the money, and to make sure those who are billing them are doing it accurately. Ambulance services are classified as advanced life support and basic life support. In 1997, they took all the billing codes for ambulance codes for every piece of equipment and get reimbursed, they took all of that and brought it together and don't do that any longer, and put it in a Healthcare Common Procedure Coding System (HCPCS) code and reimburse like that. Basic life support has a HCPCS. So you now reimburse for a base rate and mileage. Inside of those, you have to fit within the definition. One of the issues that came up with the Medicare process, what happens in areas where you can't have a tiered response, where all of the calls must be answered by an advanced life support provider? There is not enough volume to have a basic life support ambulance respond to a basic call. Instead, you have to have the same ambulance type go to every call. So Medicare came up with a Paramedic Assessment, or an Advanced Life Support (ALS) assessment. In the ALS assessment, if a call comes in, in a tiered system in a big city, you would get an Advanced Life Support response to the call because of the type of call. If the ambulance gets to the scene and the patient needs less treatment, they would be reimbursed to ALS support rates because of how the call was dispatched into a multi-tiered system. In a single tiered system like in North Dakota, there is no differentiation. In Medicare, if the advance life support responds to all calls, then you can use the paramedic

assessment if that is how the dispatch was given. In North Dakota, we have mandates from Health Department that if you have certain size community, you will provide this many advance life support ambulances. So we tell our communities what type of ambulance services they can have. With Medicaid and other insurance providers, they follow the Medicare guidelines, and that is why there is no fiscal impact. It brings the billing of ambulance services to be in full compliance with the insurance programs. That safeguard is important for both the provider and the insurance carrier, whether it is Medicaid or a third-party carrier. We don't want the bill in error, we want to be able to bill what we can bill for, and want consistency in the billing. North Dakota Medicaid feels it is important to have this in place for the compliance issue. Representative Porter provided handout - Ambulance Claims Medicare Manual Chapter 15 (attach #1). The other thing included in the document is it covers all the aspects of the century code related to reimbursement. So there is a component that covers workforce safety, private insurance, and the component that covers Medicaid.

Senator Howard Anderson, Jr. asked what happens in a situation where the ambulance service does not have advance life support personnel that are qualified, and how do they do the assessment.

Representative Porter stated the only way the code comes into play is if they are providing advanced life support. So basic life support service could be dispatched for that same issue, get to the point and find the person is having a more life threatening issue, and do the basic life support skills that they are trained to do, go enroute and call for an advanced life support intercept or transport the patient all the way to a hospital. Unless they would have an intercept that would happen, they would be reimbursed for basic life support. A basic life support service ambulance service can provide an advanced life support care, just by virtue of who is on call that day. So if they have a part time paramedic or nurse that volunteers for them that can initiate advanced life support procedures, then they too would be able to be reimbursed for the advanced category while that person is there. So it is relevant to the mandate from the state for city size that must provide advanced life support, then they are always running ALS. On the volunteer side and smaller services, they can at times provide and be reimbursed for advanced life support services, depending on who is volunteering for the day. When reading the advanced life support component, it is very relevant to how the ambulance is actually dispatched. In order to use this component, you must have a system in place through the 9.1.1. that is mandated that requires them to get the information, do the pre-arrival instructions, and send the appropriate type of ambulance.

(10:43)
Ken Tupa, register lobbyist with the North Dakota Emergency Medical Services Association, introduced Lynn Hartman from Dickinson, North Dakota.
Lynn Hartman, a paramedic and the Administrative Director of the Dickinson Area Ambulance Service and also a Regional Advisor for the North Dakota Emergency Medical Association, testified IN FAVOR of HB 1255 (attach #2)(11:11-14:08).

Senator Howard Anderson, Jr. indicated that a lot of this hinges on the training of the dispatcher.

Mr. Hartman confirmed that is correct. The nature of the call is dependent on the information provided to the dispatcher.

Chairman Judy Lee added that federal rules have probably not made the dispatcher job any easier. **Mr. Hartman** confirmed.

Senator Donald Schaible, District 31 provided a proposed amendment (attach #3). The amendment is on Page 2, subsection 3 of section 2, adding the sentence "A hospital shall inform a patient or a patient's family of the potential out of pocket costs of interfacility transport, if the hospital is using an out of network provider."

Senator Schaible provided a personal testimony, where the family called an air ambulance, and the transport went fine. The problem is that some of the transports, the out-of-pocket of $25,000 or more dollars because they were a non-participating providers. Our case was a 9.1.1. emergency, and we didn't know which transport was coming In some case, a notification may help. This is not a single occurrence and going on frequently. The fees are over 200%. If you have an emergency, there is no choice. But if you have a choice of what service to use, the information will be very helpful in making decisions. Senator provided example of negotiating the fee, but it still cost so much more than what insurance covers.

Senator Dever recognized the section you are amending is in the Medicaid section. It should be in section 1, which is insurance.

Chairman Judy Lee we will fix that.

Senator Schaible confirmed.

Chairman Judy Lee assumes we cannot require everyone to be a participating provider, but a notice certainly seems appropriate to discuss.

Senator Warner asked for clarification. A helicopter would be an emergency thing, but a plane wouldn't? For example, transporting a patient to a burn unit in Minneapolis would be an air ambulance, which would be different than a helicopter picking you in a farmsite.

Senator Schaible answered if the opportunity arises for notification, there may be four choices of air ambulances, and one is a non-participating provider, you have a choice. For a possible hospital transfer, a notification would work very well.

OPPOSITION to HB 1255
No opposing testimony

NEUTRAL to HB 1255
Tom Nehring, Director of the Division of Emergency Management Services and Trauma for the Department of Health, was asked to the podium. He understands there is concern regarding gouging prices for air ambulance services in North Dakota. He is actively working on it at this time. The industry is well regulated and very much behaves, but there may be an outlier of significance. There is no way through rule that we can have anything

to do with the reimbursement amount for air ambulances in the State of North Dakota. That is not the prevue of the Department of Health. Basically that is third-party payre responsibility, whether that is Medicaid, Medicare, or other third party payers. They do this through utilization review in determining medical necessity. We cannot control the fees.

Chairman Judy Lee explained that the amendment would require notification if transporting with an out-of-network provider. That may not be adequate. Recognizing that the Department of Health does not and cannot establish prices, if you comment, as it is a little different in an emergency situation rather than transporting to a more specialized hospital for continuing care.

Mr. Nehring thinks this language enables education of hospitals and physicians to call the appropriate services. If it is critical care, we consider them equal. But if physicians have more information in regards to providers, that is a positive move. There are other ways that air ambulances get dispatched however. This is inter-facility transports. Sometimes these huge fees are already within inner-facility transports as well, so obviously if the providers are educated, they can choose what they think is the appropriate service. We have dispatch in the State of North Dakota who may dispatch an air ambulance. We have EMS agencies within the State of North Dakota who may dispatch air ambulances. We have auto launch protocols, which means they automatically are launched. One of the things we believe we can do is based on the medical necessity of patients who are transported. Within our rules and regulations, EMS personnel can determine medical necessity for the transport, and basically not transport the patient if their condition does not justify that. There have been some, 6 cases by Medicaid within North Dakota, who did not receive medical reimbursement because it did not meet the medical necessity criteria. If you have an auto-launch protocol, there should also be a cancelation policy. So if you lift off based on a dispatch, there should be communications with the scene and determination can be made by the EMS providers on the ground whether or not medical air transport is something that is necessary. This area can be worked on. The Department of Human Services can also work on rules for this as well. With specific regard to fees, the Health Department does not control that. There are other areas, including statutes that could be changed to help control some of this.

Chairman Judy Lee asked Mr. Nehring and the Department of Human Services to help with language to cover the intent of what we are discussing.

Mr. Nehring indicated that he is currently working with House Human Services committee and could be working with this committee as well. He is supposed to have a short report to the House in regards to this specific issue and can include this committee as well. There are also 8 complaints at the insurance department as well.

Chairman Judy Lee indicated that if the issue is being addressed on the House side, we'll talk and stay synchronized with them.

Chairman Judy Lee closed the public hearing for HB 1255.

2015 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

HB 1255
3/16/2015
24912

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Donald Mueller

Explanation or reason for introduction of bill/resolution:

A bill relating to classifications of ambulance services for health insurance and workers' compensation benefits; and relating to classification of ambulance services for medical assistance.

Minutes: "Click to enter attachment information."

The Senate Human Services Committee met on March 16, 2015 to conduct committee work for HB 1255.

Chairman Judy Lee did not know there was a bill on the House side for Senator Shaible concern. She would like to ask Representative Weisz if it is in his committee.

Senator Howard Anderson, Jr. wondering where to put Senator Shaible concern, but this may not be the place. The health care facility would be the one to manage this, making sure the family is there to make decision of transport, and the care of the patient is all satisfied. From there perspective, why they picked that ambulance service for Senator Shaible's case is unknown. He would like to hear about the management of it if put here.

Chairman Judy Lee indicated that she had received this from Senator Klein, and it was another way to deal with this. Chairman Judy Lee read more proposed language. That's not a bad way to do it either. She would like to discuss with Insurance Department if there is a better way to do this since there were numerous complaints filed. Chairman Judy Lee will follow up on this. It sounds like Mr. Tom Nehring, Department of Health, is involved in discussions on this in the House.

Chairman Judy Lee the other thing, there needs to be a difference in definition between an emergency transport and a treatment transport.

Senator Howard Anderson, Jr. reminded the committed that Senator Shaible's amendment is inter-facility transport, from one facility to another. It is not going out to the field and picking someone out of a farm field.

Chairman Judy Lee if it's from Hettinger to Bismarck to mayo, that is different.

Senator Howard Anderson, Jr. indicated getting ambulance transport is risky if it is an emergency transport.

Chairman Judy Lee asked the intern, Femi, to contact with Mr. Nehring on how to reconcile with the House side and any recommendations on how to approach this.

Mr. Ken Tupa, North Dakota Emergency Management Services Assocation, indicated that he did discuss with Mr. Nehring. He is working with House Human Services Committee that will address the issue. The community paramedic bill is the discussion. This would be another germane vehicle for the amendment. The association certainly supports the bill and amendment.

Chairman Judy Lee asked if there was a bill to put this in, and this was the only bill we had ambulance. So if it is being done in the House, we'll let them do it over there.

Senator Howard Anderson, Jr. we can always add it in here and take care of it in conference committee.

Mr. Tupa indicated there were concerns and questions on the House committee. Can't say for certain where that bill is.

Senator Howard Anderson, Jr. will reach out to the hospital association for their input.

Chairman Judy Lee will also check with insurance companies - Sanford and the Blue Cross Blue Shield.

Chairman Judy Lee adjourned the meeting for the day.

2015 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

HB 1255
3/23/2015
25280

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Donald Mueller

Explanation or reason for introduction of bill/resolution:

A bill relating to classifications of ambulance services for health insurance and workers' compensation benefits; and relating to classification of ambulance services for medical assistance.

Minutes:

Attach #1: Complaint List and Cost
Attach #2: Provider Memo from BCBS
Attach #3: Email from Megan Houn

The Senate Human Services Committee met on March 23, 2015 at 2:20pm for HB 1255 committee work.

Chairman Judy Lee reviewed the testimony, and Senator Schaible case situation. She invited Rebecca Ternes to the podium.

Rebecca Ternes, Deputy Insurance Commissioner, has been dealing with this issue since 2013. The first issue in regards to air ambulance was with a company named Lifelink out of Minnesota. We actually received complaints from Lifelink, that they were having problems with their provider agreement with Blue Cross Blue Shield. The Minnesota Blue Cross Blue Shield had stopped their provider agreement, which then affected North Dakota Blue Cross Blue Shield. Blue Cross Blue Shield sat down with them and they worked out a deal and reprocessed the claims. In September 2013, Valley-Med Flight, who is also related to Air-Medical Resource Group and Guardian, terminated their provider agreement with Blue Cross Blue Shield of North Dakota, saying the reimbursement rates were too low. We began receiving complaints about Valley-Med / Guardian / Med-Trans in the middle of 2014 based on claims starting in early 2014. Ms. Ternes handed out a list of the complaints they have had on Air Medical starting in January 2014, which is the start of any complaints that remain complaints where folks have some problems, especially with pay (attach #1). Ms. Ternes reviewed the information on the chart. The total unpaid claims are $465,168.22. This is only a list of the complaints that have been filed and what we know about; there are likely more. When it comes to the Insurance Department, we do not have the authority. It is two private entities working out an agreement. But Ms. Ternes calls the insurance carriers when something like this occurs, and asks for an explanation. Two things can happen. A hospital can decide to transport, and the hospital should know who the insurer

is and should make sure they are a participating provider, but clearly that is not the case. The second thing that can happen is a 9-1-1 call. State Radio keeps a list of air ambulance providers, and she assumes it is a rotational list. Ms. Ternes called Blue Cross Blue Shield and asked what could be done as there are more complaints. Blue Cross Blue Shield explained they had sat down numerous times with this company. They had offered increased rates from the prior year. They were offering competitive rates to other air ambulance providers that have accepted those rates. She saw letters that they had sent. Ms. Ternes also advised Blue Cross Blue Shield to let the providers know who is an in-network versus out-of-network, so Blue Cross Blue Shield did this (attach #2). There are four other air ambulances that have an agreement with Blue Cross Blue Shield. This is where the Insurance Department's authority ended. Ms. Ternes doesn't understand the motivation of them being a non-participating provider because there are unpaid balances. She doesn't know if they put pressure on people to pay the bills in installments or take the people to collections. The federal aviation administration has authority over them as an airline because they carry passengers, just like an airline. The State Health Department has jurisdiction over the licensure as a provider. State Radio puts them on a list. There have also been issues brought up about the Affordable Care Act, regarding emergency services being provided. This company makes arguments about the Affordable Care Act that Ms. Ternes does not agree with at all. Companies can balance-bill for non-participating providers. They couldn't allow a lesser or unreasonable charge or medically non-acceptable charge. We were asked at one point what can be done about this. You could make hospitals responsible to make sure they call an in-network provider. But you can't pass laws related to the rates, the routes, or the services. You can pass routes according to the medical or safety requirements, just like you do a hospital or clinic. But you cannot regulate the airline side of this. Another thing you to consider is if State Radio only call air ambulance providers that can attest that they have network agreements with a certain percentage of insured through the state through insurance carriers, but that might be a stretch. Another consideration is if you can restrict the licensure of them, with some sort of standard that is related to medical somehow. If you can link it to a medical safety need - the federal law that regulates this is called the Air Deregulation Act of 1978. The federal DOT and FAA are the ones that are always commenting on this. When you read the comments and discussion, it never relates to insurance for patients using the services.

Chairman Judy Lee stated so we can't do anything in which the State Radio and PSAPs would know who the providers are and who is in-network when they are making the 9-1-1 call, because you can't ask for that information.

Ms. Ternes thought that a hospital could restrict who can land at your helicopter pad. But if you are in a wreck and need a helicopter to come get you, you can't regulate that. Isn't there a link to quality of medical care when there is such a financial burden on someone where they cannot afford the medical care, but she thinks that is a stretch and doesn't know how that could be legislated.

Chairman Judy Lee asked if Ms. Ternes has had discussion with Tom Nehring, Department of Health.

Ms. Ternes stated that he has been involved, but indicates it is a federal issue.

Chairman Judy Lee offered there may be an attorney in legislative council, maybe we could ask Jennifer Clark to address this issue. Asked Ms. Ternes if she can contact Tom Nehring and Jennifer Clark - you have your own expertise and might come up with a solution.

Ms. Ternes indicated the emergency is the bigger deal - stressful, no time to find out who is in the network.

Chairman Judy Lee had another amendment from Senator Klein that is being viewed with the Community Paramedic bill, now in the House. She thinks this amendment is illegal. She read the proposed amendment.

Ms. Ternes indicated that the deregulation would prohibit that. If you did something like that, you would be testing judicial waters. The other idea is what responsibility hospitals bear. They know what insurance you have unless crazy emergency situation.

Chairman Judy Lee stated Senator Shaible said that he settled for significantly less than the amount. But at the time the call was made, he did not consider what the ambulance would cost. He is in a place where he will not starve to death or declare bankruptcy where others would be. Chairman Judy Lee also suggested representative from State Radio be included in the conversation.

Senator Axness asked what it takes to be on the list. Is it the licensure?

Ms. Ternes thinks it is 37-17.3 is state radio.

Chairman Judy Lee guesses that all licensed providers are on the 9-1-1 list.

Senator Dever asked are they obligated, like ground ambulance, to go if the patient does not have the ability to pay for it.

Ms. Ternes answered not sure. The state cannot require 24x7 coverage, so she assumes they can deny.

Senator Dever indicated ground ambulance is obligated to go. The reason Bismarck has one air ambulance is they have an agreement with the city. They have a monopoly but it is negotiated with the city.

Chairman Judy Lee indicated that Tom Nehring may be able to provide some information. There is no overlap in ambulance service in the Fargo area - goes out to Casselton where there is a different carrier. No underserved.

Senator Dever asked if the complaints only on the fees that were charged, or was there any complaint on the services provided.

Ms. Ternes stated the complaints were from people who did not know they were getting a non-participating provider and ending up with these large bills. We have no indication nor

are we worried that the insurance companies aren't paying appropriately. These are particularly large bills.

Senator Dever asked can we require that before they provide the service that they inform the patient what the charges would be.

Ms. Ternes deferred to the Health Department. That is a provider question and not an insurance issue.

Chairman Judy Lee stated that they can't even talk to anybody about it if it is an emergency pick up.

Senator Howard Anderson, Jr. indicated the patient can identify whether to go to St. Alexius or Sanford. But if someone asks what ambulance service do you want to have, the patient or family could decide that. **Chairman Judy Lee** stated you don't think about this when you are in an emergency situation. **Senator Howard Anderson, Jr.** indicated that we could require that they post their fees.

Senator Dever stated that he wonders if the reason for high fees is because of the significant number of those who don't pay.

Chairman Judy Lee offered why is this company the only one with the problem and have been chased out of other states because of this exhortative billing.

Senator Axness asked if we can find out what other states did to get rid of them.

Ms. Ternes indicated she has discussed this with other states, Alaska and a few Midwestern states as well. She could research for more information.

Chairman Judy Lee asked for comment from Sanford Health. No comment or observations.

Senator Howard Anderson, Jr. requested follow-up from Tom Nehring, Department of Health, where an ambulance seems to have an exclusive area. Let's find out how that is regulated.

Dan Hannaher, Sanford Health, stated that in the event of an accident in an emergency situation, they will go to the closest facility.

Megan Houn provided an email to **Chairman Judy Lee** regarding statistics (attach #3).

2015 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

HB 1255
3/30/2015
25613

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Donald Mueller

Explanation or reason for introduction of bill/resolution:

A bill relating to classifications of ambulance services for health insurance and workers' compensation benefits; and relating to classification of ambulance services for medical assistance.

Minutes:

Attachment #1 Proposed Amendment - Rebecca Ternes
Attachment #2 Proposed Amendment - Tom Nehring

Chairman Judy Lee opened committee work on HB 1255.

Rebecca Ternes, Deputy Insurance Commissioner, reported that the Insurance Dept., the Health Dept. and State Radio through Emergency Management have been meeting on this issue. They have confirmed it is a nationwide problem and concern and that the federal government is doing nothing to help. She provided potential amendments (attachment #1) regarding the provider in network out of network concept.

The idea for this amendment came from the fact that if a company refuses to work with insurance carriers in the state and then they balance bill for the overage charges this would, in some way, control how often those folks would be called. The Airline Deregulation Act says that states cannot limit or control rates, routes, or services. The goal is to still allow any of these companies to operate in the state if they pass the licensure requirement with the State Health Dept. It does not change rates, routes, or types of services they offer. The Health Dept. would create and maintain a primary call list and secondary call list for air ambulance providers.

Number 2 shows how that list is developed.

Number 3 addresses who will be provided primary and secondary call lists.

Number 4 says the department shall establish air ambulance service response zones. The primary list should be called first before the secondary list. If ground ambulance is still an option and quicker, they can still be called.

This was sent to the federal government last week and no response - called it creative, now calling it novel, have not considered this before, and are not giving guidance. What happens if we pass all of this? The DOT could pursue a declaratory order, which is not likely. More likely, someone will complain like a secondary provider so then they would do an investigation and issue an opinion. We have some good defense in that they can come to the state, get licensed, have what rates they want and charge whatever routes. For consumers' protection, we are saying that this is a different set of circumstances and there should be some ability for people to be protected. DOT is primarily the one that has opined on the rates, routes, services issue. Maybe there needs to be some allowance for a different set of regulations on this issue that states can do.

Senator Warner: What is the determining factor for that initial determination between ground and air ambulance?

Ms. Ternes deferred to health or state radio.

Chairman Judy Lee asked about balanced bill.

Ms. Ternes indicated they are considering it. This two-list theory is new to them.

Chairman Judy Lee asked how one would be placed on the two lists.

Ms. Ternes responded that they would look at the list published on the market share. They would have to attest to the Health Department that they are in-network with whichever companies and they have to meet that threshold which is currently 75%.

Chairman Judy Lee: But there might be providers, if we don't have the balanced billing band, who will take the reimbursement from the insurance company and be on their primary provider list. Then they stick the rest of it to the patient.

Ms. Ternes said that usually if there is a provider arrangement there's a negotiated fee arrangement so they're not typically doing that.

Chairman Judy Lee: As long as the air ambulance has the ability to balance bill they don't care so much what the insurance provider pays as compared to what they can get.

Ms. Ternes: It depends on the company. If they negotiate with an insurance carrier, they know what they will get paid. There are advantages to doing this. It is a negotiated fee schedule that is acceptable to both.

Senator Dever: What kind of coverage would there be across the state for primary care providers.

Ms. Ternes deferred to the Dept. of Health who already has these service areas set up.

Senator Dever: The emergency part of it is critical but on the facility side it seems that, whether flying to Dickinson or Bismarck, there will not be a lot of extra time.

Senator Howard Anderson, Jr. said he needed to understand how these are dispatched in the first place. When 9-1-1 call comes in, who decides which carrier to call?

Ms. Ternes deferred.

Tom Nehring, Department of Health, provided proposed amendments (attachment #2). There is cause for concern for not only the fees being charged by some air ambulance providers within North Dakota, but also the fact that the patients are being billed after the insurance companies are already paying their portion. If they are preferred providers, they have negotiated rates with the insurance company and they can no longer balance bill the patient. The Dept. of health has a different set of amendments than the Insurance Dept. These would be sections to add relating to air ambulance standards.

Section 1. The reason for this is to inform the patients, guardian, physicians, EMS, answering points, so they can see what the fees are for air ambulance. He read through 1a and 1b. This is where we get to the informed decision making. If there is an emergency and need of an air ambulance, the family is not concerned with cost but the emergency, and then find out they owe $50,000. People need to be brought up to speed for informed consent.

Section 2. (15:12) He went through this section line by line. Accreditation for air ambulance is an extremely costly issue, but they are standards that all must follow.
There are three methods for dispatch today. Two he approves of. One is provider through inner-facility, hospital to hospital, to transport a patient. Second is with people at the scene of an incident, where there are EMS or emergency personnel present and an assessment has been done and it is deemed that a helicopter or a fixed is necessary. The third way of dispatch is auto-launch protocol, which he has a problem with. They have been marketed by air ambulances in the state, and they make the determination they will go. If they aren't needed, they can always turn it back. If patient condition is that they don't need it, it is doubtful that they will go back empty.

Senator Howard Anderson, Jr. asked if, in auto launch protocol, they are listening to the 911 call.

Mr. Nehring said that is probably correct. Chairman Judy Lee offered ambulance chasing. **Mr. Nehring** pointed out that they can be a helpful tool within the whole EMS arena, but it shouldn't go unchecked. His personal opinion is that we need to get someone to the scene to make a determination whether it requires a response such as a helicopter.

Mr. Nehring continued by reading through Section 3 of the proposed amendment.

Senator Howard Anderson, Jr. stated that we have a way to control that only one service is dispatched when someone is in an accident between Turtle Lake and Washburn. We don't race to see who gets there first. Why isn't it the same for the air ambulance?

Mr. Nehring said, it will be the same. We are talking about zones so the dispatcher can figure out who is the closest and call that air ambulance for the response.

Senator Dever: Are we talking about the same quality of service from each provider. Some have been asked to leave other states. Is time the only consideration?

Mr. Nehring responded that one of the things hard to measure is quality. However, some do provide better quality than others. We have diminished powers with regards to the Airline Deregulation Act, FAA, and DOT of the things we can and cannot do with air ambulances but we can regulate quality. That is something we have and something we do. It didn't need to be part of these amendments.

Senator Dever: Are there areas of the state where, if we go with a primary and a secondary, there is only a secondary provider?

Mr. Nehring said there is a possible hole in the western part of the state. There is a helicopter in Williston and Minot. It depends geographically where they are responding to. The hole may require a secondary to respond. We can't put the burden of $50-$60k on the backs of ND citizens based on the fact that one helicopter will race in 5 or 10 minutes.

Senator Dever: The example that brought this discussion was in Mott.

Mr. Nehring indicated that Belfield may be a hole, where the closest is secondary. We are trying to get at rules that put all air ambulances in the same basket. We hope that we get preferred providers by insurance companies. He has had quality meetings with one air ambulance, but other than that, the air ambulance providers in ND offer a high level of care. It's not a care issue but really an issue of people getting away with charging high bills.

Senator Howard Anderson, Jr: Are you committed on 2-c or do you see some reason for that language that isn't already covered by your quality standards?

Mr. Nehring indicated that it could be covered by the quality standards they already have. One of the differences is all of the air ambulance providers in ND are full time. We have volunteer ground ambulance, and we don't restrict them to the 36 hour requirement. The difference here is if they are running multiple calls, and they have someone who is on call for 7 days a week, that is where the issues come in.

Chairman Judy Lee had a problem with none of this having a public hearing. That makes her anxious. She is so grateful for what has been done, but if we put something in place here, even if it is terrific, we haven't had a hearing. At most, there would be a conference committee. This is a step beyond the purview of the process.

Mr. Nehring agreed. These may not be far-reaching, but there is a need to get industry's read on this as well. These rules haven't been sent to air ambulance operators at this point. They don't even know this is coming.

Senator Dever stated that it seems maybe private individuals and companies should be able to do business together, but he wasn't sure he understood why 911 has to refer customers to somebody that is going to take them for a ride financially.

Chairman Judy Lee: How do we simplify this for the dispatcher?

Senator Dever: Air ambulance markets to PSAPs. Maybe they don't need statute to prevent them from doing that; they just need to be aware this is going to happen.

Chairman Judy Lee stated that it looks fine on paper but in reality she wasn't sure it would always work that way.

Mr. Nehring responded that is why they have worked closely with insurance and state radio. They are trying to get to informed consent and protect the patients. The FAA and DOT prevent them from regulating rates so they will not tell them what their rates will be. They are interested in setting criteria to be used in dispatching. If other operators can be successful working with insurance companies, then everyone should be able to do that.

Chairman Judy Lee: Can you ask air ambulance for their rates and then distribute it?

Mr. Nehring said the precedent has never been set before. It is important to have an idea. It is important for the patient, hospital, physicians, and PSAPs. We would anticipate that if the primary list can be the operation of choice and the patient will not incur the debt that is the best of both worlds.

Senator Warner understood from the Insurance Dept. amendment how it fits into the bill. He asked if this from the Health Dept. was a hog-house, or if all amendments can be pulled in together. Where do we look for conflict?

Mr. Nehring responded that he did speak with a representative from the Attorney General's office who said all of these could be consolidated and rolled into one amendment for the bill.

Chairman Judy Lee: And it would not conflict with the original bill?
Mr. Nehring confirmed.

(36:30) Mike Link, State Radio, sat on the committee to come up with the recommendations. Most of the recommendations that he dealt with were the response zones and #4 on the amendments submitted by Ms. Ternes. He explained how dispatch generally comes into the dispatch centers. Ground ambulance would be the first to go to the scene. If it is critical, or some other reason that ground ambulance suggests, then they call air ambulance to the scene.

Senator Warner stated that there would be certain farmyards that would not lend itself to a helicopter landing. He wondered if it is typical for an ambulance to respond directly to a remote site or do they load in a ground ambulance and transport to a pad for the air ambulance.

Mr. Link answered that generally the air ambulance trains responders on how to pick an area for landing. They have some criteria where they will land. Spotters will locate the area and then they will wave them in. They try to get in as close as they can.

Dan Schafer, Metro Air Ambulance Service: They have been doing ground and air ambulance services. He was concerned about the accreditation process. He had nothing negative to say about an accreditation process but pointed out that it is expensive. He felt it would cost them from $60,000 to $100,000 the first year just to get involved and then $50-$60k per year to maintain accreditation. He would say they can do this already. He can see the argument to the accreditation, but he doesn't see it as necessary.
He addressed the 36 hour rate and said that, for them, it is not very likely that someone would work 36 straight hours although it is possible. There are protections that need to be built into the process.

Chairman Judy Lee said they understand that with an emergency pickup nobody can talk to the patient about cost. That is challenging for the providers when we talk about informed consent because nobody can ask. It has to be a preemptive strike so to speak by the ambulance provider as far as information goes because you can't ask how they are going to pay and who their insurance company is, etc.

Mr. Schafer said that is true. There is the whole idea of saying "yes" under duress. A concern about that is "the expense is the expense". He said they are a participating provider with BCBS and they can charge $10k over the fee schedule, but all they will get paid is the negotiated rate. Participating providers cannot balance bill. Non-participating providers can and do balance bill.

Senator Warner asked if they could write language into the bill that would allow the department to promulgate rules.

Chairman Judy Lee asked those in the room if that could happen with what they had laid out.

Tom Nehring responded that he thought they could draft rules to promulgate those with regards to air ambulance. He said they would need some specific language on a bill that specifies the Dept. of Health needs to promulgate rules for air ambulance. He would like to see it a bit more specific when it gets to things like informed consent, medical necessity, the primary and secondary, etc., so it gives them direction as well.

Chairman Judy Lee asked if the group would work with the intern, Femi, to come up with topic sentences for the amendment.

Senator Howard Anderson, Jr. didn't have a problem doing this in legislation. In the legislative process, something could happen, so he doesn't feel bad putting something in that protects the consumers from unexpected expenses. However, he thinks there is also a role for the rule making process particularly when talking about accreditation and standards for operating an air ambulance - perhaps a mixture of legislation and rules.

Senator Warner: Should we consider the Ternes amendments separately?

Chairman Judy Lee asked Mr. Schafer if he had any reservations to the amendments from Ms. Ternes.

Mr. Schafer thought the 75% was strong. Compliance is simple for them because they are already a participating provider with Blue Cross Blue Shield so they are already in compliance.

Chairman Judy Lee asked the committee if they were to adopt the Insurance Departments amendments if they had any number other than the 75%. Senator Howard Anderson, Jr. likes 75%. Sen. J. Lee had some problem with the cost on the accreditation. She said they could incorporate some of this into a task force in the Health Dept. that would be adopting rules; then they wouldn't have to wait for two years to get a report.

Mr. Schafer agreed with that.

Senator Howard Anderson, Jr. liked what the Insurance Dept. provided and he liked number one (a & b) under what Tom Nehring provided. Then the rest could be in rules.

Senator Dever concurred. He asked if they needed a separate section that the department would be authorized to promulgate rules. He asked Mr. Schafer if they can also do the helicopter as well as the fixed wing.

Mr. Schafer responded that someone else does the helicopter. There are three organizations in ND currently running rotor programs: Northstar in Minot, Sanford out of Bismarck and Fargo, and Guardian Valley-Med has three birds - Devils Lake, Williston, and Dickinson. They run fixed wing, also. They are single engine.
Mr. Schafer's fixed wing is a twin engine and quicker than the single engine.

Senator Dever understood that their ground service has an exclusive in Bismarck Mandan with an arrangement with the city.

Mr. Schafer confirmed that they hold the 911 contract for Bismarck/Mandan Burleigh and Morton County in their ambulance response area. Every ten years they have to go back to the councils and basically resign the contract based on what they are hopefully doing appropriate. There is nothing similar for air ambulances. Air ambulance is a free standing operation for all entities. That is one of the reasons they market the way they do.

Chairman Judy Lee recognized there was some consensus in the amendments by the Insurance Dept. and Mr. Nehring's number 1(a-b) as a definite amendment, and then language possibly adding the subjects for promulgating rules. They wouldn't require anything on the section 2 on the certification. Everybody concurred.

Chairman Judy Lee asked Femi, the intern, to work with them to put together amendment.

2015 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

HB 1255
4/1/2015
25714

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature pmorrison Donald Mueller

Explanation or reason for introduction of bill/resolution:

A bill relating to classifications of ambulance services for health insurance and workers' compensation benefits; and relating to classification of ambulance services for medical assistance.

Minutes: Attach #1 Proposed Amendment - Rebecca Ternes

Rebecca Ternes, Deputy Insurance Director of the Insurance Department, provided a proposed amendment (attachment #1) She reviewed the proposed amendment with the Senate Human Services Committee. Highlights are:

- Department shall create a primary and secondary call list.
- To qualify for the primary list, the air ambulance must be a participating provider in-network and hold at least 75% of the health insurance coverage in the state.
- The primary and secondary call list will be provided to all emergency medical services.
- The department will establish service response zones.
- The department will get and provide the fee schedule to emergency services

She could not guarantee there will not be federal issues but she said they did their best to avoid that and focus on the health and safety of the people.

Senator Warner, referring to the first line of section 5, asked if the potential customer was the medical provider or patient.

Senator Howard Anderson, Jr. said it would be the patient and Ms. Ternes confirmed it.

Tom Nehring would rather see "patient" as would the Health Dept. This was noted by **Chairman Judy Lee**. **Senator Warner** indicated that by "patient" the guardian, spouse, caregiver, etc. is also implied.

Chairman Judy Lee: Do we need to address guardian or caregiver?

Tom Nehring, **Department of Health**, explained that number 5, upon the request of potential customer, should read "patient or legal guardian". He also noted one of the

concerns of the committee was the three ways that an air ambulance is dispatched: from facility, scene call, or auto launch. Number 6 states the department will address the auto-launch cancellation policy.

Chairman Judy Lee asked if there is a technical definition of auto launch.

Mr. Nehring responded that is the term used in the industry - auto-launch. It could be automatic launch, or self-launch.

Chairman Judy Lee said they were fine with auto-launch.

Senator Howard Anderson, Jr. indicated that the definition of auto-launch could be put into the rule.

Chairman Judy Lee asked for an example of auto-launch.

Mr. Nehring explained that it could be an air ambulance operator who monitors 9-1-1 which is easy to do with a scanner. They make a determination on their own and fly out to the scene with no cancelation policy. They land and the ground EMS turns the patient over to them and, of course, the patient doesn't have a choice at that point.

Senator Dever asked about the last sentence in 6 with closed quote. He didn't know what the purpose was. It was determined that it was fine since it ends it.
Secondly, he said when they began the discussion about this provision they were talking about inner-facility. Does that apply to all circumstances?

Mr. Nehring thought it does apply to the dispatch of air ambulance, whether it is inter-facility or scene, or with the rules with auto launch. He thought they do cover all three of those.

Chairman Judy Lee pointed out in number 6, she thought it covered it when it talked about auto launch and also transporting to the nearest appropriate medical facility.

Mr. Nehring said, also in 4a.

Senator Dever stated that when they began the conversation it was an amendment to the bill, but now it looks like it is written to replace the bill.

Mr. Nehring did not believe that was their intention. It is a lengthy amendment, but they were trying to put the appropriate language in place.

Chairman Judy Lee didn't see that anything was getting deleted. There was no replacement. The rest of what is in the bill becomes section 2, 3 and 4.

Senator Warner speculated that there was a car accident with a ground dispatch for an ambulance. Someone overheard and did auto-launch with no contractual agreement. There is a need for an air ambulance and one is officially dispatched. You could end up with two air ambulances showing up at the scene. Who gets paid?

Ms. Ternes said that the one who transports will be the one the insurer will pay.

Senator Warner: Can the first responders, the ground crew, submit a bill even though they don't transport?

Ms. Ternes: They get the triage reimbursement but they don't get paid for transport.

Chairman Judy Lee thought that in the rules which they would be asking the health council to develop it would be talking about developing the air service zones the same as they have ground service zones for emergency services now.

Senator Howard Anderson, Jr. reminded them that the auto launch cancelation protocol would cover the fact that there are now two ambulances so there is a cancelation protocol.

Senator Warner: How do you deal with the auto-launch?

Senator Howard Anderson, Jr. when they show up, they are told that they weren't called.

Mr. Nehring believes there are so few air ambulance operators that the ground services are well aware of them. They are well marked. If one shows up and they have actually been called they know who should be responding. If it is an auto-launch and the wrong one shows up, there probably won't be communication with the ground crew at that time.

Senator Warner asked if they can even land without being guided down.

Mr. Nehring answered that air ambulance providers go out and work with the ground crews with their safety protocols and landing zones. They know how to mark them, watch for overhead wires, etc. They do land closest to the scene as possible where there is a safe landing zone.

Senator Warner understood that but asked about an auto-launch which didn't even have communication with the ground.

Mr. Nehring suggested that would be taking a huge risk on their part.

Chairman Judy Lee asked if they are comfortable with the amendments.

Mr. Nehring indicated the Dept. of Health is comfortable with the amendments and the rule making process. Chairman Judy Lee indicated that it doesn't belong in statute.
Ms. Ternes indicated that the Insurance Dept. is comfortable with the amendments, too. She reported that Dan Schafer is also comfortable with the amendments.

Chairman Judy Lee asked if Mr. Link was okay with his position.

Mike Link, State Radio, was in favor of the amendments. To answer an earlier question by Sen. Warner about the response in 4a, he said that, during the protocol, dispatch will get back to that ambulance saying the time for the service to get there so they will know which

services are coming. That should be notification of which one is coming. So if another shows up, they'll know which one was not called.

Senator Axness moved the Senate Human Services Committee ADOPT AMENDMENT, .01003 along with the change on page 2, line 5, as discussed.
The motion was seconded by **V. Chairman Oley Larsen**.

Discussion
Senator Dever likes this. It would be ideal if providers would work to be on the primary call list.

Roll Call Vote to ADOPT AMENDMENT
6 Yes, 0 No, 0 Absent. Motion passes.

Senator Dever moved the Senate Human Services Committee DO PASS HB 1255 AS AMENDED.
The motion was seconded by **V. Chairman Oley Larsen**.

Discussion

V. Chairman Oley Larsen hoped this brings them to the table to be under the umbrella. It comes down to the reimbursement part or the paper work involved. He wonders why the entity that is doing this hasn't been here to weigh in.

Chairman Judy Lee indicated that it will likely go to conference committee, and they can choose to be there.

Roll Call Vote to DO PASS AS AMENDED
6 Yes, 0 No, 0 Absent. Motion passes.

Chairman Judy Lee will carry HB 1255 to the floor.

15.0688.01004
Title.02000

Adopted by the Human Services Committee

April 1, 2015

4/1/15 BRE

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1255

Page 1, line 1, after "chapter" insert "23-27, a new section to chapter"

Page 1, line 1, after "26.1-36" insert a comma

Page 1, line 2, after "to" insert "air ambulance services and"

Page 1, after line 6, insert:

"**SECTION 1.** A new section to chapter 23-27 of the North Dakota Century Code is created and enacted as follows:

Air ambulance services.

1. The department shall create and maintain a primary call list and a secondary call list of air ambulance service providers operating in this state.

2. To qualify to be listed on the primary call list, an air ambulance service provider shall submit to the department attested documentation indicating the air ambulance service provider is a participating provider of the health insurance carriers in the state which collectively hold at least seventy-five percent of the health insurance coverage in the state as determined by annual market share reports.

3. The department shall provide the primary call list and the secondary call list for air ambulance service providers operating in this state to all emergency medical services personnel, each hospital licensed under chapter 23-16, each 911 coordinator in this state, and each public safety answering point operating in this state.

4. The department shall establish air ambulance service response zones for rotary wing aircraft which are based on response times and patient health and safety.

   a. Upon receipt of a request for air ambulance services, emergency medical services personnel, a hospital licensed under chapter 23-16, or a public safety answering point operating in this state, shall make a reasonable effort to inform the requesting party of the estimated response time for the requested air transport versus the ground transport for that designated response zone. If at any point during the request for air ambulance services the requester withdraws the request, the receiving party is not required to complete that call for air ambulance services.

   b. If emergency medical services personnel, a hospital licensed under chapter 23-16, or a public safety answering point operating in this state receives a request from emergency medical services personnel for air ambulance services, the recipient of the request shall comply with the call priority under this subdivision in responding to the request.

(1) First, the recipient of the request shall call an air ambulance service provider listed on the primary call list which is within the designated response zone.

(2) Second, if each of the air ambulance service providers listed on the primary list is not available or is not able and willing to respond to the call, the recipient of the request shall notify the requester of this fact and shall call an air ambulance provider listed on the secondary call list within the designated response zone.

(3) Third, if each of the air ambulance service providers listed on the secondary list is not available or is not able and willing to respond to the call, the recipient of the request shall notify the requester of this fact and shall inform the requester of primary and secondary air ambulance service provider options outside the designated response zone.

5. Upon request of the department, a potential patient, or a potential patient's legal guardian, an air ambulance service provider shall provide that provider's fee schedule, including the base rate, per loaded mile rate, and any usual and customary charges.

   a. The department shall compile and distribute this fee information to each hospital licensed under chapter 23-16, each hospital emergency department in the state, each physician the department determines is likely to generate an air ambulance transport, each emergency medical services operation, each emergency medical services professional, emergency medical services personnel, each public safety answering point in this state, and each 911 coordinator in this state.

   b. Before a hospital refers a patient to an air ambulance service provider, the hospital shall make a reasonable effort to inform the patient or the patient's legal guardian of the fees for the air ambulance service providers licensed under this chapter, for the purpose of allowing the patient or legal guardian to make an informed decision on choosing an air ambulance service provider. A hospital is exempt from complying with this subdivision if the hospital determines compliance might jeopardize the health or safety of the patient.

6. The state health council shall adopt rules establishing air ambulance service provider requirements that must address transport plans, including auto launch protocol and auto launch cancellation protocol; transporting to the nearest appropriate medical facility; medical necessity; and informed consent. As necessary, the state health council shall adopt rules relating to quality of care standards and other appropriate requirements regarding air ambulance service providers."

Renumber accordingly

Date: 04/01 2015
Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. NB 1255

Senate Human Services Committee

☐ Subcommittee

Amendment LC# or Description: 15.0688.01004 Title 02000

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Sen. Axness Seconded By Sen. Larsen

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee (Chairman)	✓		Senator Tyler Axness	✓	
Senator Oley Larsen (V-Chair)	✓		Senator John M. Warner	✓	
Senator Howard C. Anderson, Jr.	✓				
Senator Dick Dever	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 04/01 2015
Roll Call Vote #: 2

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1255

Senate Human Services Committee

☐ Subcommittee

Amendment LC# or Description: 15.0688.01004 Title 02000

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Sen. Dever Seconded By Sen. Larsen

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee (Chairman)	✓		Senator Tyler Axness	✓	
Senator Oley Larsen (V-Chair)	✓		Senator John M. Warner	✓	
Senator Howard C. Anderson, Jr.	✓				
Senator Dick Dever	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Lee

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1255: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1255 was placed on the Sixth order on the calendar.

Page 1, line 1, after "chapter" insert "23-27, a new section to chapter"

Page 1, line 1, after "26.1-36" insert a comma

Page 1, line 2, after "to" insert "air ambulance services and"

Page 1, after line 6, insert:

"**SECTION 1.** A new section to chapter 23-27 of the North Dakota Century Code is created and enacted as follows:

Air ambulance services.

1. The department shall create and maintain a primary call list and a secondary call list of air ambulance service providers operating in this state.

2. To qualify to be listed on the primary call list, an air ambulance service provider shall submit to the department attested documentation indicating the air ambulance service provider is a participating provider of the health insurance carriers in the state which collectively hold at least seventy-five percent of the health insurance coverage in the state as determined by annual market share reports.

3. The department shall provide the primary call list and the secondary call list for air ambulance service providers operating in this state to all emergency medical services personnel, each hospital licensed under chapter 23-16, each 911 coordinator in this state, and each public safety answering point operating in this state.

4. The department shall establish air ambulance service response zones for rotary wing aircraft which are based on response times and patient health and safety.

   a. Upon receipt of a request for air ambulance services, emergency medical services personnel, a hospital licensed under chapter 23-16, or a public safety answering point operating in this state, shall make a reasonable effort to inform the requesting party of the estimated response time for the requested air transport versus the ground transport for that designated response zone. If at any point during the request for air ambulance services the requester withdraws the request, the receiving party is not required to complete that call for air ambulance services.

   b. If emergency medical services personnel, a hospital licensed under chapter 23-16, or a public safety answering point operating in this state receives a request from emergency medical services personnel for air ambulance services, the recipient of the request shall comply with the call priority under this subdivision in responding to the request.

      (1) First, the recipient of the request shall call an air ambulance service provider listed on the primary call list which is within the designated response zone.

(2) Second, if each of the air ambulance service providers listed on the primary list is not available or is not able and willing to respond to the call, the recipient of the request shall notify the requester of this fact and shall call an air ambulance provider listed on the secondary call list within the designated response zone.

(3) Third, if each of the air ambulance service providers listed on the secondary list is not available or is not able and willing to respond to the call, the recipient of the request shall notify the requester of this fact and shall inform the requester of primary and secondary air ambulance service provider options outside the designated response zone.

5. Upon request of the department, a potential patient, or a potential patient's legal guardian, an air ambulance service provider shall provide that provider's fee schedule, including the base rate, per loaded mile rate, and any usual and customary charges.

   a. The department shall compile and distribute this fee information to each hospital licensed under chapter 23-16, each hospital emergency department in the state, each physician the department determines is likely to generate an air ambulance transport, each emergency medical services operation, each emergency medical services professional, emergency medical services personnel, each public safety answering point in this state, and each 911 coordinator in this state.

   b. Before a hospital refers a patient to an air ambulance service provider, the hospital shall make a reasonable effort to inform the patient or the patient's legal guardian of the fees for the air ambulance service providers licensed under this chapter, for the purpose of allowing the patient or legal guardian to make an informed decision on choosing an air ambulance service provider. A hospital is exempt from complying with this subdivision if the hospital determines compliance might jeopardize the health or safety of the patient.

6. The state health council shall adopt rules establishing air ambulance service provider requirements that must address transport plans, including auto launch protocol and auto launch cancellation protocol; transporting to the nearest appropriate medical facility; medical necessity; and informed consent. As necessary, the state health council shall adopt rules relating to quality of care standards and other appropriate requirements regarding air ambulance service providers."

Renumber accordingly

2015 CONFERENCE COMMITTEE

HB 1255

2015 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

HB 1255
4/10/2015
JOB # 26031

☐ Subcommittee
☒ Conference Committee

Committee Clerk Signature Vicky Crabtree

Minutes:

Rep. Hofstad: We will call HB 1255 to order. Would the Senate please explain the amendments before us?

Sen. J. Lee: We enlisted the help of Rebecca Ternes, the Deputy Commissioner of Insurance, and Tom Mehring, the Emergency Management Director, Mike Link from State Radio. They worked hard and I appreciate their effort at putting this together. Ms. Ternes communicated with Medicare and Medicaid services and talked about things that could be done in certain areas as well. She recognized that EMPALA a provider of services cannot bring up if you have insurance if they are providing emergency services to you. That made it more complicated to provide notice to a family member of someone needing air transportation. There is a difference between an emergency transport and an inter-facility transport. There are 8 complaints with the Insurance Dept. for up to $85,000 in balance billing. We know there is more than one way to have emergency services to be dispatched. One of them is an on call which is an ambulance service (in audible) air services. What kind of services are available throughout the state? More populated areas have more services. There are some gray areas which we need to address. That is the background. The amendments we ended up adopting (reads from the amendments on the bill version 1004).

Rep. Weisz: On number four, what was the rationale for putting that in?

Sen. J. Lee: We are asking that air service areas be developed as soon as possible. This is talking about helicopter in particular.

Rep. Weisz: Your intent is to establish those same service areas so that (inaudible).

Sen. J. Lee: Yes. (Continues to read from the amendments.)

14:12
Rep. Weisz: On page 1 under 4a, if I've had an accident with my grain auger and a first responder shows up and calls for an air transport, these provisions in 4a are still going to apply?

Sen. J. Lee: Our goal was the fastest possible service be available. Those are the kinds of rules the Health council would adopt.

Rep. Weisz: My question is more in reference to who is going to make the decision of whether it should be an air or ground transport? Is that going to fall on the first responder on the scene?

Sen. J. Lee: They would still have to go through the dispatcher.

Rep. Hofstad: At looking at the primary and secondary call lists do we have a number of providers that would qualify under those primary and secondary?

Sen. Axness: Four on the primary list.

Rep. Mooney: Can I have more explanation on the primary call list and tying it with the provider of the healthy insurance carriers with a 75% market share?

Sen. Lee: Even if there are four providers they have more than one location. There would be more than one site for the Sanford helicopter could be dispatched. The companies would be licensed by providers with health insurance carriers which collectively hold at least 75% of the health insurance coverage. The three largest providers would be the participating providers in those networks.

Rep. Mooney: Would we be debilitating people's access to ambulance air in those areas?

Sen. Dever: To be on the primary call list it would be someone who is covered by insurance. The secondary list would be someone who is not in that network. When you call 911 you cannot determine who it will be and what it will cost. If they are going to use a state owned 911 system then we are not obligated to refer to someone that will charge somebody large numbers. This system is justified to allow our citizens to have the best service with some expectation that they will not see that kind of a bill.

Rep. Weisz: Is that going to deprive service? If you look at b in 1 and 2 it is clear that if primary can't do it then the secondary is automatic.

Sen. Dever: If we put this process in place all of the providers would want to be on the primary call list and therefore negotiate a network system with an insurance carrier.

Rep. Hofstad: We will adjourn and meet again.

2015 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

HB 1255
4/13/2015
Job # 26069

☐ Subcommittee
☒ Conference Committee

Committee Clerk Signature Vicky Crabtree

Minutes:

Rep. Hofstad: We will call the conference committee on HB 1255 to order.

Rep. Weisz: I understand the concerns that some have over this language and what we are doing. I've heard from numerous people that this has become an issue. I'm all for free enterprise, but when you don't have a choice and that is what this boils down to. I move that the House accede to the Senate amendments on HB 1255.

Sen. J. Lee: Second. I believe the work done by the Health Dept., the Insurance Dept. and State Radio did a lot of checking and the Insurance Dept. does have the legal responsibility for regulating this under the air of health and safety. I feel comfortable proceeding from that standpoint.

ROLL CALL VOTE: 6 y 0 n 0 absent

No bill carriers.

Date: 4-13-15
Roll Call Vote #: 1

2015 HOUSE CONFERENCE COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 1255 as (re) engrossed

House Human Services Committee

Action Taken

☒ **HOUSE accede to Senate Amendments**
☐ **HOUSE accede to Senate Amendments and further amend**
☐ **SENATE recede from Senate amendments**
☐ **SENATE recede from Senate amendments and amend as follows**

☐ **Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Rep. Weisz Seconded by: Sen. J. Lee

Representatives	4/10	4/13		Yes	No		Senators	4/10	4/13		Yes	No
Rep. Hofstad	x	x		x			Sen. J. Lee	x	x		x	
Rep. Weisz	x	x		x			Sen. Dever	x	x		x	
Rep. Mooney	x	x		x			Sen. Axness	x	x		x	
Total Rep. Vote				3			Total Senate Vote				3	

Vote Count Yes: 6 No: 0 Absent: 0

House Carrier No Carrier Senate Carrier No Carrier

LC Number _____ . _____ of amendment

LC Number _____ . _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

REPORT OF CONFERENCE COMMITTEE

HB 1255: Your conference committee (Sens. J. Lee, Dever, Axness and Reps. Hofstad, Weisz, Mooney) recommends that the **HOUSE ACCEDE** to the Senate amendments as printed on HJ pages 1369-1371 and place HB 1255 on the Seventh order.

HB 1255 was placed on the Seventh order of business on the calendar.

2015 TESTIMONY

HB 1255

#1

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Bismarck, ND 58503

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Testimony
House Bill 1255
House Human Services Committee
Monday, January 26, 2015; 9:00am
North Dakota Emergency Medical Services Association

Good morning, Chairman Weisz and members of the committee. My name is Adam Parker, and I am a paramedic for a Bismarck hospital and also a Southwest Director of the North Dakota Emergency Medical Services Association. I am here today in support of HB 1255.

This bill ads very simple, yet essential language to section 50-24.1-16 of the North Dakota Century Code. Current language is one paragraph regarding reimbursement of ambulance services. The first addition will define an emergency ambulance response. Proposed language is that an "ambulance responds immediately" and immediately is "one in which the ambulance begins as quickly as possible". Without this language the element of time (minutes) can be a factor in determining immediate response and that can vary for a number of reasons from each EMS system, large and small. This language is also identical to 30.1.1 of the Medicare Benefit Policy Manual for ground ambulance services.

The second addition defines an advanced life support (ALS) assessment. The typical makeup of an ALS crew is an Advanced Emergency Medical Technician (AEMT), Paramedic, or Nurse as the primary care provider. There are situations in which an ambulance is dispatched to a possible stroke, chest pain, seizure, and other situations that would involve ALS care. When the crew arrives and performs their assessment the condition of the patient may indicate continued advanced care is needed, or possibly be downgraded to basic life support (BLS) which is care provided by an EMT. This language addition also is identical to 30.1.1 for ground ambulance services.

Workforce Safety (ND WSI) and the North Dakota Medicaid Program both utilize this section of the North Dakota Century Code when determining ambulance reimbursement and we feel that it is critical that reimbursement language closely aligns with the Medicare Benefit Policy Manual. The application of the language in this manual is an acceptable standard of practice across the country and is a guide for ambulance services and their billing agencies alike.

Thank you for this opportunity, I would be happy to answer any questions that you may have.

Attach #1
HB 1255
03/16/15 #24860

HCPCS Code	Description of HCPCS Codes
	transport, Level 1
A0427	Ambulance service, ALS, emergency transport, Level 1
A0428	Ambulance service, Basic Life Support (BLS), non-emergency transport
A0429	Ambulance service, basic life support (BLS), emergency transport
A0430	Ambulance service, conventional air services, transport, one way, fixed wing (FW)
A0431	Ambulance service, conventional air services, transport, one way, rotary wing (RW)
A0432	Paramedic ALS intercept (PI), rural area transport furnished by a volunteer ambulance company, which is prohibited by state law from billing third party payers.
A0433	Ambulance service, advanced life support, level 2 (ALS2)
A0434	Ambulance service, specialty care transport (SCT)
A0435	Air mileage; FW, (per statute mile)
A0436	Air mileage; RW, (per statute mile)

NOTE: PI, ALS2, SCT, FW, and RW assume an emergency condition and do not require an emergency designator.

Refer to IOM Pub. 100-04, Medicare Benefit Policy Manual, chapter 10 – Ambulance Service, section 30.1 – Categories of Ambulance Services, for the definitions of levels of ambulance services under the fee schedule.

30.1 - Multi-Carrier System (MCS) Guidelines

(Rev. 1696; Issued: 03-06-09; Effective/Implementation Date: 04-06-09)
B3-5116

Payment under the fee schedule for ambulance services:

- Includes a base rate payment plus a payment for mileage;

protocol must meet, at a minimum, the standards of the dispatch protocol of the local 911 or equivalent service. In areas that do not have a local 911 or equivalent service, then the protocol must meet, at a minimum, the standards of a dispatch protocol in another similar jurisdiction within the State or, if there is no similar jurisdiction within the State, then the standards of any other dispatch protocol within the State. Where the dispatch was inconsistent with this standard of protocol, including where no protocol was used, the beneficiary's condition (for example, symptoms) at the scene determines the appropriate level of payment.

Advanced Life Support, Level 1 (ALS1) Non-emergency A0426

Definition: Advanced life support, level 1 (ALS1) is the transportation by ground ambulance vehicle and the provision of medically necessary supplies and services including the provision of an ALS assessment or at least one ALS intervention.

Advanced Life Support Assessment

Definition: An advanced life support (ALS) assessment is an assessment performed by an ALS crew as part of an emergency response that was necessary because the patient's reported condition at the time of dispatch was such that only an ALS crew was qualified to perform the assessment. An ALS assessment does not necessarily result in a determination that the patient requires an ALS level of service.

Application: The determination to respond emergently with an ALS ambulance must be in accord with the local 911 or equivalent service dispatch protocol. If the call came in directly to the ambulance provider/supplier, then the provider's/supplier's dispatch protocol must meet, at a minimum, the standards of the dispatch protocol of the local 911 or equivalent service. In areas that do not have a local 911 or equivalent service, then the protocol must meet, at a minimum, the standards of a dispatch protocol in another similar jurisdiction within the State or, if there is no similar jurisdiction within the State, then the standards of any other dispatch protocol within the State. Where the dispatch was inconsistent with this standard of protocol, including where no protocol was used, the beneficiary's condition (for example, symptoms) at the scene determines the appropriate level of payment.

Advanced Life Support Intervention

Definition: An advanced life support (ALS) intervention is a procedure that is in accordance with State and local laws, required to be done by an emergency medical technician-intermediate (EMT-Intermediate) or EMT-Paramedic.

Application: An ALS intervention must be medically necessary to qualify as an intervention for payment for an ALS level of service. An ALS intervention applies only to ground transports.

Advanced Life Support, Level 1 (ALS1) - Emergency A0427

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Attach#2
HB 1255
03/16/2015
J#24860

Testimony
House Bill 1255
Senate Human Services Committee
Monday, March 16, 2015; 10:00am
North Dakota Emergency Medical Services Association

Good morning Chairwoman Lee and members of the committee. My name is Lynn Hartman. I am a paramedic and the Administrative Director of the Dickinson Area Ambulance Service and also a Regional Advisor for the North Dakota Emergency Medical Services Association. I would like to thank you for this opportunity to testify today in support of HB 1255.

This bill ads very simple, yet essential language to section 50-24.1-16 of the North Dakota Century Code. Current language is one paragraph regarding reimbursement of ambulance services. The first addition will define an emergency ambulance response. Proposed language is that an "ambulance responds immediately" and immediately is "one in which the ambulance supplier begins as quickly as possible to take the steps necessary to respond to the call." Without this language, the element of time (minutes) can be a factor in determining immediate response and that can vary for a number of reasons from each EMS system, large and small. **The addition of this language would make it identical to 30.1.1 of the Medicare Benefit Policy Manual for ground ambulance services.**

The second addition defines an advanced life support (ALS) assessment. The typical makeup of an ALS crew is an Advanced Emergency Medical Technician (AEMT), Paramedic, or Nurse as the primary care provider. There are situations in which an ambulance is dispatched to a possible stroke, chest pain, seizure, and other situations that would require ALS care. When the crew arrives and performs their assessment the condition of the patient may indicate that continued advanced care is needed, or possibly be downgraded to basic life support (BLS) which is care provided by an EMT. **This language addition is also identical to 30.1.1 for ground ambulance services.**

Workforce Safety (ND WSI) and the North Dakota Medicaid Program both utilize this section of the North Dakota Century Code when determining ambulance reimbursement and we feel that it is critical that reimbursement language closely aligns with the Medicare Benefit Policy Manual. The application of the language in this manual is an acceptable standard of practice across the country and is a guide for ambulance services and their billing agencies alike.

Again, thank you for this opportunity and I would be happy to try to answer any questions that you may have.

Attach #3
HB 1255
03/16/15
J#24860

DRAFT AMENDMENT HOUSE BILL NO. 1255

A BILL for an Act to create and enact a new section to chapter 26.1-36 and section 65-02-21.2 of the North Dakota Century Code, relating to classifications of ambulance services for health insurance and workers' compensation benefits; and to amend and reenact section 50-24.1-16 of the North Dakota Century Code, relating to classification of ambulance services for medical assistance.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 26.1-36 of the North Dakota Century Code is created and enacted as follows:

Ambulance services classifications.

For purposes of classifying ambulance services for an accident and health insurance policy, the classifications established under section 50-24.1-16 apply.

SECTION2. AMENDMENT. Section 50-24.1-16 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-16. Reimbursement of ambulance services.

1. Medical assistance coverage must include reimbursement of ambulance services for responding to calls to assist covered individuals which do not result in transport. The reimbursement must be at a rate negotiated by the department and the ambulance service.

2. For purposes of classifying ambulance services under this section:

   a. An emergency response is one that at the time the ambulance is called the ambulance responds immediately. An immediate response is one in which the ambulance begins as quickly as possible to take the steps necessary to respond to the call.

b. An advanced life support assessment is an assessment performed by an advanced life support crew as part of an emergency response that was necessary because the patient's reported condition at the time of the dispatch was such that only an advanced life support crew was qualified to perform the assessment. An advanced life support assessment does not necessarily result in a determination that the patient requires an advanced life support level of service.

3. A hospital shall inform a patient or a patient's family of the potential out of pocket costs of interfacility transport, if the hospital is using an out of network provider.

SECTION 3. Section 65-02-21.2 of the North Dakota Century Code is created and enacted as follows:

Ambulance services classifications.

For purposes of classifying ambulance services for benefits provided under this title, the classifications established under section 50-24.1-16 apply

Service Date	Date Case Initiated	Air Medical Service Name	Rotor (RW) or Fixed Wing (FW)	Affiliation	Flight From	Flight Destination	Charges	Insurer	Covered Amount	Patient's Potential O-O-P
	01/21/14	Valley Med Flight		Air Med. Res. Grp* Air Med.	Unk	Unk	Unknown	Noridian BCBS	Unk	Unk
03/31/14	06/12/14	Valley Med Flight	FW	Res. Grp* Air Med.	Williston	Minot	$36,700.00	Noridian BCBS	$8,000.00	**$28,700.00**
Unk	06/16/14	Valley Med Flight	FW	Res. Grp* Air Med.	Williston	Minot Trinity	$30,340.75	Noridian BCBS	$9,259.25	**$21,081.50**
	06/16/14	Valley Med Flight	Unk	Res. Grp* Air Med.	Williston	Minot Trinity	$36,000.00	Medicare +Supp	$35,925.00	**$75.00**
03/31/14	06/16/14	Valley Med Flight	FW	Res. Grp* Air Med.	Williston	Minot Trinity Bismarck St.	$36,700.00	Noridian BCBS	$8,000.00	**$28,700.00**
12/08/13	06/17/14	Guardian Flight	RW	Res. Grp* Air Med.	McKensie	Alexius Grand Forks	$50,062.17	Noridian BCBS	$9,909.95	**$40,152.22**
01/15/14	06/24/14	Valley Med Flight	FW?	Res. Grp* Air Med.	Cando	Altru Rochester	$33,200.00	Noridian BCBS	$9,000.00	**$24,200.00**
02/28/14	08/11/14	Valley Med Flight	FW	Res. Grp*	Grand Forks	Mayo System	$67,325.00	Noridian BCBS	$13,325.00	**$54,000.00**
		Valley Med Flight	FW	Air Med.						
04/??/14	08/25/14	Guardian Flight	RW	Res. Grp*	Williston	Minot Trinity	$80,000.00	Noridian BCBS	$20,000.00	**$60,000.00**
05/08/14	08/13/14	Med-Trans**	Unk	Med-Trans Air Med.	Dickinson	Bismarck	$37,000.00	Noridian BCBS	$13,000.00	**$24,000.00**
05/31/14	08/27/14	Guardian Flight		Res. Grp* Air Med.	Williston	Minot Trinity	$43,000.00	Noridian BCBS	$11,000.00	**$32,000.00**
	09/02/14	Valley Med Flight	Unk	Res. Grp* Air Med.	Williston	Minot Trinity Grand Forks	$34,752.00	Noridian BCBS	$7,439.00	**$27,312.00**
05/04/14	10/13/14	Valley Med Flight	Unk	Res. Grp* Air Med.	Devils Lake	Altru Grand Forks	$33,000.00	Noridian BCBS	$8,100.00	**$24,900.00**
06/05/14	10/16/14	Valley Med Flight	FW	Res. Grp*	Devils Lake	Altru	$32,875.00	Noridian BCBS	$8,248.37	**$24,626.63**
10/12/13	10/22/14	Med-Trans**	RW	Med-Trans Air Med. Res.	Baker, MT	Bismarck	$38,657.77	Noridian BCBS	$11,773.00	**$26,884.00**
09/04/14	12/04/14	Valley Med Flight	FW	Grp*	Grand Forks	Rochester	$68,688.00	Federal BCBS	$68,088.00	**$600.00**
07/09/14	02/10/15	Med-Trans***	RW	Med-Trans Air Med. Res.	Mott	Bismarck	$35,923.47	Noridian BCBS	$11,733.55	**$24,189.92**
12/28/14	02/12/15	Valley Med Flight	RW	Grp* Air Med. Res.	???	???	$26,037.50	Noridian BCBS	$12,122.88	**$13,914.62**
11/08/14		Valley Med Flight	RW	Grp* Air Med. Res.	Dickinson	Bismarck	$27,037.50	Noridian BCBS	$12,522.72	**$14,514.78**
12/18/14	03/10/15	Valley Med Flight	FW	Grp*	Devils Lake	Grand Forks	$32,528.00	Noridian BCBS	$8,510.45	**$24,017.55**
						Total Billed Services	**$779,827.16**			**$465,168.22**

*Air Medical Resource Group (Owns VMF & Guardian)

**Med-Trans Corporate Headquarters (owned by Air Medical Resources)
Lewisville, TX 75067 **(Company no longer operates in ND)**

03/23/15
T# 25280

Attach #1
HB 1255

Attach #2
HB 1255
03/23/15
JH 25280

ND

January 10, 2014

Provider Memo

RE: Valley Med Flight (air ambulance provider) – non participating status

Air Ambulance providers that are not participating with their local Blue Cross Blue Shield plan can impose a significant cost burden on your patients (our members). Due to the non participating status of these providers, your patients could be exposed to collection of fees in excess of the payment made by Blue Cross Blue Shield of North Dakota (BCBSND). In the case of air ambulance services, this can result in a huge expense.

Valley Med Flight, Inc., an air ambulance provider based out of North Dakota, has been utilized to transport patients throughout the state. As of November 23, 2013, Valley Med Flight has changed to non-participating status. As a result, they will be seeking payment directly from our members for the difference between BCBSND's paid allowed amount and their total charge.

The choice of air ambulance is solely within the control of the transferring and receiving facility. As a BCBSND participating provider, we encourage you to use best efforts to refer to these regional providers:

- ALS Aerocare
- Bismarck Air Medical
- North Memorial Ambulance Service
- Sanford AirMed

We would like to work with you to develop and distribute an internal communication regarding this issue to all staff who are involved in the scheduling/coordination of air ambulances at your facility. We have provided the attached template for your use. If you have any questions, please contact Provider Relations at prov.partners@bcbsnd.com.

Thank you in advance for your cooperation.

Sincerely,

Sharon L. Fletcher, PhD
Senior Vice President
Division of Health Network Innovation

HB1255
Attach #3
03/23/2015
J #25280

FYI -
I asked BC/BS and Sanford Health for comments on 1255 & an amendment about air ambulance fees. Here is the one from BC/BS.
This need not be copied for our books, but, Don, please add it to your records.

email Megan Houn

Judy Lee
1822 Brentwood Court
West Fargo, ND 58078
Phone: 701-282-6512
e-mail: jlee@nd.gov

Begin forwarded message:

From: Megan Houn <Megan.Houn@bcbsnd.com>
Date: March 16, 2015 at 9:59:56 PM CDT
To: "'Lee, Judy E.'" <jlee@nd.gov>
Subject: RE: 1255

I'm not sure we have comments specific to the amendment. A couple of the sponsors asked for data and what we found was that there were over 160 cases in a 12 month period where our members were balance billed (usually in the ballpark of $20-30K) by non participating providers. Additionally, the average charges for non-par providers are 240% more than participating providers. Hospitals are informed of the participating providers.

If there is anything else specific I can provide, please don't hesitate.

-----Original Message-----
From: Lee, Judy E. [jlee@nd.gov]
Sent: Monday, March 16, 2015 08:20 PM Central Standard Time
To: Megan Houn
Subject: 1255

Does BC/BS have any comments about a potential amendment to 1255 which would require notification of families or patients about whether or not an air ambulance is part of the provider network? Huge co-pays have led to this discussion.

Judy Lee
1822 Brentwood Court
West Fargo, ND 58078
Phone: 701-282-6512
e-mail: jlee@nd.gov

Attach #1
HB 1255
03/30/15
Jt #25613

Prepared by the North Dakota
Insurance Department
March 30, 2015

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1255

Page 1, line 1, after "enact" insert "a new section to chapter 23-27," and after "26.1-36" insert a comma

Page 1, after line 6 insert:

"**SECTION 1.** Two new sections to chapter 23-27 of the North Dakota Century Code are created and enacted as follows:

Air ambulance services.

1. The department shall create and maintain a primary call list and a secondary call list for air ambulance service providers operating in the state.

2. For an air ambulance service provider to qualify to be listed on the primary call list, the air ambulance service provider shall submit to the department attested documentation indicating the air ambulance service provider is a participating provider of the health insurance carriers in the state that collectively hold at least seventy-five percent of the health insurance coverage in the state as determined by annual market share reports.

3. The department shall provide the primary call list and the secondary call list for air ambulance service providers operating in the state to all emergency medical services personnel in the state, every hospital licensed to operate in the state, and to all public safety answering points operating in the state.

4. The department shall establish air ambulance service response zones. All emergency medical services personnel, hospitals, and public safety answering points operating in this state upon request from medical services personnel shall first call the air ambulance service providers listed on the primary call list within the designated response zone. In the event that no air ambulance service provider listed on the primary list is available or that no air ambulance service provider listed on the primary list is able and willing to respond to the call, emergency medical services personnel, hospitals, and public safety answering points operating in this state shall call air ambulance providers listed on the secondary call list within the designated response zone."

Renumber accordingly

Attach #2
HB 1255
03/30/15
J# 25613

PROPOSED AMENDMENTS TO

A new section to be added to N.D.C.C. ch. 23-27, Emergency Medical Services Operations Licenses

23-27-04.10. Air ambulance standards.

1. Air ambulance services shall provide their fee schedule, including the base rate, per loaded mile rate, and any usual and customary charges, to any patient or legal guardian of a patient in need of air ambulance transport who requests this information and to the department.
    a. The department shall distribute this information to all North Dakota hospital emergency departments, physicians who may generate an air ambulance transport, EMS operations and providers, Public Service Answering Points, and 911 coordinators.
    b. Any medical provider referring a patient to an air ambulance service shall make a reasonable effort to inform the patient or legal guardian of all North Dakota air ambulance fees so the patient or legal guardian may make an informed decision on choosing an air ambulance provider.
2. In addition to meeting all applicable standards for operators, air ambulance services shall:
    a. Submit a transport plan to the department as a part of its application for licensure. The department may deny or revoke licensure based on evaluation of the plan.
        (1) Transport plans must include transporting to the nearest appropriate medical facility, and;
        (2) Transportation plans must include the criteria used to determine medical necessity when determining a transport from a scene by air-ambulance is not necessary.
    b. Be accredited by an accrediting agency as identified by the Department of Health. This accreditation shall be obtained no later than the 2017 license renewal for air ambulance services licensed before 2014 or within two years of initial licensure for newer air ambulance services.
    c. Insure that any licensed nurse, paramedic, emergency medical technician, or other licensed health care provider does not provide patient care in an air ambulance if that individual has been on duty or on-call for more than thirty-six hours.
    d. Respond to emergency scenes only if requested by a public safety answering point, law enforcement officer, fire department, ground ambulance service, quick response unit, incident command, military command, or other public safety entity.
3. An air ambulance response to an emergency medical situation must comply with medical necessity for the response. Medical necessity for the response, including procedures for initiation of requests, medical responsibility and destination coordination, shall be governed by the following criteria:
    a. An air ambulance service is not subject to a licensure action concerning medical necessity for a response when the air ambulance has been called to the scene by a first responder. This provision does not prohibit an appropriate licensure action regarding the person who called for the air ambulance response.
    b. An air ambulance response is medically necessary when the information available at the time of transport indicates the patient has an anticipated medical or surgical need requiring transport or transfer, and without air transport the patient would be placed at significant risk for loss of life or impaired health; and:
        (1) Available alternative methods may impose additional risk to the life or health of the patient; or

(2) Available alternative methods would make ambulance services unavailable or severely limited in the community service area; or
(3) Speed and critical care capabilities of the air ambulance are essential; or
(4) The patient is inaccessible to ground ambulances or distance to a hospital from the scene would require unnecessarily prolonged ground travel time; or
(5) The patient transfer is delayed in entrapment, traffic congestion, or other barriers; or
(6) Advanced life support is unavailable or subject to response time in excess of twenty minutes.

Attach #1
HB 1255
04/01/15
25714

15.0688.01003
Title.

Prepared by the Legislative Council staff for
Senator J. Lee

April 1, 2015

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1255

Page 1, line 1, after "chapter" insert "23-27, a new section to chapter"

Page 1, line 1, after "26.1-36" insert a comma

Page 1, line 2, after "to" insert "air ambulance services and"

Page 1, after line 6, insert:

"**SECTION 1.** A new section to chapter 23-27 of the North Dakota Century Code is created and enacted as follows:

Air ambulance services.

1. The department shall create and maintain a primary call list and a secondary call list of air ambulance service providers operating in this state.

2. To qualify to be listed on the primary call list, an air ambulance service provider shall submit to the department attested documentation indicating the air ambulance service provider is a participating provider of the health insurance carriers in the state which collectively hold at least seventy-five percent of the health insurance coverage in the state as determined by annual market share reports.

3. The department shall provide the primary call list and the secondary call list for air ambulance service providers operating in this state to all emergency medical services personnel, each hospital licensed under chapter 23-16, each 911 coordinator in this state, and each public safety answering point operating in this state.

4. The department shall establish air ambulance service response zones for rotary wing aircraft which are based on response times and patient health and safety.

   a. Upon receipt of a request for air ambulance services, emergency medical services personnel, a hospital licensed under chapter 23-16, or a public safety answering point operating in this state, shall make a reasonable effort to inform the requesting party of the estimated response time for the requested air transport versus the ground transport for that designated response zone. If at any point during the request for air ambulance services the requester withdraws the request, the receiving party is not required to complete that call for air ambulance services.

   b. If emergency medical services personnel, a hospital licensed under chapter 23-16, or a public safety answering point operating in this state receives a request from emergency medical services personnel for air ambulance services, the recipient of the request shall comply with the call priority under this subdivision in responding to the request.

(1) First, the recipient of the request shall call an air ambulance service provider listed on the primary call list which is within the designated response zone.

(2) Second, if each of the air ambulance service providers listed on the primary list is not available or is not able and willing to respond to the call, the recipient of the request shall notify the requester of this fact and shall call an air ambulance provider listed on the secondary call list within the designated response zone.

(3) Third, if each of the air ambulance service providers listed on the secondary list is not available or is not able and willing to respond to the call, the recipient of the request shall notify the requester of this fact and shall inform the requester of primary and secondary air ambulance service provider options outside the designated response zone.

5. Upon request of the department or a potential customer, an air ambulance service provider shall provide that provider's fee schedule, including the base rate, per loaded mile rate, and any usual and customary charges.

   a. The department shall compile and distribute this fee information to each hospital licensed under chapter 23-16, each hospital emergency department in the state, each physician the department determines is likely to generate an air ambulance transport, each emergency medical services operation, each emergency medical services professional, emergency medical services personnel, each public safety answering point in this state, and each 911 coordinator in this state.

   b. Before a hospital refers a patient to an air ambulance service provider, the hospital shall make a reasonable effort to inform the patient or the patient's legal guardian of the fees for the air ambulance service providers licensed under this chapter, for the purpose of allowing the patient or legal guardian to make an informed decision on choosing an air ambulance service provider. A hospital is exempt from complying with this subdivision if the hospital determines compliance might jeopardize the health or safety of the patient.

6. The state health council shall adopt rules establishing air ambulance service provider requirements that must address transport plans, including auto launch protocol and auto launch cancellation protocol; transporting to the nearest appropriate medical facility; medical necessity; and informed consent. As necessary, the state health council shall adopt rules relating to quality of care standards and other appropriate requirements regarding air ambulance service providers."

Renumber accordingly