

**2021 HOUSE HUMAN SERVICES**

**HB 1493**

# 2021 HOUSE STANDING COMMITTEE MINUTES

## Human Services Committee Pioneer Room, State Capitol

HB 1493  
1/26/2021

To provide for ambulance service operation funding.
---

**Vice Chair Rohr** opened the hearing at 3:39 p.m.

Representatives	Attendance
Representative Robin Weisz	P
Representative Karen M. Rohr	P
Representative Mike Beltz	P
Representative Chuck Damschen	P
Representative Bill Devlin	P
Representative Gretchen Dobervich	P
Representative Clayton Fegley	P
Representative Dwight Kiefert	P
Representative Todd Porter	P
Representative Matthew Ruby	P
Representative Mary Schneider	P
Representative Kathy Skroch	P
Representative Bill Tveit	P
Representative Greg Westlind	P

### Discussion Topics:

- Annual state financial assistance
- Eligible ambulance service
- Minimum reasonable budget
- Prorated share distribution

**Rep. Robin Weisz, District 14 (3:39)** introduced the bill.

**Bill Colonic, North Dakota EMS Association (3:41)** introduced Adam Parker, Chair North Dakota EMS Association Advocacy Committee.

**Adam Parker, Chair North Dakota EMS Association Advocacy Committee (3:42)** testified in favor and submitted testimony #3470.

**Vice Chair Rohr** adjourned at 3:46 p.m.

*Tamara Krause, Committee Clerk*

Executive Offices  
1622 E. Interstate Ave.  
Bismarck, ND 58503



(701) 221-0567 Voice  
(701) 221-0693 Fax  
(877) 221-3672 Toll Free  
[www.ndemsa.org](http://www.ndemsa.org)

---

Testimony  
House Bill 1493  
House Human Service Committee  
Tuesday, January 25 2021; 2:45 p.m.  
North Dakota Emergency Medical Services Association

#3470

Good afternoon, Chairman Weisz and members of the committee. My name is Adam Parker, and I am the Chair of the North Dakota Emergency Medical Services Association's (NDEMSA) Advocacy Committee.

HB 1493 is the distribution formula for the Rural EMS Assistance Grant, which is a vital funding source for 100 rural ambulance services across North Dakota. The formula is logical as it determines a minimum reasonable budget for operating an ambulance, the estimated revenue generated from fee-for-service, and a local match based on property tax valuation. There is concern, however, among some of our members that the formula does not take into account other factors, such as distance from a hospital, distance from another ambulance, ALS or BLS, etc. All are important considerations for EMS system development in North Dakota. However, given that last year the formula was only funded at 55%, changes to the formula will only marginally increase some ambulance services funding while significantly decreasing others. Therefore, the EMS Association supports the formula in HB 1493 as consistency of the state assistance for rural ambulance services is important for budgeting and planning.

I would like to make note in Section 1(2)(a) of the proposed legislation the language states: “**median** number of runs...” and “**average** amount of reimbursement...” The use of the words median and average appear inconsistent with other areas of the bill. We prefer to use average when determining run volume for a service and medians when analyzing statewide financial data.

Additionally, we have concerns regarding Section 1(2)(b) regarding the determination of property tax valuation. We support that this data needs to be provided by the county auditor, as the Department of Health does not have expertise in this area, nor do the rural ambulance services. However, it does not specify who that data should be provided too and by when. Our concern is that without deadlines and clarity as to who the auditor must provide the data too, the department may need to delay grant distributions until that data can be obtained. Delaying grant distributions can put ambulance services in jeopardy as many rely on this funding for staffing and other necessary expenses. We ask that the committee consider this concern as they consider any amendments to the bill.

This concludes my testimony, I am happy to answer any questions you may have.

# 2021 HOUSE STANDING COMMITTEE MINUTES

## Human Services Committee Pioneer Room, State Capitol

HB 1493  
2/9/2021

To provide for ambulance service operation funding.
---

**Chairman Weisz** opened the committee hearing at 11:07 a.m.

Representatives	Attendance
Representative Robin Weisz	P
Representative Karen M. Rohr	P
Representative Mike Beltz	P
Representative Chuck Damschen	P
Representative Bill Devlin	P
Representative Gretchen Dobervich	P
Representative Clayton Fegley	P
Representative Dwight Kiefert	P
Representative Todd Porter	P
Representative Matthew Ruby	P
Representative Mary Schneider	P
Representative Kathy Skroch	P
Representative Bill Tveit	P
Representative Greg Westlind	P

### Discussion Topics:

- Sunset clause extension

**Rep. Todd Porter (11:08)** moved Do Pass.

**Rep. Gretchen Dobervich (11:08)** second.

Representatives	Vote
Representative Robin Weisz	Y
Representative Karen M. Rohr	Y
Representative Mike Beltz	Y
Representative Chuck Damschen	Y
Representative Bill Devlin	Y
Representative Gretchen Dobervich	Y
Representative Clayton Fegley	Y
Representative Dwight Kiefert	Y
Representative Todd Porter	Y
Representative Matthew Ruby	Y
Representative Mary Schneider	Y
Representative Kathy Skroch	Y
Representative Bill Tveit	Y
Representative Greg Westlind	Y



**Motion Carried Do Pass 14-0-0**

**Bill Carrier:** Rep. Kathy Skroch

**Chairman Weisz** adjourned at 11:10 a.m.

*Tamara Krause, Committee Clerk*

**REPORT OF STANDING COMMITTEE**

**HB 1493: Human Services Committee (Rep. Weisz, Chairman)** recommends **DO PASS**  
(14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1493 was placed on the  
Eleventh order on the calendar.

**2021 SENATE HUMAN SERVICES**

**HB 1493**

# 2021 SENATE STANDING COMMITTEE MINUTES

**Human Services Committee**  
Sakakawea Room, State Capitol

HB 1493  
3/10/2021

A BILL for an Act to provide for ambulance service operation funding.
---

**Madam Chair Lee** opened the hearing on HB 1490 at 11:46 a.m. Members present: Lee, K. Roers, Hogan, Anderson, Clemens, O. Larsen.

**Discussion Topics:**

- Calendar year V.S. Fiscal year

**[11:47] Representative Robin Weisz, District 14.** Introduced HB 1493.

**[11:50] Bill Kalanek, Lobbyist, ND EMS Association.** Introduced Adam Parker to the committee.

**[11:50] Adam Parker, Chair, Advocacy Committee, ND EMS Association.** Provided testimony #8483 in favor.

**Additional written testimony: (1)**

**Shelby Floberg, Richardton ND Resident.** Written testimony #8433 in favor.

**Madam Chair Lee** closed the hearing on HB 1493 at 11:57 a.m.

*Justin Velez, Committee Clerk*

Executive Offices  
1622 E. Interstate Ave.  
Bismarck, ND 58503



#8483

(701) 221-0567 Voice  
(701) 221-0693 Fax  
(877) 221-3672 Toll Free  
[www.ndemsa.org](http://www.ndemsa.org)

---

Testimony  
House Bill 1493  
Senate Human Service Committee  
Wednesday, March 10 2021; 11:00 a.m.  
North Dakota Emergency Medical Services Association

Good morning, Madam Chair and members of the committee. My name is Adam Parker, and I am the Chair of the North Dakota Emergency Medical Services Association's (NDEMSA) Advocacy Committee.

HB 1493 is the distribution formula for the Rural EMS Assistance Grant, which is a vital funding source for 100 rural ambulance services across North Dakota. The formula is logical as it determines a minimum reasonable budget for operating an ambulance, the estimated revenue generated from fee-for-service, and a local match based on property tax valuation. There is concern, however, among some of our members that the formula does not take into account other factors, such as distance from a hospital, distance from another ambulance, ALS or BLS, etc. All are important considerations for EMS system development in North Dakota. However, given that last year the formula was only funded at 55%, changes to the formula will only marginally increase some ambulance services funding while significantly decreasing others. Therefore, the EMS Association supports the formula in HB 1493 as consistency of the state assistance for rural ambulance services is important for budgeting and planning.

I would like to make note in Section 1(2)(a) of the proposed legislation the language states: “**median** number of runs...” and “**average** amount of reimbursement...” The use of the words median and average appear inconsistent with other areas of the bill. We prefer to use average when determining run volume for a service and medians when analyzing statewide financial data.

We also have concerns regarding Section 1(2)(b) regarding the determination of property tax valuation. We support that this data needs to be provided by the county auditor, as the Department of Health does not have expertise in this area, nor do the rural ambulance services. However, it does not specify who that data should be provided too and by when. Our concern is that without deadlines and clarity as to who the auditor must provide the data too, the department may need to delay grant distributions until that data can be obtained. Delaying grant distributions can put ambulance services in jeopardy as many rely on this funding for staffing and other necessary expenses. We ask that the committee consider this concern as they consider any amendments to the bill.

This concludes my testimony, I am happy to answer any questions you may have.

**HB 1493****Senate Human Services Committee****Testimony of Shelby Floberg****In Support****February 15, 2021**

Senator Lee and Members of the Committee:

I am offering testimony in support of HB 1493, which would provide for ambulance service operation funding. North Dakota is home to many rural areas and small communities. Rural ambulances, just as ambulances in larger towns, must maintain high standards of care. Rural ambulances receive less income than larger ambulance services due to a smaller number of patient calls. Income from insurance and patient calls is needed to help maintain these services. Rural ambulances must purchase vehicles, medical supplies, and expensive equipment to provide care for those in need. Ambulance staff must also stay up to date with training. These expenses can add an abundance of debt for smaller services. Due to rural ambulances mainly receiving income from patient calls, extra funding is needed to keep rural ambulance services in operation.

Many small-town ambulance services are finding it more difficult to find volunteers. These services have to increase on call and run pay just to retain squad members. Some rural services have to hire staff from other services to cover call due to the lack of volunteers. This is much more expensive than having a squad made up of volunteers.

There tends to be lower income and lack of insurance in rural areas, individuals then can not pay their ambulance bill, the service must then write off this debt. This results in losing money. For rural ambulances to remain in service, funding for service expenses must be distributed. Otherwise, many rural services may have to close. Individuals in rural areas would then have to wait for an ambulance from a larger city to get to them, which would likely lead to more deaths and severe illness. Being part of a small community in North Dakota, I see the

**HB 1493****Senate Human Services Committee****Testimony of Shelby Floberg****In Support****February 15, 2021**

importance of rural ambulance services. Being the daughter of my community's ambulance squad president, I have seen the tremendous efforts of rural services firsthand. I am grateful for the hard work that volunteer ambulance members put forth. It is important for small town services to stay in operation for the safety of community members. With all of this in mind, I urge a "do pass" recommendation on HB 1493. Thank you for your time.

# 2021 SENATE STANDING COMMITTEE MINUTES

## Human Services Committee Sakakawea Room, State Capitol

HB 1493  
3/30/2021

A BILL for an Act to provide for ambulance service operation funding.
---

**Madam Chair Lee** opened the discussion on HB 1493 at 4:31 p.m. Members present: Lee, K. Roers, Hogan, Anderson, Clemens,

### Discussion Topics:

- Proposed amendment
- Bill action

**[4:31] Senator Judy Lee, District 13.** Provided the committee with proposed amendment from Bill Kalanek on behalf of the ND EMS Association (testimony #11019).

**Senator K. Roers** moves to **ADOPT AMENDMENT** replace “fiscal” with “calendar”.  
**Senator Hogan** seconded.

Voice Vote – Motion passed.

**Senator K. Roers** moves **DO PASS, AS AMENDED**.  
**Senator Hogan** seconded.

Senators	Vote
Senator Judy Lee	Y
Senator Kristin Roers	Y
Senator Howard C. Anderson, Jr.	Y
Senator David A. Clemens	Y
Senator Kathy Hogan	Y
Senator Oley Larsen	Y

The motion passed 6-0-0

**Senator K. Roers** will carry HB 1493.

**Additional written testimony:** N/A

**Madam Chair Lee** closed the discussion on HB 1493 at 4:33 p.m.

*Justin Velez, Committee Clerk*



March 30, 2021

SK  
WD  
3/30

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1493

Page 1, line 9, replace "fiscal" with "calendar"

Page 1, line 15, replace "median" with "average"

Page 1, line 16, replace "fiscal" with "calendar"

Page 1, line 16, replace "average" with "median"

Page 1, line 18, after "provided" insert "to the state department of health"

Page 1, line 18, after "auditor" insert "no later than July thirty-first of each year"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1493: Human Services Committee (Sen. Lee, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1493 was placed on the Sixth order on the calendar.

Page 1, line 9, replace "fiscal" with "calendar"

Page 1, line 15, replace "median" with "average"

Page 1, line 16, replace "fiscal" with "calendar"

Page 1, line 16, replace "average" with "median"

Page 1, line 18, after "provided" insert "to the state department of health"

Page 1, line 18, after "auditor" insert "no later than July thirty-first of each year"

Renumber accordingly

**ND EMS Association  
Bill Kalanek  
Proposed amendments, HB 1493**

Line 9 – replace “fiscal” with “calendar”

Line 15 – replace “median” with “average”

Line 16 – replace “fiscal” with “calendar”

Line 16 – replace “average” with “median”

Line 18 – after “as provided” add “to the department of health”

Line 18 – after “county auditor” add “no later than July 31<sup>st</sup> of each year”

**2021 CONFERENCE COMMITTEE**

**HB 1493**

# 2021 HOUSE STANDING COMMITTEE MINUTES

## Human Services Committee Pioneer Room, State Capitol

HB 1493  
4/15/2021  
Conference Committee

To provide for ambulance service operation funding
--

**Chairman Clayton Fegley** opened the conference committee at 9:35 a.m.

Representatives	Attendance	Senators	Attendance
Chairman Fegley	P	Chairman Judy Lee	P
Rep. Robin Weisz	P	Sen. Kristin Roers	P
Rep. Mary Schneider	P	Sen. Oley Larsen	P

### Discussion Topics:

- Health insurance contract
- Mediation process
- Air ambulance lawsuit

**Rep. Robin Weisz (9:36)** presented **Amendment 21.0994.01004 - #11531** - plus Page 1, line 22 replace “for the most recent taxable year” with “for the prior taxable year.”

**Rep. Robin Weisz (9:37)** moved **House Accede to Senate Amendments and Further Amend 21.0994.01004 plus the language on Page 1, Line 22.**

**Sen. Judy Lee (9:38)** second

**Jon Godfread, State Insurance Commissioner (9:41)** answered committee questions

**Roll Call Vote – Motion Carried House Accede to Senate Amendments and Further Amend 6-0-0**

**Chairman Clayton Fegley** adjourned at 9:44 a.m.

*Tamara Krause, Committee Clerk*

April 15, 2021

DA 4/15/21  
1 of 4

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1493

That the House accede to the Senate amendments as printed on page 1429 of the House Journal and page 1116 of the Senate Journal and that House Bill No. 1493 be further amended as follows:

Page 1, line 1, after "to" insert "amend and reenact section 26.1-47-10 of the North Dakota Century Code and section 10 of chapter 194 of the 2017 Session Laws, relating to air ambulance services; and to"

Page 1, after line 2, insert:

**"SECTION 1. AMENDMENT.** Section 26.1-47-10 of the North Dakota Century Code is amended and reenacted as follows:

**26.1-47-10. Preferred provider arrangements - Requirements for accessing air ambulance providers. (~~Contingent effective date~~ - See note)**

1. In addition to the other preferred provider arrangement requirements under this chapter, a preferred provider arrangement must require the health care insurer and health care provider comply with this section.
2. Except as otherwise provided under this section, before a health care provider arranges for air ambulance services for an individual the health care provider knows to be a covered person, the health care provider shall request a prior authorization from the covered person's health care insurer for the air ambulance services to be provided to the covered person. If the health care provider is unable to request or obtain prior authorization from the covered person's health care insurer:
  - a. The health care provider shall provide the covered person or the covered person's authorized representative an out-of-network services written disclosure stating the following:
    - (1) Certain air ambulance providers may be called upon to render care to the covered person during the course of treatment;
    - (2) These air ambulance providers might not have contracts with the covered person's health care insurer and are, therefore, considered to be out of network;
    - (3) If these air ambulance providers do not have contracts with the covered person's health care insurer, the air ambulance services will be provided on an out-of-network basis;
    - (4) A description of the range of the charges for the out-of-network air ambulance services for which the covered person may be responsible;
    - (5) A notification the covered person or the covered person's authorized representative may agree to accept and pay the charges for the out-of-network air ambulance services, contact

the covered person's health care insurer for additional assistance, or rely on other rights and remedies that may be available under state or federal law; and

- (6) A statement indicating the covered person or the covered person's authorized representative may obtain a list of air ambulance providers from the covered person's health care insurer which are preferred providers and the covered person or the covered person's representative may request those participating air ambulance providers be accessed by the health care provider.
- b. Before air ambulance services are accessed for the covered person, the health care provider shall provide the covered person or the covered person's authorized representative the written disclosure, as outlined by subdivision a and obtain the covered person's or the covered person's authorized representative's signature on the disclosure document acknowledging the covered person or the covered person's authorized representative received the disclosure document before the air ambulance services were accessed. If the health care provider is unable to provide the written disclosure or obtain the signature required under this subdivision, the health care provider shall document the reason, which may include the health and safety of the patient. The health care provider documentation satisfies the requirement under this subdivision.
3. ~~This section does not:~~
  - a. ~~Preclude a covered person from agreeing to accept and pay the charges for the out of network services and not access the covered person's health care insurer's out-of-network air ambulance billing process described under this section.~~
  - b. ~~Preclude a covered person from agreeing to accept and pay the bill received from the out of network air ambulance provider or from not accessing the air ambulance provider mediation process described under this section.~~
  - c. ~~Regulate an out of network air ambulance provider's ability to charge certain fees for services or to charge any amount of fee for services provided to a covered person by the out of network air ambulance provider.~~
4. ~~A health care insurer shall develop a program for payment of out of network air ambulance bills submitted under this section. A health benefit plan may not be issued in this state without the terms of the health benefit plan including the provisions of the health care insurer's program for payment of out of network air ambulance bills.~~
  - a. ~~A health care insurer may elect to pay out of network air ambulance provider bills as submitted, or the health care insurer may elect to use the out of network air ambulance provider mediation process described in subsection 5.~~



- ~~b. This section does not preclude a health care insurer and an out-of-network facility air ambulance provider from agreeing to a separate payment arrangement.~~
- ~~5. A health care insurer shall establish an air ambulance provider mediation process for payment of out-of-network air ambulance provider bills. A health benefit plan may not be issued in this state if the terms of the health benefit plan do not include the provisions of the health care insurer's air ambulance provider mediation process for payment of out-of-network air ambulance provider bills.~~
  - ~~a. A health care insurer's air ambulance provider mediation process must be established in accordance with mediation standards recognized by the department by rule.~~
  - ~~b. If the health care insurer and the out-of-network air ambulance provider agree to a separate payment arrangement or if the covered person agrees to accept and pay the out-of-network air ambulance provider's charges for the out-of-network services, compliance with the air ambulance provider mediation process is not required.~~
  - ~~c. A health care insurer shall maintain records on all requests for mediation and completed mediation under this subsection for one year and, upon request of the commissioner, submit a report to the commissioner in the format specified by the commissioner.~~
- ~~6. The rights and remedies provided under this section to covered persons are in addition to and may not preempt any other rights and remedies available to covered persons under state or federal law.~~
- ~~7.4. The department shall enforce this section and shall report a violation of this section by a facility to the state department of health.~~
- ~~8.5. This section does not apply to a policy or certificate of insurance, whether written on a group or individual basis, which provides coverage limited to:~~
  - ~~a. A specified disease, a specified accident, or accident-only coverage;~~
  - ~~b. Credit;~~
  - ~~c. Dental;~~
  - ~~d. Disability;~~
  - ~~e. Hospital;~~
  - ~~f. Long-term care insurance as defined by chapter 26.1-45;~~
  - ~~g. Vision care or any other limited supplemental benefit;~~
  - ~~h. A Medicare supplement policy of insurance, as defined by the commissioner by rule or coverage under a plan through Medicare;~~
  - ~~i. Medicaid;~~
  - ~~j. The federal employees health benefits program and any coverage issued as a supplement to that coverage;~~



k. Coverage issued as supplemental to liability insurance, workers' compensation, or similar insurance; or

l. Automobile medical payment insurance.

9.6. A health care provider is exempt from complying with this section if the health care provider determines and documents that due to emergency circumstances, compliance might jeopardize the health or safety of the patient.

7. The commissioner may adopt rules to implement this section.

**SECTION 2. AMENDMENT.** Section 10 of chapter 194 of the 2017 Session Laws is amended and reenacted as follows:

**SECTION 10. EFFECTIVE DATE ~~—CONTINGENT EFFECTIVE DATE.~~** Sections 2, 4, 5, and 6 of this Act become effective January 1, 2018. ~~If section 6 of this Act is declared invalid, sections~~ Sections 3, 7, and 8 of this Act become effective on the date ~~the insurance commissioner certifies the invalidity of section 6 to the secretary of state and the legislative council~~ August 1, 2021."

Page 1, line 19, replace "most recent" with "prior"

Renumber accordingly

**2021 HOUSE CONFERENCE COMMITTEE  
ROLL CALL VOTES**

BILL/RESOLUTION NO. HB 1493 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. Robin Weisz                      Seconded by: Sen. Judy Lee

Representatives	4/15/21			Yes	No		Senators	4/15/21			Yes	No
Chairman Clayton Fegley	P			Y			Chairman Judy Lee	P			Y	
Rep. Robin Weisz	P			Y			Sen. Kristin Roers	P			Y	
Rep. Mary Schneider	P			Y			Sen. Oley Larsen	P			Y	
Total Rep. Vote				3			Total Senate Vote				3	

Vote Count              Yes: 6                      No: 0                      Absent: 0

House Carrier    Rep. Clayton Fegley              Senate Carrier    Sen. Kristin Roers

LC Number    21.0994                      . 01005                      of amendment

LC Number              21.0994                      . 03000                      of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

Insert LC: 21.0994.01005  
House Carrier: Fegley  
Senate Carrier: K. Roers

### REPORT OF CONFERENCE COMMITTEE

**HB 1493:** Your conference committee (Sens. Lee, K. Roers, O. Larsen and Reps. Fegley, Weisz, Schneider) recommends that the **HOUSE ACCEDE** to the Senate amendments as printed on HJ page 1429, adopt further amendments as follows, and place HB 1493 on the Seventh order:

That the House accede to the Senate amendments as printed on page 1429 of the House Journal and page 1116 of the Senate Journal and that House Bill No. 1493 be further amended as follows:

Page 1, line 1, after "to" insert "amend and reenact section 26.1-47-10 of the North Dakota Century Code and section 10 of chapter 194 of the 2017 Session Laws, relating to air ambulance services; and to"

Page 1, after line 2, insert:

**"SECTION 1. AMENDMENT.** Section 26.1-47-10 of the North Dakota Century Code is amended and reenacted as follows:

**26.1-47-10. Preferred provider arrangements - Requirements for accessing air ambulance providers. (~~Contingent effective date~~ - [See note](#))**

1. In addition to the other preferred provider arrangement requirements under this chapter, a preferred provider arrangement must require the health care insurer and health care provider comply with this section.
2. Except as otherwise provided under this section, before a health care provider arranges for air ambulance services for an individual the health care provider knows to be a covered person, the health care provider shall request a prior authorization from the covered person's health care insurer for the air ambulance services to be provided to the covered person. If the health care provider is unable to request or obtain prior authorization from the covered person's health care insurer:
  - a. The health care provider shall provide the covered person or the covered person's authorized representative an out-of-network services written disclosure stating the following:
    - (1) Certain air ambulance providers may be called upon to render care to the covered person during the course of treatment;
    - (2) These air ambulance providers might not have contracts with the covered person's health care insurer and are, therefore, considered to be out of network;
    - (3) If these air ambulance providers do not have contracts with the covered person's health care insurer, the air ambulance services will be provided on an out-of-network basis;
    - (4) A description of the range of the charges for the out-of-network air ambulance services for which the covered person may be responsible;
    - (5) A notification the covered person or the covered person's authorized representative may agree to accept and pay the charges for the out-of-network air ambulance services, contact the covered person's health care insurer for additional assistance, or rely on other rights and remedies that may be available under state or federal law; and

Insert LC: 21.0994.01005  
House Carrier: Fegley  
Senate Carrier: K. Roers

- (6) A statement indicating the covered person or the covered person's authorized representative may obtain a list of air ambulance providers from the covered person's health care insurer which are preferred providers and the covered person or the covered person's representative may request those participating air ambulance providers be accessed by the health care provider.
  - b. Before air ambulance services are accessed for the covered person, the health care provider shall provide the covered person or the covered person's authorized representative the written disclosure, as outlined by subdivision a and obtain the covered person's or the covered person's authorized representative's signature on the disclosure document acknowledging the covered person or the covered person's authorized representative received the disclosure document before the air ambulance services were accessed. If the health care provider is unable to provide the written disclosure or obtain the signature required under this subdivision, the health care provider shall document the reason, which may include the health and safety of the patient. The health care provider documentation satisfies the requirement under this subdivision.
3. ~~This section does not:~~
  - a. ~~Preclude a covered person from agreeing to accept and pay the charges for the out-of-network services and not access the covered person's health care insurer's out-of-network air ambulance billing process described under this section.~~
  - b. ~~Preclude a covered person from agreeing to accept and pay the bill received from the out-of-network air ambulance provider or from not accessing the air ambulance provider mediation process described under this section.~~
  - c. ~~Regulate an out-of-network air ambulance provider's ability to charge certain fees for services or to charge any amount of fee for services provided to a covered person by the out-of-network air ambulance provider.~~
4. ~~A health care insurer shall develop a program for payment of out-of-network air ambulance bills submitted under this section. A health benefit plan may not be issued in this state without the terms of the health benefit plan including the provisions of the health care insurer's program for payment of out-of-network air ambulance bills.~~
  - a. ~~A health care insurer may elect to pay out-of-network air ambulance provider bills as submitted, or the health care insurer may elect to use the out-of-network air ambulance provider mediation process described in subsection 5.~~
  - b. ~~This section does not preclude a health care insurer and an out-of-network facility air ambulance provider from agreeing to a separate payment arrangement.~~
5. ~~A health care insurer shall establish an air ambulance provider mediation process for payment of out-of-network air ambulance provider bills. A health benefit plan may not be issued in this state if the terms of the health benefit plan do not include the provisions of the health care~~

~~insurer's air ambulance provider mediation process for payment of out-of-network air ambulance provider bills.~~

- ~~a. A health care insurer's air ambulance provider mediation process must be established in accordance with mediation standards recognized by the department by rule.~~
- ~~b. If the health care insurer and the out-of-network air ambulance provider agree to a separate payment arrangement or if the covered person agrees to accept and pay the out-of-network air ambulance provider's charges for the out-of-network services, compliance with the air ambulance provider mediation process is not required.~~
- ~~c. A health care insurer shall maintain records on all requests for mediation and completed mediation under this subsection for one year and, upon request of the commissioner, submit a report to the commissioner in the format specified by the commissioner.~~
- 6. The rights and remedies provided under this section to covered persons are in addition to and may not preempt any other rights and remedies available to covered persons under state or federal law.
- ~~7.4.~~ The department shall enforce this section and shall report a violation of this section by a facility to the state department of health.
- ~~8.5.~~ This section does not apply to a policy or certificate of insurance, whether written on a group or individual basis, which provides coverage limited to:
  - a. A specified disease, a specified accident, or accident-only coverage;
  - b. Credit;
  - c. Dental;
  - d. Disability;
  - e. Hospital;
  - f. Long-term care insurance as defined by chapter 26.1-45;
  - g. Vision care or any other limited supplemental benefit;
  - h. A Medicare supplement policy of insurance, as defined by the commissioner by rule or coverage under a plan through Medicare;
  - i. Medicaid;
  - j. The federal employees health benefits program and any coverage issued as a supplement to that coverage;
  - k. Coverage issued as supplemental to liability insurance, workers' compensation, or similar insurance; or
  - l. Automobile medical payment insurance.
- 9.6. A health care provider is exempt from complying with this section if the health care provider determines and documents that due to emergency circumstances, compliance might jeopardize the health or safety of the patient.

Insert LC: 21.0994.01005  
House Carrier: Fegley  
Senate Carrier: K. Roers

7. The commissioner may adopt rules to implement this section.

**SECTION 2. AMENDMENT.** Section 10 of chapter 194 of the 2017 Session Laws is amended and reenacted as follows:

**SECTION 10. EFFECTIVE DATE ~~–CONTINGENT EFFECTIVE DATE.~~**

Sections 2, 4, 5, and 6 of this Act become effective January 1, 2018. ~~If section 6 of this Act is declared invalid, sections~~ Sections 3, 7, and 8 of this Act become effective on the date the insurance commissioner certifies the invalidity of section 6 to the secretary of state and the legislative council August 1, 2021."

Page 1, line 19, replace "most recent" with "prior"

Renumber accordingly

HB 1493 was placed on the Seventh order of business on the calendar.

21.0994.01004  
Title.

Prepared by the Legislative Council staff for  
Representative Weisz  
April 12, 2021

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1493

That the House accede to the Senate amendments as printed on page 1429 of the House Journal and page 1116 of the Senate Journal and that House Bill No. 1493 be further amended as follows:

Page 1, line 1, after "to" insert "amend and reenact section 26.1-47-10 of the North Dakota Century Code and section 10 of chapter 194 of the 2017 Session Laws, relating to air ambulance services; and to"

Page 1, after line 2, insert:

**"SECTION 1. AMENDMENT.** Section 26.1-47-10 of the North Dakota Century Code is amended and reenacted as follows:

**26.1-47-10. Preferred provider arrangements - Requirements for accessing air ambulance providers. (~~Contingent effective date~~—See note)**

1. In addition to the other preferred provider arrangement requirements under this chapter, a preferred provider arrangement must require the health care insurer and health care provider comply with this section.
2. Except as otherwise provided under this section, before a health care provider arranges for air ambulance services for an individual the health care provider knows to be a covered person, the health care provider shall request a prior authorization from the covered person's health care insurer for the air ambulance services to be provided to the covered person. If the health care provider is unable to request or obtain prior authorization from the covered person's health care insurer:
  - a. The health care provider shall provide the covered person or the covered person's authorized representative an out-of-network services written disclosure stating the following:
    - (1) Certain air ambulance providers may be called upon to render care to the covered person during the course of treatment;
    - (2) These air ambulance providers might not have contracts with the covered person's health care insurer and are, therefore, considered to be out of network;
    - (3) If these air ambulance providers do not have contracts with the covered person's health care insurer, the air ambulance services will be provided on an out-of-network basis;
    - (4) A description of the range of the charges for the out-of-network air ambulance services for which the covered person may be responsible;
    - (5) A notification the covered person or the covered person's authorized representative may agree to accept and pay the charges for the out-of-network air ambulance services, contact



the covered person's health care insurer for additional assistance, or rely on other rights and remedies that may be available under state or federal law; and

- (6) A statement indicating the covered person or the covered person's authorized representative may obtain a list of air ambulance providers from the covered person's health care insurer which are preferred providers and the covered person or the covered person's representative may request those participating air ambulance providers be accessed by the health care provider.
  - b. Before air ambulance services are accessed for the covered person, the health care provider shall provide the covered person or the covered person's authorized representative the written disclosure, as outlined by subdivision a and obtain the covered person's or the covered person's authorized representative's signature on the disclosure document acknowledging the covered person or the covered person's authorized representative received the disclosure document before the air ambulance services were accessed. If the health care provider is unable to provide the written disclosure or obtain the signature required under this subdivision, the health care provider shall document the reason, which may include the health and safety of the patient. The health care provider documentation satisfies the requirement under this subdivision.
3. ~~This section does not:~~
- a. ~~Preclude a covered person from agreeing to accept and pay the charges for the out-of-network services and not access the covered person's health care insurer's out-of-network air ambulance billing process described under this section.~~
  - b. ~~Preclude a covered person from agreeing to accept and pay the bill received from the out-of-network air ambulance provider or from not accessing the air ambulance provider mediation process described under this section.~~
  - c. ~~Regulate an out-of-network air ambulance provider's ability to charge certain fees for services or to charge any amount of fee for services provided to a covered person by the out-of-network air ambulance provider.~~
4. ~~A health care insurer shall develop a program for payment of out-of-network air ambulance bills submitted under this section. A health benefit plan may not be issued in this state without the terms of the health benefit plan including the provisions of the health care insurer's program for payment of out-of-network air ambulance bills.~~
- a. ~~A health care insurer may elect to pay out-of-network air ambulance provider bills as submitted, or the health care insurer may elect to use the out-of-network air ambulance provider mediation process described in subsection 5.~~



- ~~b. This section does not preclude a health care insurer and an out-of-network facility air ambulance provider from agreeing to a separate payment arrangement.~~
- ~~5. A health care insurer shall establish an air ambulance provider mediation process for payment of out-of-network air ambulance provider bills. A health benefit plan may not be issued in this state if the terms of the health benefit plan do not include the provisions of the health care insurer's air ambulance provider mediation process for payment of out-of-network air ambulance provider bills.~~
  - ~~a. A health care insurer's air ambulance provider mediation process must be established in accordance with mediation standards recognized by the department by rule.~~
  - ~~b. If the health care insurer and the out-of-network air ambulance provider agree to a separate payment arrangement or if the covered person agrees to accept and pay the out-of-network air ambulance provider's charges for the out-of-network services, compliance with the air ambulance provider mediation process is not required.~~
  - ~~c. A health care insurer shall maintain records on all requests for mediation and completed mediation under this subsection for one year and, upon request of the commissioner, submit a report to the commissioner in the format specified by the commissioner.~~
- ~~6. The rights and remedies provided under this section to covered persons are in addition to and may not preempt any other rights and remedies available to covered persons under state or federal law.~~
- ~~7.4. The department shall enforce this section and shall report a violation of this section by a facility to the state department of health.~~
- ~~8.5. This section does not apply to a policy or certificate of insurance, whether written on a group or individual basis, which provides coverage limited to:~~
  - ~~a. A specified disease, a specified accident, or accident-only coverage;~~
  - ~~b. Credit;~~
  - ~~c. Dental;~~
  - ~~d. Disability;~~
  - ~~e. Hospital;~~
  - ~~f. Long-term care insurance as defined by chapter 26.1-45;~~
  - ~~g. Vision care or any other limited supplemental benefit;~~
  - ~~h. A Medicare supplement policy of insurance, as defined by the commissioner by rule or coverage under a plan through Medicare;~~
  - ~~i. Medicaid;~~
  - ~~j. The federal employees health benefits program and any coverage issued as a supplement to that coverage;~~

k. Coverage issued as supplemental to liability insurance, workers' compensation, or similar insurance; or

l. Automobile medical payment insurance.

9-6. A health care provider is exempt from complying with this section if the health care provider determines and documents that due to emergency circumstances, compliance might jeopardize the health or safety of the patient.

7. The commissioner may adopt rules to implement this section.

**SECTION 2. AMENDMENT.** Section 10 of chapter 194 of the 2017 Session Laws is amended and reenacted as follows:

**SECTION 10. EFFECTIVE DATE ~~–CONTINGENT EFFECTIVE DATE.~~** Sections 2, 4, 5, and 6 of this Act become effective January 1, 2018. ~~If section 6 of this Act is declared invalid, sections~~ Sections 3, 7, and 8 of this Act become effective on the date ~~the insurance commissioner certifies the invalidity of section 6 to the secretary of state and the legislative council~~ August 1, 2021."

Renumber accordingly