

SENATE BILL REPORT

ESSB 6534

As Amended by House, March 12, 2020

Title: An act relating to an ambulance transport quality assurance fee.

Brief Description: Creating an ambulance transport quality assurance fee.

Sponsors: Senate Committee on Health & Long Term Care (originally sponsored by Senator Cleveland).

Brief History:

Committee Activity: Health & Long Term Care: 1/29/20, 1/31/20 [DPS-WM].

Ways & Means: 2/10/20, 2/11/20 [DPS (HLTC), DNP, w/oRec].

Floor Activity:

Passed Senate: 3/03/20, 49-0.

Passed House: 3/12/20, 87-10.

Brief Summary of Engrossed First Substitute Bill

- Establishes an ambulance transport quality assurance fee program for Medicaid-funded emergency ambulance transports provided by private ambulance transport providers.

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

Majority Report: That Substitute Senate Bill No. 6534 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Cleveland, Chair; Randall, Vice Chair; O'Ban, Ranking Member; Conway, Dhingra, Frockt, Keiser, Muzzall, Rivers and Van De Wege.

Staff: LeighBeth Merrick (786-7445)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Operating, Capital Lead; Braun, Ranking Member; Brown, Assistant Ranking Member, Operating; Honeyford, Assistant

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Ranking Member, Capital; Billig, Carlyle, Conway, Darneille, Dhingra, Hasegawa, Hunt, Keiser, Lias, Muzzall, Pedersen, Rivers, Schoesler, Van De Wege, Wagoner and Warnick.

Minority Report: Do not pass.

Signed by Senator Mullet, Capital Budget Cabinet.

Minority Report: That it be referred without recommendation.

Signed by Senators Becker and Wilson, L..

Staff: Sandy Stith (786-7710)

Background: Medicaid-Funded Emergency Medical Transportation. The Health Care Authority (HCA) currently reimburses providers for emergency medical transportation on a fee-for-service basis. Providers are reimbursed for emergency medical transportation for ambulance transportation, during which the client receives needed emergency medical services en route to an appropriate medical facility. This includes ambulance transportation between medical facilities. Services rendered may include either basic or advanced life support services. Providers are also reimbursed for mileage and tolls or fees, such as parking, incurred during transporting the client. Nonemergency transportation is reimbursed when the client must be transported by stretcher or gurney for medical safety reasons, or must have medical attention from trained medical personnel available en route.

In 2015, the Legislature established the Ground Emergency Medical Transportation (GEMT) program to provide supplemental payments to qualified publicly owned or operated ground emergency medical transportation providers. The supplemental payments are used to cover the funding gap between a provider's actual costs per transport and the allowable amount received from Washington Apple Health (Medicaid) and any other sources of reimbursement.

Provider Assessments. Health care provider-related charges, such as assessments, fees, or taxes, have been used in some states to help fund the costs of the Medicaid program. Under federal rules, these provider-related charges include any mandatory payment where at least 85 percent of the burden falls on health care providers. States collect funds from health care providers and pay them back as Medicaid payments. States use these provider-related payments to claim federal matching funds. Federal laws requires health care provider-related assessments, fees, and taxes be broad-based, uniform, and in compliance with hold harmless provisions. To be broad-based and uniform, they must be applied to all providers of the same class and be imposed at the same rate to each provider in that class. If a provider-related assessment, fee, or tax is not broad-based or uniform, these provisions may be waived if the assessment, fee, or tax is generally redistributive. The hold harmless provision may not be waived.

Summary of Engrossed First Substitute Bill: Quality Assurance Fee Program. The program only applies to private ambulance transport providers (providers). Each provider is required to submit certain data to HCA. HCA must calculate the quality assurance fee based on transport and gross receipts data they receive from the providers. The providers are required to pay the fee for each emergency ambulance transport. In return, HCA uses the two-thirds of the fees collected to draw down federal match and apply an add-on to Medicaid rates for providers of emergency ambulance transports. The program is conditional upon a

number of items, including approval from the Centers for Medicare and Medicaid Services (CMS). HCA is authorized to adopt rules to implement the program. The program expires July 1, 2024.

Data Collection. HCA must establish the form and schedule for providers to report the required data to HCA. On or after August 15, 2020, the provider must report the number of emergency ambulance transports by payer type and the annual gross receipts for the state fiscal year ending June 30, 2020. On or after the 45th day of each state fiscal quarter, beginning with the state fiscal quarter ending September 30, 2020, the provider must report the number of emergency ambulance transports by payer type for each state fiscal quarter. On or after the 45th day after the end of each state fiscal year, the provider must report the annual gross receipts for the state fiscal year. HCA may impose a civil penalty of \$100 per day against a provider that fails to report the data within the required timeframes. HCA must deposit any collected civil penalties into the program's fund.

Fee Assessment. Beginning July 1, 2021, HCA must annually calculate the fee rate. Each provider must quarterly pay the fee based on the provider's number of emergency ambulance transports in the second quarter preceding the state fiscal quarter for which the fee is assessed. The fee rate is calculated by multiplying the projected total annual gross receipts of all providers by 5.5 percent and dividing its product by the projected total annual ambulance transports by all providers for the state fiscal year. One-third of the fees collected must be used in lieu of state general fund payments for medicaid emergency ambulance services.

HCA must quarterly send each provider an assessment notice no later than 30 days prior to the beginning of the applicable state fiscal quarter, and no later than 30 days before the payment is due. HCA must establish the fee payment due dates, but it must not be earlier than 15 days after the beginning of the applicable state fiscal quarter. HCA must assess interest on fees not paid on the due date and deposit the interest into the program's fund. If the fee payment is more than 60 days overdue, HCA may deduct the unpaid fee and interest owed from any Medicaid reimbursements owed to the provider.

The program's fund is known as the ambulance transport fund and is in the custody of the state treasury. The fund must retain its interest and must only be used to receive and disburse funds in accordance with the program.

Add-on. Beginning July 1, 2021, Medicaid reimbursement for provider's emergency ambulance transports must be increased by applying an add-on. The total reimbursement with the add-on must result in a total reimbursement for each emergency ambulance transport that is at least 60 percent of the statewide medicare rate for an emergency ambulance transport or similar service. The add-on must only be funded from the fees and interest earned on the fees, and federal reimbursement or other related federal funds.

Centers for Medicare and Medicaid Services Approval. HCA must request CMS approval to implement the program and is authorized to modify the program as necessary to obtain CMS approval. The fee must only be assessed and collected for quarters in which the add-on is paid. If CMS approval is delayed, HCA may assess the amount the provider would be required to pay if the program was approved, but the provider is not required to pay the fee until the program is approved.

Conditions. Implementation of the program is conditional upon:

- CMS program approval and providing federal match;
- the state not reducing its fee-for-service reimbursement for ambulance transport providers;
- the state not delegating responsibility to pay for ambulance transports to managed care organizations, prepaid inpatient, or ambulatory health plans; and
- the program not prohibiting, diminishing, or harming the GEMT reimbursement program.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony on Original Bill (Health & Long Term Care): *The committee recommended a different version of the bill than what was heard.* PRO: This bill has been in front of the Legislature for a number of years, and stakeholders worked over the interim to refine the proposal. Medicaid rates for ambulances have not increased since 2006. Washington's rate is one of the lowest rates in the country. Meanwhile, providers costs such as fuel, health care for employees, minimum wage, medications and equipment have gone through the roof. The rate does not cover the costs. The program is funded by provider imposed fees and federal match, and will not cost the state any money. The bill will ensure people have access to high quality EMS. Both labor and employers agree on this bill because it will help fund a living wage for employees. We have legal analysis that indicates the program will have zero impact on GEMT. California received CMS approval for a similar proposal, and we have agree to language that will offer reassurances to GEMT providers.

Persons Testifying (Health & Long Term Care): PRO: Senator Annette Cleveland, Prime Sponsor; Mary Keefe, Teamsters Local 174; Timia Olsen, AMR; Chris Clem, Olympic Ambulance; Jason Sorrick, American Medical Response; Paul Priest, AMR.

Persons Signed In To Testify But Not Testifying (Health & Long Term Care): PRO: Liz Brown, Teamsters Local 174; Patricia Seib, Seattle Children's Hospital; Mike Andrews, Washington Ambulance Association; Amy Anderson, Association of Washington Business.

OTHER: MaryAnne Lindeblad, HealthCare Authority.

Staff Summary of Public Testimony on First Substitute (Ways & Means): PRO: It has been 14 years since the last rate increase for emergency ground transport. Our employees currently make \$1 above minimum wage and some are on food stamps. We are seeking a rate increase to help us attain a livable wage. Our local union unanimously supports this bill. This is the third year we have attempted to get this legislation passed. Public emergency transportation providers have a safety net, but private providers do not. This bill would help with that. Medicaid transports have increased with the homelessness epidemic as have

transports related to opiate overdoses. Larger volume related to Medicaid has not been met with increased reimbursement. Our costs currently exceed our reimbursement from Medicaid. We need this increase to help prevent further providers from going out of business.

Persons Testifying (Ways & Means): PRO: Timia Olsen, AMR EMT/ Teamsters 763 Shop Steward; Joel Bentson-Royal, AMR EMT / Teamsters 763 Shop Steward; Rocco Roncarati, American Medical Response; Mike Andrews, Washington Ambulance Association.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.

EFFECT OF HOUSE AMENDMENT(S):

- Modifies the intent section.
- Redefines "aggregate fee schedule amount" and "ambulance transport provider." Clarifies that "ambulance transport provider" refers specifically to ground emergency ambulance transport providers.
- Limits the allowable uses for the quality assurance fees so that: (a) Ten percent of the annual quality assurance fee collection amount may be used for state health care coverage and for the Health Care Authority's staffing and administrative costs to implement the program and the remaining annual quality assurance fee revenues be used for an add-on payment to ambulance transport providers. Removes the use of funding to refund erroneous or excessive payments made by hospitals. Removes the requirement that one-third of the fees collected be used in lieu of state general fund payments for Medicaid emergency ambulance services.
- Sets the quality assurance fee rate calculation at a ratio where the numerator is the product of the projected aggregate fee schedule amount, and the denominator is ninety percent of the projected total annual emergency ambulance transports by all ambulance transport providers. Requires the HCA to ensure that the actual or projected available fee amount for each applicable state fiscal year remains approximately equal to the aggregate fee schedule amount for the state fiscal year.
- Modifies the add-on to the associated Medicaid fee-for service payment schedule by removing the requirement that the total reimbursement, including the program add-on, be at least sixty percent of the statewide average Medicare rate of an emergency ambulance transport or similar service, and instead requires the HCA to base the calculation on the number of emergency ambulance transports and gross revenue data submitted. Requires the fee-for service add-on to be equal to the quotient of the available fee amount projected by the HCA on or before June 15, 2021, for the 2021–22 state fiscal year, divided by the total Medicaid emergency ambulance transports projected by the authority on or before June 15, 2021, for the 2020–21 state fiscal year. Requires that the resulting fee-for-service payment schedule amounts be equal to the sum of the Medicaid fee-for-service payment schedule amount and the add-on increase.
- Further conditions the assessment, collection, and disbursement of funds on the state continuing its maintenance of effort for the level of state funding not derived from the quality assurance fee of emergency medical transports reimbursement for the 2021–22 rate year, and for each applicable rate year thereafter, in an amount not less than the amount that the state would have paid for the same number of emergency medical transports under the rate methodology that was in effect on July 1, 2019.