

LEGISLATIVE BILL 578

Approved by the Governor May 22, 2017

Introduced by McDonnell, 5; Hilkemann, 4; Kolterman, 24; Williams, 36; Brewer, 43.

A BILL FOR AN ACT relating to health care; to amend section 68-901, Revised Statutes Cumulative Supplement, 2016; to adopt the Ground Emergency Medical Transport Act; to harmonize provisions; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 68-901, Revised Statutes Cumulative Supplement, 2016, is amended to read:

68-901 Sections 68-901 to 68-976 and sections 2 to 13 of this act shall be known and may be cited as the Medical Assistance Act.

Sec. 2. Sections 2 to 13 of this act shall be known and may be cited as the Ground Emergency Medical Transport Act.

Sec. 3. For purposes of the Ground Emergency Medical Transport Act:

(1) Advanced life support means special services designed to provide definitive prehospital emergency medical care, including, but not limited to, cardiopulmonary resuscitation, cardiac monitoring, cardiac defibrillation, advanced airway management, intravenous therapy, administration with drugs and other medicinal preparations, and other specified techniques and procedures;

(2) Basic life support means emergency first aid and cardiopulmonary resuscitation procedures to maintain life without invasive techniques;

(3) Capitation payment means a payment the state makes periodically to a contractor on behalf of each beneficiary enrolled under a contract and based on the actuarially sound capitation rate for the provision of services under the state plan and which the state makes regardless of whether the particular beneficiary receives services during the period covered by the payment;

(4) Dry run means ground emergency medical transport services provided by an eligible ground emergency medical transport services provider to an individual who is released on the scene without transportation by ambulance to a medical facility;

(5) Ground emergency medical transport means the act of transporting an individual from any point of origin to the nearest medical facility capable of meeting the emergency medical needs of the patient, including dry runs;

(6) Ground emergency medical transport services means advanced life support, limited advanced life support, and basic life support services provided to an individual by ground emergency medical transport services providers before or during ground emergency medical transport;

(7) Limited advanced life support means special services to provide prehospital emergency medical care limited to techniques and procedures that exceed basic life support but are less than advanced life support services; and

(8) Medical transport means transportation to secure medical examinations and treatment for an individual.

Sec. 4. It is the intent of the Legislature that no General Funds be used in carrying out the Ground Emergency Medical Transport Act.

Revenue from the intergovernmental transfer program created under the Ground Emergency Medical Transport Act shall be deposited into the Health and Human Services Cash Fund.

Sec. 5. An eligible provider as described in section 6 of this act shall, in addition to the rate of payment that the provider would otherwise receive for medicaid ground emergency medical transport services, receive supplemental reimbursement pursuant to the Ground Emergency Medical Transport Act.

Sec. 6. Participation in the supplemental reimbursement program by an eligible provider is voluntary. A provider is eligible for supplemental reimbursement only if the provider has all of the following characteristics continuously during a fiscal year of the state:

(1) Provides ground emergency medical transport services to medicaid beneficiaries;

(2) Is enrolled as a medicaid provider for the period being claimed;

(3) Is owned or operated by the state or a city, county, rural or suburban fire protection district, hospital district, federally recognized Indian tribe, or another unit of government; and

(4) Participates in the intergovernmental transfer program created pursuant to section 8 of this act.

Sec. 7. (1) An eligible provider's supplemental reimbursement pursuant to the Ground Emergency Medical Transport Act shall be calculated and paid as follows:

(a) The supplemental reimbursement shall equal the amount of federal financial participation received as a result of the claims submitted pursuant to the act; and

(b) In no instance may the amount certified pursuant to section 10 of this act, when combined with the amount received from all other sources of reimbursement from the medical assistance program, exceed one hundred percent of actual costs, as determined pursuant to the medicaid state plan, for ground

emergency medical transport services.

(2) The supplemental reimbursement shall be distributed exclusively to eligible providers under a payment method based on ground emergency medical transport services provided to medicaid beneficiaries by eligible providers on a per-transport basis or other federally permissible basis.

Sec. 8. (1) The department shall design and implement, in consultation with eligible providers as described in section 6 of this act, an intergovernmental transfer program relating to medicaid managed care ground emergency medical transport services, including services provided by emergency medical technicians at the basic, advanced, and paramedic levels in prestabilization and preparation for transport, in order to increase capitation payments for the purpose of increasing reimbursement to eligible providers.

(2)(a) To the extent intergovernmental transfers are voluntarily made by, and accepted from, an eligible provider described in section 6 of this act or a governmental entity affiliated with an eligible provider, the department shall make increased capitation payments to applicable medicaid managed care plans.

(b) The increased capitation payments made pursuant to this section shall be in actuarially determined amounts at least to the extent permissible under federal law.

(c) Except as provided in subsection (6) of this section, all funds associated with intergovernmental transfers made and accepted pursuant to this section shall be used to fund additional payments to medicaid managed care plans.

(d) Medicaid managed care plans shall enter into contracts or contract amendments with providers for the disbursement of any amount of increased capitation payments made pursuant to this section.

(3) The intergovernmental transfer program developed pursuant to this section shall be implemented on the date federal approval is obtained and only to the extent intergovernmental transfers from the eligible provider or the governmental entity with which it is affiliated are provided for this purpose.

(4) To the extent permitted by federal law, the department may implement the intergovernmental transfer program and increased capitation payments pursuant to this section retroactive to the date that the state plan amendment is submitted to the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services pursuant to section 11 of this act.

(5) Participation in intergovernmental transfers under this section is voluntary on the part of the transferring entities for purposes of all applicable federal laws.

(6)(a) As a condition of participation under this section, each eligible provider or the governmental entity affiliated with an eligible provider shall agree to reimburse the department for any costs associated with implementing such program.

(b) Intergovernmental transfers described in this section are subject to a twenty percent administration fee of the nonfederal share paid to the department and are allowed to count as a cost of providing the services.

(7) As a condition of participation under this section, medicaid managed care plans, eligible providers, and governmental entities affiliated with eligible providers shall agree to comply with any requests for information or similar data requirements imposed by the department for purposes of obtaining supporting documentation necessary to claim federal funds or to obtain federal approval.

Sec. 9. (1) An eligible provider, as a condition of receiving supplemental reimbursement, shall enter into and maintain an agreement with the department for purposes of implementing the Ground Emergency Medical Transport Act and reimbursing the department for the costs of administering the act.

(2) The nonfederal share of the supplemental reimbursement submitted to the federal Centers for Medicare and Medicaid Services for purposes of claiming federal financial participation shall be paid only with funds from the governmental entities described in subdivision (3) of section 6 of this act and certified to the department as provided in section 10 of this act.

Sec. 10. If a governmental entity elects to seek supplemental reimbursement pursuant to the Ground Emergency Medical Transport Act on behalf of an eligible provider owned or operated by the entity, the governmental entity shall:

(1) Certify, in conformity with the requirements of 42 C.F.R. 433.51, that the claimed expenditures for ground emergency medical transport services are eligible for federal financial participation;

(2) Provide evidence supporting the certification as specified by the department;

(3) Submit data as specified by the department to determine the appropriate amounts to claim as expenditures qualifying for federal financial participation; and

(4) Keep, maintain, and have readily retrievable any records specified by the department to fully disclose reimbursement amounts to which the eligible provider is entitled and any other records required by the federal Centers for Medicare and Medicaid Services.

Sec. 11. (1) On or before January 1, 2018, the department shall submit an application to the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services amending the medicaid state plan to provide for the supplemental reimbursement rate for ground emergency medical transport services as specified in the Ground Emergency Medical Transport Act.

(2) The department may limit the program to those costs that are allowable

expenditures under Title XIX of the federal Social Security Act, 42 U.S.C. 1396 et seq., as such act and sections existed on April 1, 2017. Without such federal approval, the Ground Emergency Medical Transport Act may not be implemented.

(3) The intergovernmental transfer program authorized in section 8 of this act shall be implemented only if and to the extent federal financial participation is available and is not otherwise jeopardized and any necessary federal approval has been obtained.

(4) To the extent that the chief executive officer of the department determines that the payments made pursuant to section 8 of this act do not comply with federal medicaid requirements, the chief executive officer may return or not accept an intergovernmental transfer and may adjust payments as necessary to comply with federal medicaid requirements.

Sec. 12. (1) The department shall submit claims for federal financial participation for the expenditures for the services described in section 11 of this act that are allowable expenditures under federal law.

(2) The department shall annually submit any necessary materials to the federal government to provide assurances that claims for federal financial participation will include only those expenditures that are allowable under federal law.

(3) If either a final judicial determination is made by any court of appellate jurisdiction or a final determination is made by the administrator of the federal Centers for Medicare and Medicaid Services that the supplemental reimbursement provided for in the act shall be made to any provider not described in this section, the chief executive officer of the department shall execute a declaration stating that the determination has been made and such supplemental reimbursement becomes inoperative on the date of such determination.

Sec. 13. To the extent federal approval is obtained, the increased capitation payments under section 8 of this act may commence for dates of service on or after January 1, 2018.

Sec. 14. Original section 68-901, Revised Statutes Cumulative Supplement, 2016, is repealed.