



State of Tennessee

PUBLIC CHAPTER NO. 1052

HOUSE BILL NO. 1719

By Representatives Reedy, Keisling, Curtis Johnson, Cepicky, Thompson

Substituted for: Senate Bill No. 1872

By Senators Yager, Bowling

AN ACT to amend Tennessee Code Annotated, Title 5; Title 7; Title 56; Title 68 and Title 71, relative to an assessment on ground ambulance service providers.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 71-5-1502, is amended by deleting the section and substituting instead the following:

As used in this part:

(1) "Ambulance provider" means a public or private ground-based ambulance service, other than an ambulance service based on federal property, that bills for transports and has a base of operations within this state;

(2) "Assessment" means the medicaid ambulance provider assessment established by this part;

(3) "Bureau" means the bureau of TennCare;

(4) "Medicaid transport" means qualifying ground ambulance services approved by CMS, and consistent with services identified in 42 CFR 433.56, and paid by medicaid, as recorded by the managed care organization under contract to the bureau;

(5) "Net operating revenue" means all revenues, regardless of payer source, collected by ambulance providers for patient services excluding charity care or any other uncompensated patient services, in accordance with 42 CFR 433.68;

(6) "Office of emergency medical services" means the office of emergency medical services within the department of health; and

(7) "Taxable transports" means the total ground ambulance transports reported during the base period by a provider to the office of emergency medical services that qualify as a permissible service to impose a healthcare-related provider assessment pursuant to 42 CFR 433.56.

SECTION 2. Tennessee Code Annotated, Section 71-5-1504, is amended by deleting the section and substituting instead the following:

(a) The bureau shall calculate a uniform assessment per ground transport for each ambulance provider pursuant to subsection (b).

(b) Except as otherwise provided in subsection (c), each quarter of the state fiscal year, the assessment due from each ambulance provider must equal one-fourth (1/4) the amount set in subsection (e) divided by the total taxable transports for the respective quarter and then multiplied by each provider's total taxable quarterly transports. The total taxable quarterly transport data must be based on the most recent available completed quarter of transport data recorded by the office of emergency medical services. Ambulance providers shall submit a quarterly reporting of all transports to the office of emergency medical services in a manner determined by the office of emergency medical services and the bureau.

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(c) If the quarterly transport data is not adequate or available for the calculation of assessments, then the bureau shall use total taxable transports submitted to the office of emergency medical services from the most recent calendar year that the office of emergency medical services has available. The bureau shall divide the amount set in subsection (e) by the total taxable transports in order to determine the per transport rate that each provider is assessed. If neither the quarterly transport data nor total taxable transports submitted to the office of emergency medical services are adequate or available, then the bureau shall use the annual cost and utilization report submitted pursuant to § 71-5-1507. The adequacy and availability of the data must be determined solely by the bureau.

(d) The bureau shall apply any annual changes to the assessment rate, calculated as described in subsection (b), uniformly to all assessed ambulance providers.

(e)

(1) The total amount of the assessment is ten million six hundred fifty-five thousand dollars (\$10,655,000), except as provided in subdivision (e)(2).

(2) In the event that subdivision (e)(1) causes the statewide assessment to exceed six percent (6%) of statewide net operating revenues, the per transport assessment must equal an amount that generates six percent (6%) of statewide net operating revenues.

SECTION 3. Tennessee Code Annotated, Section 71-5-1505, is amended by deleting the section and substituting instead the following:

(a) Upon approval by the centers for medicare and medicaid services of the assessment imposed by this part, the bureau shall reimburse each ambulance provider with qualifying ground ambulance service medicaid transports in an amount calculated by the bureau. This calculation must be determined by the bureau's estimate of assessment collections and the resulting available program funding, less an annual amount of seventy-five thousand dollars (\$75,000) to offset medicaid administration expenses and an annual amount of eighty thousand dollars (\$80,000) to offset administrative expenses for the Tennessee Ambulance Services Association. If less than these amounts is needed to offset the administrative expenses, the bureau shall only deduct the amount needed. The bureau's estimate of assessment collections and the resulting program funding, netting out any amounts for offset administrative expenses, must be divided by the bureau's projected number of medicaid transports. The resulting amounts are the additional payment amount made for each medicaid transport reported by the MCOs on a quarterly basis. This amount may change from quarter to quarter.

(b) The bureau shall disburse directed payments to ambulance providers based on qualified medicaid transports from the base period as determined by the bureau and as authorized by the centers for medicare and medicaid services.

SECTION 4. Tennessee Code Annotated, Section 71-5-1507, is amended by deleting the section and substituting instead the following:

(a) For the purposes of this part, all ambulance providers shall file an annual cost and utilization report reflecting the most recently completed calendar year.

(b) The submitted cost and utilization report must include:

(1) Specified data on any vehicle owned or operated by the ambulance provider that is used for the purposes of patient transport;

(2) Total number of manual ambulance stretchers;

(3) Total number of hydraulic ambulance stretchers;

(4) Information regarding twelve-lead cardiac capabilities;

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- (5) Revenue data by payer type;
- (6) Total transport data by payer type; and
- (7) Any additional information that is required by the bureau.

(c) The cost and utilization report must be filed with the bureau no later than May 31 of each calendar year and must contain data from the previous calendar year. The bureau shall assess a penalty of one hundred dollars (\$100) for each day that an ambulance provider does not submit a cost and utilization report in compliance with this section. However, the bureau may waive, in whole or in part, any penalty upon a determination that there is good cause for the waiver. The penalty imposed by this section supersedes any penalty imposed under § 12-4-304.

(d) The comptroller of the treasury is granted audit authority to test the accuracy of any and all cost and utilization reports submitted to the bureau for the purposes of this assessment.

SECTION 5. Tennessee Code Annotated, Section 71-5-1508, is amended by deleting the section and substituting:

(a) There is created a special agency account in the state general fund to be known as the "ambulance service assessment revenue fund," referred to in this part as the "fund." The fund must continue without interruptions and must be operated in accordance with this section.

(b) Unless otherwise specified in this part, revenue generated from the following sources must be deposited in the fund:

- (1) Assessments collected by the bureau under this part;
- (2) Penalties collected by the bureau under this part;
- (3) Donations to the fund from private sources; and
- (4) Investment earnings credited to the fund.

(c) Any fund balance remaining unexpended at the end of a fiscal year carries forward into the subsequent fiscal year and must not be diverted to the general fund or any other public fund.

(d) Interest accruing on investments and deposits of the fund carries forward into the subsequent fiscal year and must not be diverted to the general fund or any other public fund.

(e) The state treasurer shall invest the moneys in the fund in accordance with § 9-4-603. The bureau shall administer the funds.

(f) Moneys in the fund must not be diverted to the general fund or any other public fund or any other third party, and moneys in the fund may only be used to:

- (1) Create directed payments for qualified ground ambulance services as determined by the bureau and as authorized by the centers for medicare and medicaid services; and
- (2) Reimburse the amounts designated in § 71-5-1505 for the purpose of administrative expenses.

(g) In the event that this part is rendered invalid and void:

- (1) To the extent federal matching is not reduced due to the impermissibility of the assessments, the bureau shall disburse pursuant to subsection (f) the moneys remaining in the fund that were derived from assessments imposed by this part and deposited before the occurrence of the invalidating event;

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(2) Following disbursement of moneys in the fund pursuant to subdivision (g)(1), the bureau shall refund any remaining moneys to each ambulance provider in proportion to the amount paid by the respective provider during the most recently completed quarterly payment period; and

(3) The invalidity does not affect other provisions or applications of this part that can be given effect without the invalid provision or application, and to that end, the provisions of this part are severable. It is the legislative intent that the directed payments referenced in this part must not be made if the state cannot generate the non-federal share of the payments through the ground ambulance provider assessment.

SECTION 6. Tennessee Code Annotated, Section 71-5-1509, is amended by deleting the section and substituting instead the following:

(a) The bureau shall implement this part to the extent that it is not inconsistent with the TennCare III federal waiver or any successor federal waiver.

(b) The ground ambulance provider assessment established by this part terminates on June 30, 2023.

SECTION 7. Tennessee Code Annotated, Section 71-5-1504, is amended by deleting the section and substituting instead the following:

(a) The bureau shall calculate a uniform assessment per ground transport for each ambulance provider pursuant to subsection (b).

(b) Except as otherwise provided in subsection (c), for the third and fourth quarter of state fiscal year 2021-2022, the assessment due from each ambulance provider for each quarter equals one-half (1/2) the amount set in subsection (e) divided by the total taxable transports for the respective quarter and then multiplied by each provider's total taxable quarterly transports. The total taxable quarterly transport data must be based on the most recent available completed quarter of transport data recorded by the office of emergency medical services. Ambulance providers shall submit a quarterly reporting of all transports to the office of emergency medical services in a manner determined by the office of emergency medical services and the bureau.

(c) If the quarterly transport data is not adequate or available for the calculation of assessments, then the bureau shall use total taxable transports submitted to the office of emergency medical services for calendar year 2020. The bureau shall divide the amount set in subsection (e) by the total taxable transports in order to determine the per transport rate that each provider shall be assessed. If neither the quarterly transport data nor total taxable transports submitted to the office of emergency medical services are adequate or available, then the bureau shall use the annual cost and utilization report submitted pursuant to § 71-5-1507. The adequacy and availability of the data must be determined solely by the bureau.

(d) The bureau shall apply any annual changes to the assessment rate, calculated as described in subsection (b), uniformly to all assessed ambulance providers.

(e)

(1) For the third and fourth quarter of state fiscal year 2021-2022, the total amount of the assessment is five million three hundred twenty-seven thousand five hundred dollars (\$5,327,500), except as provided in subdivision (e)(2).

(2) In the event that subdivision (e)(1) causes the statewide assessment to exceed six percent (6%) of statewide net operating revenues, the per transport assessment must equal an amount that generates six percent (6%) of statewide net operating revenues.

(f) This section is repealed on June 30, 2022.

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SECTION 8. Tennessee Code Annotated, Section 71-5-1507, is amended by deleting the section and substituting instead the following:

(a) For the purposes of this part, all ambulance providers shall file an annual cost and utilization report reflecting the most recently completed calendar year.

(b) The submitted cost and utilization report must include:

(1) Specified data on any vehicle owned or operated by the ambulance provider that is used for the purposes of patient transport;

(2) Total number of manual ambulance stretchers;

(3) Total number of hydraulic ambulance stretchers;

(4) Information regarding twelve-lead cardiac capabilities;

(5) Revenue data by payer type;

(6) Total transport data by payer type; and

(7) Any additional information that is required by the bureau.

(c) The cost and utilization report must be filed with the bureau no later than June 30 of each calendar year and must contain data from the previous calendar year. The bureau may assess a penalty of one hundred dollars (\$100) for each day that an ambulance provider does not submit a cost and utilization report in compliance with this section. However, the bureau may waive, in whole or in part, any penalty upon a determination that there is good cause for the waiver. The penalty imposed by this section supersedes any penalty imposed under § 12-4-304.

(d) The comptroller of the treasury is granted audit authority to test the accuracy of any and all cost and utilization reports submitted to the bureau for the purposes of this assessment.

(e) This section is repealed on June 30, 2022.

SECTION 9. Tennessee Code Annotated, Section 71-5-1509, is amended by deleting the section and substituting instead the following:

(a) The bureau shall implement this part to the extent that it is not inconsistent with the TennCare III federal waiver or any successor federal waiver.

(b) The ground ambulance provider assessment established by this part terminates on June 30, 2022.

(c) This section is repealed on June 30, 2022.

SECTION 10. Sections 2, 4, and 6 take effect July 1, 2022, the public welfare requiring it. All remaining sections of this act take effect upon becoming a law, the public welfare requiring it.

HOUSE BILL NO. 1719

PASSED: April 26, 2022



CAMERON SEXTON, SPEAKER
HOUSE OF REPRESENTATIVES



RANDY MCNALLY
SPEAKER OF THE SENATE

APPROVED this 25th day of May 2022



BILL LEE, GOVERNOR