

ENROLLED ACT NO. 14, SENATE

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2021 GENERAL SESSION

AN ACT relating to public welfare; establishing a private ground ambulance service provider assessment as specified; providing for the use of assessments to obtain federal matching funds; providing for payments to private ground ambulance service providers as specified; establishing an account; providing definitions; providing regulatory authority; providing penalties; clarifying an intergovernmental transfer provision; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 42-11-101 through 42-11-109 are created to read:

CHAPTER 11
PRIVATE GROUND AMBULANCE SERVICE PROVIDER ASSESSMENT ACT

42-11-101. Short title.

This chapter shall be known and may be cited as the "Wyoming Private Ground Ambulance Service Provider Assessment Act."

42-11-102. Definitions.

(a) As used in this chapter:

(i) "Account" means the private ground ambulance service provider assessment account created by W.S. 42-11-103;

(ii) "Ambulance" has the same meaning as defined in W.S. 33-36-102(a)(i)(A) and (B);

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(iii) "Department" means the department of health;

(iv) "Fiscal year" means the twelve (12) month period beginning October 1 and ending September 30;

(v) "Private ground ambulance service provider" means any person operating a licensed ambulance service designed to operate on the ground, which is not owned or operated by the state or any city, town, county, special district or other political subdivision of the state or local government;

(vi) "License" and "licensed" means an ambulance business license issued under W.S. 33-36-104 that is not expired and has not been revoked or suspended;

(vii) "Medicaid" means the medical assistance program established by title XIX of the federal Social Security Act and administered in this state by the department pursuant to the Wyoming Medical Assistance and Services Act;

(viii) "Net patient revenue" means all amounts received by a private ground ambulance service provider licensed under W.S. 33-36-104 for the provision of licensed, ground ambulance services in the state of Wyoming. The department shall establish a procedure for determining net patient revenue for purposes of the assessment provided under W.S. 42-11-104;

(ix) "Quarterly adjustment payment" means the quarterly payments made to private ground ambulance service

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providers that the department may establish and distribute pursuant to W.S. 42-11-106;

(x) "Rate enhancement" means Medicaid reimbursement rate increases to private ground ambulance service providers, as determined by the department and approved by the Centers for Medicare and Medicaid Services;

(xi) "Upper payment limit" means a limitation on aggregate Medicaid payments to private ground ambulance service providers, or another applicable class of Medicaid payees, as established by the Centers for Medicare and Medicaid Services;

(xii) "Upper payment limit gap" means the amount calculated annually by the department constituting the difference between the applicable upper payment limit and Medicaid payments made subject to that limit in a fiscal year, excluding any payments authorized by this chapter.

42-11-103. Private ground ambulance service provider assessment account.

(a) The private ground ambulance service provider assessment account is created.

(b) The state treasurer shall invest amounts deposited in the account in accordance with law and all investment earnings shall be credited back to the account. Funds in the account are continuously appropriated to the department for the purposes specified in this section.

(c) The account shall consist of:

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(i) Amounts collected or received by the department from private ground ambulance service provider assessments under this chapter;

(ii) All federal matching funds received by the department as a result of expenditures made by the department pursuant to this chapter.

(d) The account shall be used exclusively for the following purposes:

(i) To pay administrative expenses incurred by the department or its agent in performing the activities authorized by this chapter, provided that these expenses shall not exceed a total of three percent (3%) of the aggregate assessment funds collected in the fiscal year;

(ii) To secure federal matching funds available through the state Medicaid plan as approved pursuant to W.S. 42-11-108, which shall be used to make quarterly adjustment payments or to provide rate enhancements to private ground ambulance service providers as provided by this chapter;

(iii) To repay to the federal government any excess payments received or made to private ground ambulance service providers if the state plan, after approval by the Centers for Medicare and Medicaid Services, is subsequently disapproved for any reason and after the state has exhausted all appeals. Private ground ambulance service providers shall refund any excess payments to the assessment account. If a private ground ambulance service provider is unable to refund payments as provided in this paragraph, the department shall develop a payment plan to recoup deficient payments and accordingly deduct amounts

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from future Medicaid payments. The department shall refund the federal government for the federal portion of those overpayments;

(iv) To refund assessments paid by private ground ambulance service providers for payments which were earned but not paid by the department, but only after the payments authorized by paragraphs (i) and (iii) of this subsection have been made.

42-11-104. Assessments.

(a) Each private ground ambulance service provider shall pay a private ground ambulance service provider assessment to the department in accordance with this section.

(b) The assessment due under this section shall be imposed each fiscal year in an amount calculated as a uniform percentage of each private ground ambulance service provider's net patient revenue. The assessment rate shall be determined by the department on a prospective basis and shall be based on the percentage of private ground ambulance service provider net patient revenue necessary to generate an amount not to exceed the nonfederal portion of the upper payment limit gap plus the fee authorized by W.S. 42-11-103(d)(i). If a rate enhancement is paid to private ground ambulance service providers pursuant to this chapter, the assessment rate shall include a uniform percentage of each private ground ambulance service provider's net patient revenue necessary to generate the nonfederal portion of all enhanced rates paid under this chapter plus the fee authorized by W.S. 42-11-103(d)(i). In no event shall assessments or the assessment rate exceed

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the indirect guarantee threshold amount established by 42 C.F.R. 433.68(f)(3)(i) or other federal law.

(c) Unless otherwise determined by the department, the department shall collect and each private ground ambulance service provider shall pay the assessment required by this section on a quarterly basis, each payment constituting twenty-five percent (25%) of the annual assessment determined by the department. The initial payment shall be due not later than forty-five (45) days after the state plan has been approved by the Centers for Medicare and Medicaid Services unless a later date is set by the department. Subsequent payments are due not later than forty-five (45) days after the end of each calendar quarter unless a later date is set by the department.

(d) If a private ground ambulance service provider ceases to operate as an ambulance service or for any reason ceases to be subject to the assessment imposed under this chapter, the assessment for the fiscal year in which the cessation occurs shall be adjusted by multiplying the annual assessment by a fraction, the numerator of which is the number of days in the year during which the private ground ambulance service provider is subject to the assessment and the denominator of which is three hundred sixty-five (365). Immediately upon ceasing to operate as an ambulance service provider, or otherwise ceasing to be subject to this chapter, the private ground ambulance provider shall pay the assessment for each quarter as adjusted, to the extent not previously paid.

42-11-105. Penalties for failure to pay assessment.

(a) If a private ground ambulance service provider fails to pay an assessment due under this chapter, there

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shall be added to the assessment a penalty equal to five percent (5%) of the amount of the assessment that was not paid when due. The penalty under this section may be waived by the department for good cause. Any payments made after a penalty is assessed under this section shall be credited first to unpaid assessment amounts rather than to penalty amounts, beginning with the most delinquent installment.

(b) In addition to the penalty under subsection (a) of this section, the department may implement any of the following remedies for failure of a private ground ambulance service provider to pay its assessment when due under this chapter:

(i) Withhold any Medicaid payments, including any quarterly adjustment payments or rate enhancements, until the assessment is paid;

(ii) Develop a plan that requires the private ground ambulance service provider to pay any delinquent assessment in installments;

(iii) Suspend or revoke the private ground ambulance service provider's license.

42-11-106. Payments to private ground ambulance service providers.

(a) Subject to W.S. 42-11-107, the initiation of assessments under W.S. 42-11-104(c) and the federal approval authorized in W.S. 42-11-108, the department shall make quarterly adjustment payments to or implement rate enhancements for private ground ambulance service providers as set forth in this section.

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(b) Each private ground ambulance service provider that pays assessments under this chapter and meets the eligibility standards set by subsection (c) of this section shall be eligible to receive quarterly adjustment payments as provided in this section. The department shall distribute quarterly adjustment payments in amounts up to but not to exceed the applicable upper payment limit gap. The department shall establish a uniform methodology by which to distribute payments in compliance with applicable federal and state Medicaid laws and regulations.

(c) Unless otherwise prohibited by federal law, only private ground ambulance service providers who meet all of the following requirements shall be eligible to receive a quarterly adjustment payment authorized in subsection (b) of this section:

(i) Private ground ambulance service providers who provide ground ambulance services to Medicaid beneficiaries;

(ii) Private ground ambulance service providers who provide ground ambulance services to Medicare beneficiaries;

(iii) Private ground ambulance service providers who accept as full payment for ground ambulance services any payments made under Wyoming's worker's compensation system; and

(iv) Private ground ambulance service providers who:

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(A) Are network providers for all insurers offering private health benefit plans in this state who maintain not less than a twenty percent (20%) share of the state's individual or small group health insurance market; or

(B) Have made a bonafide and reasonable offer to become a network provider to all of the insurers identified in subparagraph (A) of this paragraph by offering to accept as network provider reimbursement not more than double the Medicaid reimbursement rate for relevant medical services. The offer required by this subparagraph may be higher to the extent the private ground ambulance service provider demonstrates to the department that the actual cost of providing relevant medical services plus six percent (6%) of the actual cost is an amount higher than double the Medicaid reimbursement rate for the relevant medical services.

(d) To the extent rate enhancements are approved by the Centers for Medicare and Medicaid Services and subject to the collection of assessments under W.S. 42-11-104(b), the department shall provide rate enhancement payments to private ground ambulance service providers consistent with applicable federal and state requirements.

(e) Quarterly payments or rate enhancements shall not be used to offset any other payment by Medicaid for ground ambulance services to Medicaid beneficiaries, including without limitation any fee-for-service, per diem, adjustment or cost settlement payments.

(f) No private ground ambulance service provider is guaranteed, expressly or otherwise, that quarterly adjustment payments or rate enhancements will equal or

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exceed the amount of private ground ambulance service provider assessments due under this chapter.

(g) Monies made available by this chapter shall not be used to replace other general revenues appropriated and funded by the legislature or other revenues used to support Medicaid.

42-11-107. Discontinuation of the assessment and payments.

(a) The assessments imposed by this chapter shall be discontinued or not allowed if:

(i) The state plan amendment or other agreement with the Centers for Medicare and Medicaid Services reflecting the payments authorized by this chapter is not approved by the Centers for Medicare and Medicaid Services. The department may modify the payment or qualification provisions as necessary to obtain the Centers for Medicare and Medicaid Services approval if the changes do not exceed the authority and purposes of this chapter;

(ii) Federal financial participation to match assessments under this chapter becomes unavailable under federal law. In this event, the department shall terminate the imposition of assessments beginning on the date the federal statutory, regulatory or interpretive change takes effect.

(b) If the collection of assessments is discontinued as provided in this section, payments or rate enhancements under this chapter shall be discontinued and, after payment of all amounts under W.S. 42-11-103(d)(i) and (iii), any assessments remaining in the account shall be returned to

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the private ground ambulance service providers from which the assessments were collected on the same basis as they were collected.

(c) If the department is collecting assessments for both quarterly adjustment payments and rate enhancements and both collections are not discontinued, the department shall continue to maintain the account as required by this chapter for the type of assessment that continues to be collected.

42-11-108. Approval of state plan; rulemaking.

(a) The department shall seek necessary federal approval in the form of state plan amendments or otherwise in order to implement the provisions of this chapter. The department shall be deemed to satisfy this requirement by seeking approval for the operation of an upper payment limit program that provides for quarterly adjustment payments, by seeking approval for rate enhancements, or both. While seeking federal approval under this subsection, the department may modify payment or qualification provisions as necessary to obtain the Centers for Medicare and Medicaid Services approval if the changes do not exceed the authority and purposes of this chapter.

(b) The department shall adopt rules and regulations necessary to implement the provisions of this chapter.

42-11-109. Multiple ambulance services.

If a person conducts, operates or maintains more than one (1) private ground ambulance service provider licensed by the department, the person shall pay the assessment for each private ground ambulance service provider separately.

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Section 2. W.S. 42-4-104(b)(ix) is amended to read:

**42-4-104. Powers and duties of department of health;
state Medicaid agent appointed by governor.**

(b) In carrying out subsection (a) of this section,
the department may:

(ix) Enter into intergovernmental transfer arrangements with qualifying facilities and providers, including but not limited to hospitals, nursing homes, hospital owned and operated professional service providers and ground ambulance service providers, in which all federal funding received as a result of the intergovernmental transfer arrangements shall be distributed to participating facilities and providers in accordance with the terms of an approved state plan amendment or other agreement with the centers for Medicare and Medicaid services. Notwithstanding, if consistent with the state plan amendment or agreement, the department may use funds derived from such intergovernmental transfers to pay administrative expenses incurred by the department or its agent in performing the activities authorized under this subsection, provided that these expenses shall not exceed a total of three percent (3%) of the aggregate intergovernmental transfer funds collected in the fiscal year;

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Section 3. This act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk