

1 HB287
2 217190-2
3 By Representative Clouse
4 RFD: Ways and Means General Fund
5 First Read: 08-FEB-22

1
2 ENROLLED, An Act,

3 Relating to emergency medical transport providers;
4 to add Sections 40-26B-90 through 40-26B-99 to the Code of
5 Alabama 1975, to impose an assessment on emergency medical
6 transport providers; to provide additional Medicaid
7 enhancement payments for the maintenance and expansion of
8 emergency medical transport services; to provide the
9 methodology for calculating the assessment; to provide the
10 rate of the assessment; to provide the distribution of
11 assessment proceeds; and to provide the effective period for
12 the assessment.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Sections 40-26B-90, 40-26B-91, 40-26B-92,
15 40-26B-93, 40-26B-94, 40-26B-95, 40-26B-96, 40-26B-97,
16 40-26B-98, and 40-26B-99 are added to the Code of Alabama
17 1975.

18 §40-26B-90.

19 (a) The following words, terms, and phrases, when
20 used in this article shall have the meanings ascribed to them
21 in this section, except where the context clearly indicates a
22 different meaning:

23 (1) ASSESSMENT POOL. The total assessments collected
24 pursuant to this article as of a date determined by the
25 Commissioner of Alabama Medicaid, which date shall be no later

1 than the 60th day of a fiscal quarter, that have not been
 2 expended for the purposes of this article, net of the amounts
 3 specified in subdivision (c)(1) of Section 40-26B-93, plus any
 4 Medicaid federal financial participation.

5 (2) ASSESSMENT RATE. A monetary amount per emergency
 6 medical transport applied to calculate emergency medical
 7 transport assessments pursuant to this article.

8 (3) DEPARTMENT. The Department of Revenue of the
 9 State of Alabama.

10 (4) EMERGENCY MEDICAL TRANSPORT. The act of
 11 transporting an individual from any point of origin to the
 12 nearest medical facility capable of meeting the emergency
 13 medical needs of the patient by an ambulance licensed,
 14 operated, and equipped in accordance with applicable state or
 15 local statutes, ordinances, or regulations. "Emergency medical
 16 transports" shall not include transportation of beneficiaries
 17 by passenger cars, taxicabs, litter vans, wheelchair vans, or
 18 other forms of public or private conveyances, nor shall it
 19 include transportation by an air ambulance provider.

20 (5) EMERGENCY MEDICAL TRANSPORT ENHANCEMENT. An
 21 additional Medicaid payment to emergency medical transport
 22 providers authorized by Section 40-26B-95.

23 (6) EMERGENCY MEDICAL TRANSPORT PROVIDER. A provider
 24 of emergency medical transports licensed by the Alabama
 25 Department of Public Health's Office of Emergency Medical

1 Services as a transport provider. The term "emergency medical
2 transport provider" includes both public and private
3 providers.

4 (7) FISCAL QUARTER. A state fiscal quarter within a
5 state fiscal year.

6 (8) FISCAL YEAR. An accounting period of 12 months
7 beginning on the first day of the first month of the state
8 fiscal year.

9 (9) GROSS RECEIPTS. Gross payments received as
10 patient care revenue for emergency medical transports,
11 determined on a cash basis of accounting.

12 (10) MEDICAID PROGRAM. The medical assistance
13 program as established in Title XIX of the Social Security Act
14 and as administered in the State of Alabama by the Alabama
15 Medicaid Agency pursuant to executive order and Title 560 of
16 the Alabama Administrative Code.

17 (11) TRANSPORT ENHANCEMENT RATE. An additional
18 Medicaid payment per emergency medical transport authorized
19 pursuant to this article.

20 §40-26B-91.

21 To provide further for the availability of indigent
22 health care, the operation of the Medicaid Program and the
23 maintenance and expansion of emergency medical transport
24 services:

1 (1) Commencing no later than the fiscal quarter
2 starting April 1, 2023, and through and including the fiscal
3 quarter starting July 1, 2024, an assessment is imposed on
4 each emergency medical transport provider based on emergency
5 medical transports. The quarterly assessment for each
6 emergency medical transport provider shall be calculated based
7 on the product of the assessment rate and the total number of
8 emergency medical transports rendered by the emergency medical
9 transport provider from the previous fiscal quarter.

10 (2) In consultation with the Alabama Medicaid
11 Agency, the department shall calculate the assessment rate by
12 multiplying the projected total gross receipts for all
13 emergency medical transport providers for a fiscal year by 5.3
14 percent, which resulting product shall be divided by the
15 projected total annual emergency medical transports by all
16 emergency medical transport providers for the fiscal year,
17 subject to subsection (b) of Section 40-26B-98. In no case
18 shall the proportion of assessments collected under this
19 article divided by total gross receipts, expressed as a
20 percentage, exceed half a percent less than the maximum
21 percentage of the annual aggregate net patient revenue for
22 emergency medical transport providers that is prescribed
23 pursuant to federal law and regulations.

1 (3) The assessment imposed by this article is in
2 addition to all other taxes and assessments of any kind now
3 imposed by law.

4 §40-26B-92.

5 The department shall notify, or make available to,
6 each emergency medical transport provider, in accordance with
7 notification procedures determined by the department, the
8 assessment rate, and the estimated assessment amount owed by
9 the provider for the applicable fiscal quarter.

10 §40-26B-93.

11 (a) The assessment imposed by this article shall be
12 due and payable to the department on a date determined by the
13 department, which date shall not be later than the 30th day of
14 the fiscal quarter for which the assessment is assessed,
15 except that Section 40-26B-97 shall apply to any fiscal
16 quarter for which federal approval has not been obtained as of
17 the first day of the fiscal quarter. When collected, the
18 assessment imposed by the article shall be deposited to the
19 Alabama Health Care Trust Fund.

20 (b) Any emergency medical transport provider that
21 fails to pay the assessment levied by this article within the
22 time required by the department shall pay, in addition to the
23 assessment, a penalty of 10 percent of the amount of the
24 assessment due, together with interest thereon at the rate
25 prescribed by Section 40-1-44, such penalty and interest to be

1 assessed and collected as part of the assessment. Provided,
2 however, the department, if a good and sufficient reason is
3 shown, may waive or remit the penalty of 10 percent or a
4 portion thereof. If payment is not received by the 45th day of
5 the quarter in which the assessment was due, the department
6 shall notify the Alabama Medicaid Agency which shall determine
7 whether the emergency medical transport provider is a Medicaid
8 provider, and if so, shall withhold the payment, interest, and
9 penalty due from any reimbursement due said provider under the
10 Medicaid Program, including any emergency medical transport
11 enhancements authorized by Section 40-26B-95. The assessments
12 levied by this article shall constitute a debt due the State
13 of Alabama and may be collected by civil action in addition to
14 the methods provided in this article.

15 (c) Revenues generated by this assessment shall be
16 made available exclusively and are continuously appropriated
17 for the following purposes:

18 (1) To pay for the state's administrative costs of
19 this article and Medicaid funding for enhancements to health
20 care services with emphasis on non-emergency transportation in
21 an amount of one hundred seventy-five thousand dollars
22 (\$175,000) per fiscal quarter, subject to subsection (d) of
23 Section 40-26B-98.

1 (2) To pay emergency medical transport enhancements
2 to emergency transport providers pursuant to Section 40-26B-95.
3 §40-26B-94.

4 (a) Commencing no later than the fiscal quarter
5 starting April 1, 2023, and through and including the fiscal
6 quarter starting July 1, 2024, on or before the 15th day after
7 the close of each fiscal quarter, every emergency medical
8 transport provider shall file with the department a statement
9 under penalty of perjury on forms prescribed by the
10 department, showing the total number of emergency medical
11 transports, and the total amount of gross receipts for the
12 subject fiscal quarter, and such other reasonable and
13 necessary information as the department, after consultation
14 with the Alabama Medicaid Agency and adoption of appropriate
15 rules or regulations, may require for the proper enforcement
16 of the provisions of this article.

17 (b) It shall be the duty of each emergency medical
18 transport provider to keep and preserve such suitable books
19 and records as may be necessary to determine the amount of
20 assessments for which it is liable under the provisions of
21 this article. Said books and records shall be kept and
22 preserved for a period of not less than three years, and all
23 such books and records shall be open for examination during
24 business hours by the department or its duly authorized
25 agents.

1 (c) All information secured pursuant to this article
2 by the department shall be confidential, as prescribed by
3 Section 40-2A-10, except that the department may provide such
4 information to the Alabama Medicaid Agency as necessary for
5 the proper administration of the Medicaid Program, or for the
6 department's proper administration of the assessment levied by
7 this article.

8 (d) The department shall from time to time, as it
9 deems desirable, adopt such reasonable rules and regulations
10 as necessary to provide for the orderly and efficient
11 administration of the assessment levied by this article.

12 §40-26B-95.

13 (a) Commencing no later than the fiscal quarter
14 starting April 1, 2023, and through and including the fiscal
15 quarter starting July 1, 2024, the Alabama Medicaid Agency
16 shall pay an emergency medical transport enhancement each
17 fiscal quarter to emergency medical transport providers as set
18 forth in this section on or before the last day of the
19 quarter, except that Section 40-26B-97 shall apply to any
20 fiscal quarter for which federal approval has not been
21 obtained as of the first day of the fiscal quarter. The
22 emergency medical transport enhancement shall be paid in
23 addition to any other amounts payable to emergency medical
24 transport providers with respect to those services and shall

1 not affect any other payments to emergency medical transport
2 providers.

3 (b) For each fiscal quarter, the emergency medical
4 transport enhancement to each emergency medical transport
5 provider shall be calculated as the total number of emergency
6 medical transports reimbursed by the Alabama Medicaid Agency
7 as the primary payor in accordance with Chapter 8 of the
8 Medicaid Provider Manual to the emergency medical transport
9 provider in the preceding fiscal quarter multiplied by the
10 transport enhancement rate.

11 (c) For each fiscal quarter, the Alabama Medicaid
12 Agency shall establish the transport enhancement rate based on
13 the assessment pool divided by the total number of emergency
14 medical transports reimbursed by the Alabama Medicaid Agency
15 as the primary payor to all emergency medical transport
16 providers in the preceding fiscal quarter.

17 §40-26B-96.

18 (a) The proceeds of the assessment set forth in
19 Section 40-26B-91 and the matching amount provided by the
20 federal government shall be used to supplement existing
21 Medicaid funding for emergency medical transports provided by
22 emergency medical transport providers and not to supplant this
23 funding.

24 (b) The state shall continue its maintenance of
25 effort for the level of state funding not derived from the

1 assessment on emergency medical transport providers for each
2 fiscal quarter commencing on or after October 1, 2022, in an
3 amount not less than the amount that the state would have paid
4 for the same number of emergency medical transports under the
5 rate methodology that was in effect on January 1, 2022.

6 §40-26B-97.

7 If there is a delay in the implementation of this
8 Article for any reason, including a delay in any required
9 approval by the federal Centers for Medicare and Medicaid
10 Services, both of the following shall apply:

11 (1) An emergency medical transport provider may only
12 be required to pay the assessment pursuant to this article for
13 fiscal quarters for which the federal Centers for Medicare and
14 Medicaid Services has approved the enhanced payments pursuant
15 to Section 4-26B-95. The department may not collect
16 assessments pursuant to this article until the Alabama
17 Medicaid Agency has received federal approval of the enhanced
18 payments pursuant to Section 4-26B-95. Upon federal approval
19 of the enhanced payments pursuant to Section 4-26B-95, the
20 department shall establish a schedule for payment of
21 assessments in consultation with emergency medical transport
22 providers.

23 (2) The Alabama Medicaid Agency may retroactively
24 implement the emergency medical transport enhancements

1 described in Section 40-26B-95 to the extent authorized by the
2 federal Centers for Medicare and Medicaid Services.

3 §40-26B-98.

4 (a) (1) The Alabama Medicaid Agency shall request any
5 approval from the federal Centers for Medicare and Medicaid
6 Services it deems necessary for the use of assessments
7 pursuant to this article and for the purpose of receiving
8 associated federal matching funds.

9 (2) This article shall be implemented only to the
10 extent that any necessary federal approvals are obtained and
11 federal financial participation is available.

12 (b) The Alabama Medicaid Agency may modify or make
13 adjustments to any methodology, assessment amount, or other
14 provision specified in this article to the extent necessary to
15 meet the requirements of federal law or regulations or to
16 obtain federal approval, but only if subsection (c) of Section
17 40-26B-93 and subsection (b) of Section 40-26B-96 remain in
18 full force and effect. To the extent that the Alabama
19 Medicaid Agency reduces the emergency medical transport
20 enhancement in order to meet the requirements of federal law
21 or regulations or to obtain federal approval, it must reduce
22 the assessment rate such that the amount of assessment
23 collected does not exceed the amounts needed for the uses
24 described in subsection (c) of Section 40-26B-93.

1 (c) The Commissioner of Alabama Medicaid may exempt
2 categories of emergency medical transport providers from the
3 assessment if necessary to obtain federal approval.

4 (d) To the extent that the Alabama Medicaid Agency
5 reduces the total assessment collected pursuant to this
6 Article pursuant to subsections (b) or (c) of this section,
7 the amount described in subdivision (c) (2) of Section
8 40-26B-93 shall be reduced in proportion to the amount of the
9 reduced total assessments.

10 §40-26B-99.

11 (a) This article shall cease to be operative on the
12 first day of the fiscal quarter beginning on or after the date
13 one or more of the following conditions is satisfied:

14 (1) Federal financial participation under Title XIX
15 of the Social Security Act is not available to the Alabama
16 Medicaid Program for the purposes of this article at the
17 approved federal medical assistance percentage, established
18 under Section 1905 of the Social Security Act, for the
19 applicable fiscal quarter.

20 (2) The state ceases to meet its obligation for the
21 level of state funding not derived from the assessment
22 established by this article as described in subsection (b) of
23 Section 40-26B-96.

24 "(b) On the earlier of the occurrence of one or more
25 of the conditions listed in subsection (a) is satisfied on

1 December 1, 2023, the department shall refund any remaining
2 assessment pool to each provider of ground emergency medical
3 transport services in proportion to the amount paid by the
4 respective provider during the most recently completed
5 quarterly payment period.

6 Section 2. This act shall become effective
7 immediately following its passage and approval by the
8 Governor, or its otherwise becoming law.

