

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

SYNOPSIS: This bill would impose an assessment on emergency medical transport providers to provide additional Medicaid enhancement payments for the maintenance and expansion of emergency medical transport services.

This bill would provide for the methodology for calculating the assessment, the rate of the assessment, distribution of proceeds, and the effective period of the assessment.

A BILL
TO BE ENTITLED
AN ACT

Relating to emergency medical transport providers; to add Sections 40-26B-90 through 40-26B-99 to the Code of Alabama 1975, to impose an assessment on emergency medical transport providers; to provide additional Medicaid enhancement payments for the maintenance and expansion of emergency medical transport services; to provide the

1 methodology for calculating the assessment; to provide the
2 rate of the assessment; to provide the distribution of
3 assessment proceeds; and to provide the effective period for
4 the assessment.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. Sections 40-26B-90, 40-26B-91, 40-26B-92,
7 40-26B-93, 40-26B-94, 40-26B-95, 40-26B-96, 40-26B-97,
8 40-26B-98, and 40-26B-99 are added to the Code of Alabama
9 1975.

10 §40-26B-90.

11 (a) The following words, terms, and phrases, when
12 used in this article shall have the meanings ascribed to them
13 in this section, except where the context clearly indicates a
14 different meaning:

15 (1) ASSESSMENT POOL. The total assessments collected
16 pursuant to this article as of a date determined by the
17 Commissioner of Alabama Medicaid, which date shall be no later
18 than the 60th day of a fiscal quarter, that have not been
19 expended for the purposes of this article, net of the amounts
20 specified in subdivision (c)(1) of Section 40-26B-93, plus any
21 Medicaid federal financial participation.

22 (2) ASSESSMENT RATE. A monetary amount per emergency
23 medical transport applied to calculate emergency medical
24 transport assessments pursuant to this article.

25 (3) DEPARTMENT. The Department of Revenue of the
26 State of Alabama.

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

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

14 (6) EMERGENCY MEDICAL TRANSPORT PROVIDER. A provider
15 of emergency medical transports licensed by the Alabama
16 Department of Public Health's Office of Emergency Medical
17 Services as a transport provider. The term "emergency medical
18 transport provider" includes both public and private
19 providers.

20 (7) FISCAL QUARTER. A state fiscal quarter within a
21 state fiscal year.

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

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

1 (10) MEDICAID PROGRAM. The medical assistance
2 program as established in Title XIX of the Social Security Act
3 and as administered in the State of Alabama by the Alabama
4 Medicaid Agency pursuant to executive order and Title 560 of
5 the Alabama Administrative Code.

6 (11) TRANSPORT ENHANCEMENT RATE. An additional
7 Medicaid payment per emergency medical transport authorized
8 pursuant to this article.

9 §40-26B-91.

10 To provide further for the availability of indigent
11 health care, the operation of the Medicaid Program and the
12 maintenance and expansion of emergency medical transport
13 services:

14 (1) Commencing no later than the fiscal quarter
15 starting April 1, 2023, and through and including the fiscal
16 quarter starting July 1, 2024, an assessment is imposed on
17 each emergency medical transport provider based on emergency
18 medical transports. The quarterly assessment for each
19 emergency medical transport provider shall be calculated based
20 on the product of the assessment rate and the total number of
21 emergency medical transports rendered by the emergency medical
22 transport provider from the previous fiscal quarter.

23 (2) In consultation with the Alabama Medicaid
24 Agency, the department shall calculate the assessment rate by
25 multiplying the projected total gross receipts for all
26 emergency medical transport providers for a fiscal year by 5.3
27 percent, which resulting product shall be divided by the

1 projected total annual emergency medical transports by all
2 emergency medical transport providers for the fiscal year,
3 subject to subsection (b) of Section 40-26B-98. In no case
4 shall the proportion of assessments collected under this
5 article divided by total gross receipts, expressed as a
6 percentage, exceed half a percent less than the maximum
7 percentage of the annual aggregate net patient revenue for
8 emergency medical transport providers that is prescribed
9 pursuant to federal law and regulations.

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

13 §40-26B-92.

14 The department shall notify, or make available to,
15 each emergency medical transport provider, in accordance with
16 notification procedures determined by the department, the
17 assessment rate, and the estimated assessment amount owed by
18 the provider for the applicable fiscal quarter.

19 §40-26B-93.

20 (a) The assessment imposed by this article shall be
21 due and payable to the department on a date determined by the
22 department, which date shall not be later than the 30th day of
23 the fiscal quarter for which the assessment is assessed,
24 except that Section 40-26B-97 shall apply to any fiscal
25 quarter for which federal approval has not been obtained as of
26 the first day of the fiscal quarter. When collected, the

1 assessment imposed by the article shall be deposited to the
2 Alabama Health Care Trust Fund.

3 (b) Any emergency medical transport provider that
4 fails to pay the assessment levied by this article within the
5 time required by the department shall pay, in addition to the
6 assessment, a penalty of 10 percent of the amount of the
7 assessment due, together with interest thereon at the rate
8 prescribed by Section 40-1-44, such penalty and interest to be
9 assessed and collected as part of the assessment. Provided,
10 however, the department, if a good and sufficient reason is
11 shown, may waive or remit the penalty of 10 percent or a
12 portion thereof. If payment is not received by the 45th day of
13 the quarter in which the assessment was due, the department
14 shall notify the Alabama Medicaid Agency which shall determine
15 whether the emergency medical transport provider is a Medicaid
16 provider, and if so, shall withhold the payment, interest, and
17 penalty due from any reimbursement due said provider under the
18 Medicaid Program, including any emergency medical transport
19 enhancements authorized by Section 40-26B-95. The assessments
20 levied by this article shall constitute a debt due the State
21 of Alabama and may be collected by civil action in addition to
22 the methods provided in this article.

23 (c) Revenues generated by this assessment shall be
24 made available exclusively and are continuously appropriated
25 for the following purposes:

26 (1) To pay for the state's administrative costs of
27 this article and Medicaid funding for enhancements to health

1 care services with emphasis on non-emergency transportation in
2 an amount of one hundred seventy-five thousand dollars
3 (\$175,000) per fiscal quarter, subject to subsection (d) of
4 Section 40-26B-98.

5 (2) To pay emergency medical transport enhancements
6 to emergency transport providers pursuant to Section
7 40-26B-95.

8 §40-26B-94.

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

22 (b) It shall be the duty of each emergency medical
23 transport provider to keep and preserve such suitable books
24 and records as may be necessary to determine the amount of
25 assessments for which it is liable under the provisions of
26 this article. Said books and records shall be kept and
27 preserved for a period of not less than three years, and all

1 such books and records shall be open for examination during
2 business hours by the department or its duly authorized
3 agents.

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

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

15 §40-26B-95.

16 (a) Commencing no later than the fiscal quarter
17 starting April 1, 2023, and through and including the fiscal
18 quarter starting July 1, 2024, the Alabama Medicaid Agency
19 shall pay an emergency medical transport enhancement each
20 fiscal quarter to emergency medical transport providers as set
21 forth in this section on or before the last day of the
22 quarter, except that Section 40-26B-97 shall apply to any
23 fiscal quarter for which federal approval has not been
24 obtained as of the first day of the fiscal quarter. The
25 emergency medical transport enhancement shall be paid in
26 addition to any other amounts payable to emergency medical
27 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
26 assessment on emergency medical transport providers for each
27 fiscal quarter commencing on or after October 1, 2022, in an

1 amount not less than the amount that the state would have paid
2 for the same number of emergency medical transports under the
3 rate methodology that was in effect on January 1, 2022.

4 §40-26B-97.

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

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

21 (2) The Alabama Medicaid Agency may retroactively
22 implement the emergency medical transport enhancements
23 described in Section 40-26B-95 to the extent authorized by the
24 federal Centers for Medicare and Medicaid Services.

25 §40-26B-98.

26 (a) (1) The Alabama Medicaid Agency shall request any
27 approval from the federal Centers for Medicare and Medicaid

1 Services it deems necessary for the use of assessments
2 pursuant to this article and for the purpose of receiving
3 associated federal matching funds.

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

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

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

23 (d) To the extent that the Alabama Medicaid Agency
24 reduces the total assessment collected pursuant to this
25 Article pursuant to subsections (b) or (c) of this section,
26 the amount described in subdivision (c) (2) of Section

1 40-26B-93 shall be reduced in proportion to the amount of the
2 reduced total assessments.

3 §40-26B-99.

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

7 (1) Federal financial participation under Title XIX
8 of the Social Security Act is not available to the Alabama
9 Medicaid Program for the purposes of this article at the
10 approved federal medical assistance percentage, established
11 under Section 1905 of the Social Security Act, for the
12 applicable fiscal quarter.

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

17 "(b) On the earlier of the occurrence of one or more
18 of the conditions listed in subsection (a) is satisfied on
19 December 1, 2023, the department shall refund any remaining
20 assessment pool to each provider of ground emergency medical
21 transport services in proportion to the amount paid by the
22 respective provider during the most recently completed
23 quarterly payment period.

24 Section 2. This act shall become effective
25 immediately following its passage and approval by the
26 Governor, or its otherwise becoming law.