



**BlueCross BlueShield  
Association**

An Association of Independent  
Blue Cross and Blue Shield Plans

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December 9, 2020

The Honorable Thomas Oliverson, M.D.  
Texas House of Representatives  
P.O. Box 2910  
Austin, TX 78768-2910

The Honorable Stephen Westfall  
West Virginia House of Delegates  
Room 204E, Bldg. 1  
1900 Kanawha Blvd. E.  
Charleston, WV 25305

Submitted via email, [wmelofchik@ncoil.org](mailto:wmelofchik@ncoil.org)

**RE: BCBSA Recommendations on Proposed NCOIL Model Act Regarding Air  
Ambulance Patient Protections**

Dear Representative Oliverson and Delegate Westfall:

The Blue Cross Blue Shield Association (BCBSA) appreciates the opportunity to provide additional comments on the proposed National Council of Insurance Legislators' (NCOIL) "Model Act Regarding Air Ambulance Patient Protections."

BCBSA is a national federation of 36 independent, community-based and locally operated Blue Cross and Blue Shield (BCBS) companies that collectively provide health care coverage for one in three Americans. For more than 90 years, BCBS companies have offered quality health care coverage in all markets across America – serving those who purchase coverage on their own as well as those who obtain coverage through an employer, Medicare and Medicaid.

We share your goal of protecting the public from air ambulance service provider practices that create financial burdens on consumers. Air ambulance claims are a key driver of surprise medical bills, and these subscription services can mislead the subscribers and impose unnecessary costs.

Furthermore, we share the goal of greater oversight of these products, and we recognize the challenges with regulating air ambulance provider practices given the federal oversight authority. We believe that the concept of a supplemental insurance product subject to insurance department regulation and consumer protections is worth pursuing, but believe the draft Model bill needs additional thought and consideration to fully accomplish that goal. For example, the draft Model should provide guidance regarding the benefit standards and interaction with other forms of insurance or payers that these companies would be required to meet. We would welcome the opportunity to assist in thinking through these additional components. **Absent this additional level of detail, we are concerned the draft Model might render these limited and problematic subscription services as credible insurance products, which may have an unintended consequence of increasing their legitimacy within the marketplace.**

In addition, we urge NCOIL to press Congress to act and address surprise medical billing, including practices employed by air ambulance services. A comprehensive solution would

protect consumers by reducing the need for consumers to purchase air ambulance subscription products and the need for air ambulance providers to market them. Yet, more importantly, it would protect consumers from surprise medical bills regardless of the air ambulance provider that transports them, thus ensuring patients would be held harmless for surprise air ambulance bills.

However, specific to the subscription products, **the consumer protections NCOIL proposed would help ensure consumers have the resources to better understand the products they are purchasing, including their limits.** We recommend the following for your consideration to strengthen these protections:

- **Include enforcement mechanisms for consumer protections.** As currently drafted, the Model does not provide an enforcement mechanism for the consumer assistance requirements in Section 2. We agree that the consumer assistance provisions of Section 2 would greatly benefit consumers by providing them with meaningful transparency and access to information. To ensure air ambulance providers meet these requirements and fully implement the consumer protections, we recommend NCOIL include language to assign enforcement duties to an appropriate agency of state government, perhaps an existing agency such as the Attorney General, a Division of Consumer Affairs or other state agency charged with the responsibility to assist consumers.
- **Clarify government program references.** References to “Medicaid or Medicaid managed care” and “Medicare and/or a Medicare supplemental plan” are confusing as currently worded. Air ambulance services are a covered benefit under Medicaid regardless of whether the benefit is provided through the fee-for-service or managed care aspects of the Medicaid program. The language, as written, seems to create a gap for beneficiaries in Medicaid. A similar concern exists in the phrase “Medicare and/or a Medicare supplemental plan.” We recommend NCOIL instead refer to coverage of benefits under the entire Medicare and Medicaid programs.

We appreciate your consideration of our comments. We look forward to working with you on the issues of air ambulance oversight and surprise medical billing. If you have any questions or want additional information, please contact Randi Chapman at 202.826.5156 or [Randi.Chapman@bcbsa.com](mailto:Randi.Chapman@bcbsa.com).

Sincerely,



Clay S. McClure  
Executive Director, State Relations  
Blue Cross Blue Shield Association

Copies To: Thomas B. Considine, NCOIL  
The Honorable Pamela J. Hunter, New York State Assembly

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The Honorable Rep. Deborah Ferguson, Arkansas House of Representatives  
Will Melofchik, NCOIL