

TO: Assemblywoman Pamela Hunter
Chair, NCOIL Health Insurance &
Long-Term Care Issues Committee

FROM: Eleanor Kitzman
Representing Global Medical Response

RE: Proposed Model Act Regarding Air Ambulance Patient Protections (“Model”)

DATE: February 6, 2021

I testified before this Committee on December 10, 2020 in opposition to the proposed Model. Global Medical Response (“GMR”) is the largest independent provider of emergency medical services, including AirMedCare Network (“AMCN”), founded in 1985 in Missouri and currently operating in 38 states with 320 locations. An AMCN membership ensures that the member will have no out-of-pocket costs in connection with an air ambulance transport if flown by a participating provider regardless of the member’s insurance plan, or lack of insurance. I testified that GMR believes that its membership program is not insurance as it provides no indemnification or reimbursement.

I was asked by Rep. Jim Gooch of Kentucky for the percentage of GMR’s members who were on Medicare or Medicaid. I could not answer the Medicare question and promised to get back to the Committee with that information. I advised that GMR had no Medicaid beneficiary members because under the Terms & Conditions of the membership application, applicants certify that they are not Medicaid beneficiaries. To clarify that response, GMR’s membership program includes all members of the household, for a single fee, so there may be household members whom GMR is unaware of who are Medicaid beneficiaries.

With respect to Medicare, GMR does not capture the Medicare status of its members. 35% of its total membership, however, which includes household members of all ages, are 65 or older. Members are advised in the FAQs on the AMCN website that Medicare should cover the cost of an air ambulance transport if it is deemed medically necessary. As I mentioned in my testimony, however, Medicare has a 20% co-insurance provision. Based on the average Medicare reimbursement of \$5,800 for an air ambulance transport, the co-insurance cost would be \$1,160, which is waived for GMR members. The FAQs also advise that a Medicare supplement insurance policy may cover the co-insurance amount depending on the terms of the policy. In any event, household members under age 65 and who have other insurance or no insurance will benefit from GMR’s waiver of out-of-pocket costs.

I was also asked by Rep. Derek Lewis, also of Kentucky, if I thought membership agreements “were closer to an Amazon and should not be regulated as insurance.” I don’t think I understood the question and responded that GMR did not think its membership product was insurance and should not be regulated as such, but that some states do so and took different approaches to how they were regulated. Before we could clarify his question and my response, Rep. Lewis had technical difficulties with his Zoom connection, so I wanted to address the Amazon part of his question, which I assume referred to Amazon’s Prime membership.

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Amazon Prime agrees to provide 2-day delivery service for unspecified items but makes no guarantees and makes no reimbursement or compensation if its service is unavailable or unfulfilled. As a provider of an often life-saving service, GMR holds itself to a much higher standard while being very clear that service may not be available when requested due to factors beyond its control, and that there is no responsibility for services provided by another ambulance service. Chris Myers with Air Methods, acknowledged this last point in his written testimony: *"The one point that contract membership terms make abundantly clear, is that they only cover the patient in the scenario where that specific provider transports them"*

I also wanted to supplement my response regarding states that regulate air ambulance membership programs as insurance and the different approaches taken by the states. There is a clear lack of uniformity of approach among the states, which is appropriate given the major role that geography plays in air ambulance service generally and membership programs specifically. I've attempted to illustrate those various approaches in the attached chart. (A 2005 report to the Washington Legislature was the source for much of this information which has been updated and supplemented but may not be exhaustive.) As you can see, air ambulance service membership programs are expressly not insurance or not subject to the insurance code in 13 states, whereas such programs are deemed to be insurance in 7 states. (4 states, noted by asterisks, provide conditional exemptions from insurance regulation.) There is pending action in 4 states and 25 states appear not to have addressed the issue, apparently with no documented incidence of complaints from consumers. (Both Chris Myers and Oklahoma Commissioner Glen Mulready, testifying on behalf of the NAIC, testified that they were aware of no complaints to state attorneys general, and offered no evidence or specifics of other alleged disputes.)

Much of the impetus for NCOIL's Model Act Regarding Air Ambulance Patient Protections was that memberships are being sold using fear tactics to "scare consumers into thinking they will be stuck with a big bill for transport by an air ambulance and therefore need to buy a membership to avoid imminent peril, from the same company that is transporting them." *Testimony of Chris Myers*. Commissioner Mulready testified that "... the overriding issue is the balance billing issue within the air ambulance industry." Since introduction of the Model and the hearing on December 10th, the surprise billing act was signed into law on December 27, 2020. This legislation protects consumers from balance billing in connection with out-of-network medical services, including air ambulance services, which would seem to obviate the need for the Model.

Given the current range of positions of the states, the lack of evidence of consumer complaints or dissatisfaction and the enactment of the surprise billing act, GMR respectfully suggests that any vote on the Model be postponed until at least the Summer meeting in order to give stakeholders an opportunity to further analyze the implications of the surprise billing act.

Thank you for your consideration. Please let me know if you have any questions or would like additional information.



cc: Rep. Tom Oliverson, M.D.
Del. Steve Westfall

SURVEY OF STATE INSURANCE REGULATION OF AIR AMBULANCE MEMBERSHIP PROGRAMS

State	Regulated/ Treated as Insurance?	Citation	Language
Alabama	No	AG Opinion 97-0010	Company offering ambulance service subscription agreement ... is not an insurer.
Arizona	No	Insurance Code §20-103B	Private ambulance service contracts ... are not insurance
Georgia	No	Insurance Code §33-1-21(b)	Air ambulance service to subscription members ... shall not constitute the writing of insurance.
Indiana	No	Insurance Code §27-4-5-2(a)(9)	Insurance code does not apply to ambulance service provider.
Kentucky	No	Insurance Code §304.1-120	No provision of this code shall apply to (9) a public or private ambulance service ... that solicits membership subscriptions
Mississippi	No	Public Health Code §41-59-63	Membership subscription programs for prepaid ambulance service not to constitute insurance.
Montana	No	Health & Safety Code §50-6-320	(2) Private air ambulance service that solicits membership subscriptions ... is not an insurer. (4) A private air ambulance service membership program must have reciprocity agreements with all other air ambulance service providers in Montana with air ambulance service membership programs ...
Nebraska	No	Per 2005 Report to WA Leg.	Treated as discount medical plan.
Oklahoma	No	Ins Code §6050	Air ambulance service membership agreement shall not be deemed to be insurance.
Oregon	No	Ins Code §731.036(7)	Insurance code does not apply to ambulance services.
South Dakota	No	AG Opinion 80-9	Ambulance membership not insurance because based on bona-fide emergency.
Texas	No	Health & Safety Code §773.011	Insurance code does not apply to subscription program established by emergency medical services provider.
Washington*	No	Ins Code §48.01.280	A private air ambulance service provider that solicits membership subscriptions is not an insurer if licensed, accredited & operating 2+ years in WA.
Missouri	Pending action	HB 912	Proposed RSMo, 375.1400.2: An air ambulance membership shall be considered insurance and an insurance product.
North Dakota	Pending action		Insurance code does not expressly define air ambulance subscription agreements as insurance. N.D. Cent. Code §26.1-47-08 prohibits air ambulance subscription agreements. US District Court Order 1:18-cv-007 held that agreements are a form of insurance. Order is on appeal.
West Virginia	Pending action		Administrative Proceeding No. 19-CO--02009 alleges violation of the Unauthorized Insurers Act, W. Va. Code §33-44-1.
Alaska*	Yes	Insurance Code §21.61.105(a)	An air ambulance service provider that offers ... membership agreement shall ... must be certified, in operation for 2 yrs & register with the director of insurance .
California*	Yes	Insurance Code §1300.43.3	Conditional exemption for ambulance plans.
Florida	Yes	Insurance Code 636.035	Air ambulance memberships are regulated as prepaid limited health service organizations which have requirements similar to insurance
Illinois*	Yes		Exempt from insurance if: (1) ambulance service program is approved by the local city / county and (2) membership term doesn't exceed 1 year.
Nevada	Yes	NRS 695F.050	"Prepaid limited health service organization" means any person who, in return for a prepayment, agrees to provide or arrange for the provision of one or more limited health services to enrollees.
Wisconsin	Yes	Per 2005 Report to WA Leg.	
Wyoming	Yes	Wyoming Statute 26-5-103(a)(ii)	Disability insurance is insurance of any kind on human beings against disability resulting from sickness, including subscription or membership plans relating to air ambulance transport services.
Arkansas	Not regulated	Per 2005 Report to WA Leg.	
Colorado	Not regulated	Per 2005 Report to WA Leg.	
Connecticut	Not regulated	Per 2005 Report to WA Leg.	
Delaware	Not regulated	Per 2005 Report to WA Leg.	
District of Columbia	Not regulated	Per 2005 Report to WA Leg.	
Idaho	Not regulated	Per 2005 Report to WA Leg.	
Iowa	Not regulated	Per 2005 Report to WA Leg.	
Kansas	Not regulated	Per 2005 Report to WA Leg.	
Louisiana	Not regulated	Per 2005 Report to WA Leg.	
Maine	Not regulated	Per 2005 Report to WA Leg.	
Maryland	Not regulated	Per 2005 Report to WA Leg.	
Massachusetts	Not regulated	Per 2005 Report to WA Leg.	
Michigan	Not regulated	Per 2005 Report to WA Leg.	
Minnesota	Not regulated	Per 2005 Report to WA Leg.	
New Hampshire	Not regulated	Per 2005 Report to WA Leg.	
New Mexico	Not regulated	Per 2005 Report to WA Leg.	
New York	Yes*	Per 2005 Report to WA Leg.	Programs are not allowed.
North Carolina	Not regulated	Per 2005 Report to WA Leg.	
Pennsylvania	Not regulated	Per 2005 Report to WA Leg.	
Rhode Island	Not regulated	Per 2005 Report to WA Leg.	
South Carolina	Not regulated	Per 2005 Report to WA Leg.	
South Dakota	Not regulated	Per 2005 Report to WA Leg.	
Tennessee	Not regulated	Per 2005 Report to WA Leg.	
Utah	Not regulated	Per 2005 Report to WA Leg.	
Vermont	Not regulated	Per 2005 Report to WA Leg.	
Virginia	Not regulated	Per 2005 Report to WA Leg.	