

# HB1638



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

**HB1638**

by Rep. Emanuel Chris Welch

#### SYNOPSIS AS INTRODUCED:

305 ILCS 5/5-4.2

from Ch. 23, par. 5-4.2

Amends the Medical Assistance Article of the Illinois Public Aid Code. Requires the Department of Healthcare and Family Services to receive the approval of the General Assembly prior to applying for any waiver to reduce or eliminate the State's responsibility to provide emergency or non-emergency ambulance services to Medicaid beneficiaries. Effective immediately.

LRB101 05263 KTG 50276 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning public aid.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Public Aid Code is amended by  
5 changing Section 5-4.2 as follows:

6 (305 ILCS 5/5-4.2) (from Ch. 23, par. 5-4.2)

7 Sec. 5-4.2. Ambulance services payments.

8 (a) For ambulance services provided to a recipient of aid  
9 under this Article on or after January 1, 1993, the Illinois  
10 Department shall reimburse ambulance service providers at  
11 rates calculated in accordance with this Section. It is the  
12 intent of the General Assembly to provide adequate  
13 reimbursement for ambulance services so as to ensure adequate  
14 access to services for recipients of aid under this Article and  
15 to provide appropriate incentives to ambulance service  
16 providers to provide services in an efficient and  
17 cost-effective manner. Thus, it is the intent of the General  
18 Assembly that the Illinois Department implement a  
19 reimbursement system for ambulance services that, to the extent  
20 practicable and subject to the availability of funds  
21 appropriated by the General Assembly for this purpose, is  
22 consistent with the payment principles of Medicare. To ensure  
23 uniformity between the payment principles of Medicare and

1 Medicaid, the Illinois Department shall follow, to the extent  
2 necessary and practicable and subject to the availability of  
3 funds appropriated by the General Assembly for this purpose,  
4 the statutes, laws, regulations, policies, procedures,  
5 principles, definitions, guidelines, and manuals used to  
6 determine the amounts paid to ambulance service providers under  
7 Title XVIII of the Social Security Act (Medicare). The Illinois  
8 Department shall receive the approval of the General Assembly  
9 prior to applying for any waiver to reduce or eliminate the  
10 State's responsibility to provide emergency or non-emergency  
11 ambulance services to Medicaid beneficiaries.

12 (b) For ambulance services provided to a recipient of aid  
13 under this Article on or after January 1, 1996, the Illinois  
14 Department shall reimburse ambulance service providers based  
15 upon the actual distance traveled if a natural disaster,  
16 weather conditions, road repairs, or traffic congestion  
17 necessitates the use of a route other than the most direct  
18 route.

19 (c) For purposes of this Section, "ambulance services"  
20 includes medical transportation services provided by means of  
21 an ambulance, medi-car, service car, or taxi.

22 (c-1) For purposes of this Section, "ground ambulance  
23 service" means medical transportation services that are  
24 described as ground ambulance services by the Centers for  
25 Medicare and Medicaid Services and provided in a vehicle that  
26 is licensed as an ambulance by the Illinois Department of

1 Public Health pursuant to the Emergency Medical Services (EMS)  
2 Systems Act.

3 (c-2) For purposes of this Section, "ground ambulance  
4 service provider" means a vehicle service provider as described  
5 in the Emergency Medical Services (EMS) Systems Act that  
6 operates licensed ambulances for the purpose of providing  
7 emergency ambulance services, or non-emergency ambulance  
8 services, or both. For purposes of this Section, this includes  
9 both ambulance providers and ambulance suppliers as described  
10 by the Centers for Medicare and Medicaid Services.

11 (c-3) For purposes of this Section, "medi-car" means  
12 transportation services provided to a patient who is confined  
13 to a wheelchair and requires the use of a hydraulic or electric  
14 lift or ramp and wheelchair lockdown when the patient's  
15 condition does not require medical observation, medical  
16 supervision, medical equipment, the administration of  
17 medications, or the administration of oxygen.

18 (c-4) For purposes of this Section, "service car" means  
19 transportation services provided to a patient by a passenger  
20 vehicle where that patient does not require the specialized  
21 modes described in subsection (c-1) or (c-3).

22 (d) This Section does not prohibit separate billing by  
23 ambulance service providers for oxygen furnished while  
24 providing advanced life support services.

25 (e) Beginning with services rendered on or after July 1,  
26 2008, all providers of non-emergency medi-car and service car

1 transportation must certify that the driver and employee  
2 attendant, as applicable, have completed a safety program  
3 approved by the Department to protect both the patient and the  
4 driver, prior to transporting a patient. The provider must  
5 maintain this certification in its records. The provider shall  
6 produce such documentation upon demand by the Department or its  
7 representative. Failure to produce documentation of such  
8 training shall result in recovery of any payments made by the  
9 Department for services rendered by a non-certified driver or  
10 employee attendant. Medi-car and service car providers must  
11 maintain legible documentation in their records of the driver  
12 and, as applicable, employee attendant that actually  
13 transported the patient. Providers must recertify all drivers  
14 and employee attendants every 3 years.

15 Notwithstanding the requirements above, any public  
16 transportation provider of medi-car and service car  
17 transportation that receives federal funding under 49 U.S.C.  
18 5307 and 5311 need not certify its drivers and employee  
19 attendants under this Section, since safety training is already  
20 federally mandated.

21 (f) With respect to any policy or program administered by  
22 the Department or its agent regarding approval of non-emergency  
23 medical transportation by ground ambulance service providers,  
24 including, but not limited to, the Non-Emergency  
25 Transportation Services Prior Approval Program (NETSPAP), the  
26 Department shall establish by rule a process by which ground

1 ambulance service providers of non-emergency medical  
2 transportation may appeal any decision by the Department or its  
3 agent for which no denial was received prior to the time of  
4 transport that either (i) denies a request for approval for  
5 payment of non-emergency transportation by means of ground  
6 ambulance service or (ii) grants a request for approval of  
7 non-emergency transportation by means of ground ambulance  
8 service at a level of service that entitles the ground  
9 ambulance service provider to a lower level of compensation  
10 from the Department than the ground ambulance service provider  
11 would have received as compensation for the level of service  
12 requested. The rule shall be filed by December 15, 2012 and  
13 shall provide that, for any decision rendered by the Department  
14 or its agent on or after the date the rule takes effect, the  
15 ground ambulance service provider shall have 60 days from the  
16 date the decision is received to file an appeal. The rule  
17 established by the Department shall be, insofar as is  
18 practical, consistent with the Illinois Administrative  
19 Procedure Act. The Director's decision on an appeal under this  
20 Section shall be a final administrative decision subject to  
21 review under the Administrative Review Law.

22 (f-5) Beginning 90 days after July 20, 2012 (the effective  
23 date of Public Act 97-842), (i) no denial of a request for  
24 approval for payment of non-emergency transportation by means  
25 of ground ambulance service, and (ii) no approval of  
26 non-emergency transportation by means of ground ambulance

1 service at a level of service that entitles the ground  
2 ambulance service provider to a lower level of compensation  
3 from the Department than would have been received at the level  
4 of service submitted by the ground ambulance service provider,  
5 may be issued by the Department or its agent unless the  
6 Department has submitted the criteria for determining the  
7 appropriateness of the transport for first notice publication  
8 in the Illinois Register pursuant to Section 5-40 of the  
9 Illinois Administrative Procedure Act.

10 (g) Whenever a patient covered by a medical assistance  
11 program under this Code or by another medical program  
12 administered by the Department, including a patient covered  
13 under the State's Medicaid managed care program, is being  
14 transported from a facility and requires non-emergency  
15 transportation including ground ambulance, medi-car, or  
16 service car transportation, a Physician Certification  
17 Statement as described in this Section shall be required for  
18 each patient. Facilities shall develop procedures for a  
19 licensed medical professional to provide a written and signed  
20 Physician Certification Statement. The Physician Certification  
21 Statement shall specify the level of transportation services  
22 needed and complete a medical certification establishing the  
23 criteria for approval of non-emergency ambulance  
24 transportation, as published by the Department of Healthcare  
25 and Family Services, that is met by the patient. This  
26 certification shall be completed prior to ordering the

1 transportation service and prior to patient discharge. The  
2 Physician Certification Statement is not required prior to  
3 transport if a delay in transport can be expected to negatively  
4 affect the patient outcome.

5 The medical certification specifying the level and type of  
6 non-emergency transportation needed shall be in the form of the  
7 Physician Certification Statement on a standardized form  
8 prescribed by the Department of Healthcare and Family Services.  
9 Within 75 days after July 27, 2018 (the effective date of  
10 Public Act 100-646) ~~this amendatory Act of the 100th General~~  
11 ~~Assembly~~, the Department of Healthcare and Family Services  
12 shall develop a standardized form of the Physician  
13 Certification Statement specifying the level and type of  
14 transportation services needed in consultation with the  
15 Department of Public Health, Medicaid managed care  
16 organizations, a statewide association representing ambulance  
17 providers, a statewide association representing hospitals, 3  
18 statewide associations representing nursing homes, and other  
19 stakeholders. The Physician Certification Statement shall  
20 include, but is not limited to, the criteria necessary to  
21 demonstrate medical necessity for the level of transport needed  
22 as required by (i) the Department of Healthcare and Family  
23 Services and (ii) the federal Centers for Medicare and Medicaid  
24 Services as outlined in the Centers for Medicare and Medicaid  
25 Services' Medicare Benefit Policy Manual, Pub. 100-02, Chap.  
26 10, Sec. 10.2.1, et seq. The use of the Physician Certification



1 Statement shall satisfy the obligations of hospitals under  
2 Section 6.22 of the Hospital Licensing Act and nursing homes  
3 under Section 2-217 of the Nursing Home Care Act.  
4 Implementation and acceptance of the Physician Certification  
5 Statement shall take place no later than 90 days after the  
6 issuance of the Physician Certification Statement by the  
7 Department of Healthcare and Family Services.

8 Pursuant to subsection (E) of Section 12-4.25 of this Code,  
9 the Department is entitled to recover overpayments paid to a  
10 provider or vendor, including, but not limited to, from the  
11 discharging physician, the discharging facility, and the  
12 ground ambulance service provider, in instances where a  
13 non-emergency ground ambulance service is rendered as the  
14 result of improper or false certification.

15 Beginning October 1, 2018, the Department of Healthcare and  
16 Family Services shall collect data from Medicaid managed care  
17 organizations and transportation brokers, including the  
18 Department's NETSPAP broker, regarding denials and appeals  
19 related to the missing or incomplete Physician Certification  
20 Statement forms and overall compliance with this subsection.  
21 The Department of Healthcare and Family Services shall publish  
22 quarterly results on its website within 15 days following the  
23 end of each quarter.

24 (h) On and after July 1, 2012, the Department shall reduce  
25 any rate of reimbursement for services or other payments or  
26 alter any methodologies authorized by this Code to reduce any

1 rate of reimbursement for services or other payments in  
2 accordance with Section 5-5e.

3 (i) On and after July 1, 2018, the Department shall  
4 increase the base rate of reimbursement for both base charges  
5 and mileage charges for ground ambulance service providers for  
6 medical transportation services provided by means of a ground  
7 ambulance to a level not lower than 112% of the base rate in  
8 effect as of June 30, 2018.

9 (Source: P.A. 100-587, eff. 6-4-18; 100-646, eff. 7-27-18;  
10 revised 8-27-18.)

11 Section 99. Effective date. This Act takes effect upon  
12 becoming law.