



Economic Affairs Interim Committee 64th Montana Legislature

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Background Material for HJR 29 Study of Membership-Based Health Care

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House Joint Resolution No. 29 suggests looking at various aspects of membership-based health care and specifically how membership-based ambulances operate in Montana and whether there can be some type of regulation that leads to an informed or improved marketplace for patients, insurers, and all medical care providers.

One question for the Economic Affairs Interim Committee, to which HJR 29 was assigned by Legislative Council, is whether to expand the membership-based health care study to include all air ambulance service. One reason for the broad approach regarding membership-based health care was a Senate bill that would have exempted concierge-type medicine from health insurance laws. That bill was not enacted into law. So, while membership-based care in general is still the subject, the question for the Economic Affairs Committee is whether to address primarily the broad spectrum of ambulance services, not just membership-based air ambulance services. At this point it is unclear how many air ambulance services now provide memberships in Montana but potentially six of 13 services in Montana have memberships. See report "Air Ambulance Services Operating in Montana."

Legislative hearings focused on cost concerns

Testimony promoting passage of the HJR 29 study highlighted cases in which some critically sick patients airlifted to a big-city hospital for emergency care found that the air ambulance bill was not fully covered by health insurance, if covered at all. Billed charges compiled by one insurance affiliate ranged from \$31,000 to \$80,000, with the costs of flights to patients ranging from \$14,500 for one claim to \$39,000 for another. (The balance billing costs were not on the same high and low charges mentioned earlier.) See "Out-of-Network Sample Claims" in Appendix A, provided to the House Human Services Committee during testimony on HJR 29. These costs were on top of the patient's other medical co-pays and out-of-pocket expenses prior to meeting their insurance deductible--if the patient had insurance. The patients did not have memberships, and the costs not covered by their insurance and balance-billed by the air ambulances in some cases were higher than their out-of-pocket costs for all other medical expenses.

A complex subject

The complexities of the air ambulance industry in particular are multiple and include the following issues:

- air ambulance prices, routes, or service are "expressly preempted by the Airline Deregulation Act of 1978, 49 U.S.C. 41713(b)(1)," according to April 2015 "Guidelines for the Use and Availability of Helicopter Emergency Medical Transport" prepared by the U.S. Department of Transportation. The actual law says "no state or political agency of two or more states shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law related to rates, routes, or services of any air carrier having authority under Title IV of this Act to provide interstate air transportation." It is not clear if intrastate-only transports can be regulated.
- not all air ambulances have agreements with insurers to be part of the insurer's preferred provider organization or, in other words, a network member that agrees to accept often-discounted payments in exchange for the benefit of getting referrals of patients who want to pay in-network prices to their medical providers. Usually an insurance plan's in-network providers do not "balance bill" a patient covered by that insurance for the provider's reasonable and customary charges. An air ambulance or private ground ambulance might be part of a hospital, which in turn has PPO

status with an insurer, but not all have that type of relationship. (See Table below.) An air ambulance provider that serves Montana as well as North Dakota is suing over a new North Dakota law that seeks to create a primary call list that includes participating providers. See: <http://www.inforum.com/news/3760303-air-ambulance-service-sues-block-new-nd-law>

- the payer is not the person contacting the service provider and may be too sick or incapable of decisionmaking, which puts the hospital or other emergency service provider into a situation of calling in help that most people generally acknowledge is expected to be paid by the person benefitting from that help (or the person's family or insurer). A hospital serves in a patient's stead in deciding whom to call but may be at risk for making choices to use one air ambulance provider rather than another or refer to one tertiary care hospital over another, particularly if timing is not a critical factor and information on membership or network coverage is available. See [letter](#) from Sentinel Air Medical Alliance regarding a claim submitted to Allegiance Benefit Plan Management.
- the emergency situations that generally involve air ambulance transport often are life-and-death situations in which time is a critical factor, and time lost may be life lost. In those types of situations, a weigh-the-risk and weigh-the-costs mentality raises ethical and moral questions regarding whether a "wallet biopsy" is being performed before services are ordered.
- membership-based health care is a voluntary purchase but the seller of that service is supposed to have arrangements with other air ambulance service providers in Montana "to the extent reasonably possible to ensure maximum geographic coverage within the state for the subscribers to the program," according to 50-6-320(3), MCA. If a membership-based service out of eastern Montana does not have arrangements with other air ambulance providers in western Montana, there does not appear to be any enforcement mechanism or a requirement that the terms of the contract be met by the provider in the other geographic area. "Arrangement" referenced in 50-6-320(3) is somewhat vague and does not necessarily equate with reciprocity on contract terms.

Current situation

Under Title 50, chapter 6, part 3, ambulances operating in Montana must be licensed as emergency medical service units with the Department of Public Health and Human Services. Regulatory reach is minimal. One rule requires an air ambulance service to have, in addition to the pilot, one emergency care provider with paramedic or equivalent licensure (37.104.329 ARM). Membership-based air ambulances specifically are required to be licensed under 50-6-320 and are exempt from the insurance code.

Basic Law for Ambulance Service Licensing:

- 50-6-306. License required.** (1) A person may not conduct or operate an emergency medical service without first obtaining a license from the department. A separate license is required for each type and level of service....
- (2) [omitted because it deals with department duties]
- (3) Each license must be issued for a specific term not to exceed 2 years. Renewal may be obtained by paying the required license fee and demonstrating compliance with department rules.
- (4) The license is not transferable.

At the end of 2014, the fixed wing aircraft companies licensed in Montana numbered 11, including one based in Dickinson, N.D. There are 11 companies (some duplicates of the fixed wing licensees, who have licensed their rotor or helicopter aircraft, including one in Dickinson, N.D., one in Cody, WY, and one in Sandpoint, Idaho. A company with both types of aircraft has to license each separately through the Department of Public Health and Human Services Emergency Medical Services and Trauma Systems unit. See the Table for a list of companies, the town they are listed as serving, and the type of emergency transport they provide. The Table also lists private ground ambulances because they have indicated an interest in having membership-based plans. A separate report, *Air Ambulances Operating in Montana*, shows 13 air ambulances of which six offer memberships, according to their websites.

Licensed private ambulance services by type of motorized transport and location

Service Name	Location	Rotor Wing Air	Fixed Wing Air	Ground
A-1 Ambulance	Butte			x
Air Idaho Rescue	W. Yellowstone	x		
Alert I Alert II	Kalispell	x	x	
Service Name	Location	Rotor Wing Air	Fixed Wing Air	Ground
American Medical Response	Billings Bozeman			x x
Billings Clinic Medflight	Billings		x	
Eagle Emergency Service, Inc.	Clancy			x
Eagle Med LLC Eagle Med LLC	Cody, WY Butte	x x		
Great Falls Emergency Services Inc.	Great Falls			x
Help Flight St. Vincent Healthcare	Billings	x	x	
Life Flight Network	Butte Sandpoint, ID	x x	x	
Med-Trans Corp. dba Spirit Lifeline*	Dickinson, ND	x		
Mercy Flight Benefis Healthcare	Great Falls	x	x	
Missoula Emergency Services, Inc.	Missoula			x
Montana Medical Transport	Helena		x	x
NW Med-Star	Missoula	x	x	
Polson Ambulance Inc.	Polson			x
REACH Air Medical Service LLC dba Summit	Helena Belgrade	x	x	
Ronan Ambulance Service	Ronan			x
Sanford Air Med	Dickinson		x	
Stat Air Ambulance Service	Glasgow		x	
Valley Med Flight	Sidney		x	

*A news article indicates this company no longer is doing business and is being replaced by Sanford Air Med.

Options for the Committee to Consider

Given the federal preemption related to interstate commerce of the air ambulances, there are concerns about whether and to what extent any regulation is possible (including Montana's current licensing law). But there may be options outside of the air ambulance realm for the Committee to explore. One might be

to require informational notices in insurance policies either of the option to buy memberships in a private ambulance service or to alert policyholders that they may be balance-billed for any service that is not covered by insurance law, including membership-based air ambulance services. Another option might be to require hospitals and medical providers, including search and rescue operations, to seek out, whenever possible, in-network ambulances if those hospitals or medical providers are the ones calling the service on behalf of a critically sick or injured patient. This is similar to a law recently passed in North Dakota, which is being challenged in court by one of the air ambulance services that also operates in Montana.

Study Plan Scope

- As outlined in the study plan, a minimal approach would involve briefing papers outlining federal areas of preemption related to regulating air ambulance service, insurer approaches, costs, and scope of service plus other states' actions regarding air ambulances. One informational panel would be held under this minimal option to allow representatives of air ambulance services (membership and nonmembership), self-insurers like the state or counties, insurance companies, private ground ambulance services, and hospitals to provide their views on whether regulation is feasible, by whom, and to what extent. Time allotted: 1 meeting.
- A more moderate involvement would provide for two panels plus the previously mentioned briefing papers. This approach would provide more indepth discussion of air ambulance services, costs, concerns among insurers, and the use of memberships and when commercial service might substitute. The second panel would address any proposals for changes by potential regulators as well as the same groups mentioned under the minimal approach. Time allotted: 2 meetings.
- The most involvement would focus on legal concerns, regulator concerns, consumer protection aspects, and options as outlined in the moderate involvement. Time allotted: 3-4 meetings.

Appendix A:

Out of Network
Sample Claims

Vendor A	CLAIM A	Units	Billed Charges	Billed Charge Per Unit	Rural Medicare Allowed	Billed Percentage of Medicare Allowable	Eligible Charges as Defined by Plan Document	Member Responsibility (Balance Bill)
	Fixed Wing Base Rate	1	\$10,500.00	\$10,500.00	\$4,444.68	236%		
	Fixed Wing Mileage Rate	400	\$43,600.00	\$109.00	\$5,040.00	865%		
	Total		\$54,100.00		\$9,484.68	570%	\$23,711.70	\$30,388.30

Vendor A	CLAIM F	Units	Billed Charges	Billed Charge Per Unit	Rural Medicare Allowed	Billed Percentage of Medicare Allowable	Eligible Charges as Defined by Plan Document	Member Responsibility (Balance Bill)
	Fixed Wing Base Rate	1	\$12,500.00	\$12,500.00	\$4,444.68	281%		
	Fixed Wing Mileage Rate	609	\$72,452.73	\$118.97	\$7,673.40	944%		
	Total		\$84,952.73		\$12,118.08	701%	\$30,295.20	\$54,657.53

Vendor A	CLAIM H	Units	Billed Charges	Billed Charge Per Unit	Rural Medicare Allowed	Billed Percentage of Medicare Allowable	Eligible Charges as Defined by Plan Document	Member Responsibility (Balance Bill)
	Fixed Wing Base Rate	1	\$12,500.00	\$12,500.00	\$4,444.68	281%		
	Fixed Wing Mileage Rate	626	\$73,298.34	\$117.09	\$7,887.60	929%		
	Total		\$85,798.34		\$12,332.28	696%	\$30,830.70	\$54,967.64

Vendor A	CLAIM J	Units	Billed Charges	Billed Charge Per Unit	Rural Medicare Allowed	Billed Percentage of Medicare Allowable	Eligible Charges as Defined by Plan Document	Member Responsibility (Balance Bill)
	Rotary Wing Base Rate	1	\$15,965.00	\$15,965.00	\$5,245.13	304%		
	Rotary Wing Mileage Rate	185	\$32,375.00	\$175.00	\$6,319.60	512%		
	Total		\$48,340.00		\$11,564.73	418%	\$28,911.83	\$19,428.18

Vendor A

CLAIM M	Units	Billed Charges	Billed Charge Per Unit	Rural Medicare Allowed	Billed Percentage of Medicare Allowable	Eligible Charges as Defined by Plan Document	Member Responsibility (Balance Bill)
Fixed Wing Base Rate	1	\$12,500.00	\$12,500.00	\$4,444.68	281%	\$12,500.00	
Fixed Wing Mileage Rate	513	\$67,649.31	\$131.87	\$6,463.80	1047%	\$41,040.00	
Total		\$80,149.31		\$10,908.48	735%	\$53,540.00	\$26,609.31

Vendor A

CLAIM Q	Units	Billed Charges	Billed Charge Per Unit	Rural Medicare Allowed	Billed Percentage of Medicare Allowable	Eligible Charges as Defined by Plan Document	Member Responsibility (Balance Bill)
Fixed Wing Base Rate	1	\$15,965.00	\$15,965.00	\$4,444.68	359%	\$12,723.00	
Fixed Wing Mileage Rate	125	\$21,875.00	\$175.00	\$1,575.00	1389%	\$10,625.00	
Total		\$37,840.00		\$6,019.68	629%	\$23,348.00	\$14,492.00

Vendor B

CLAIM R	Units	Billed Charges	Billed Charge Per Unit	Rural Medicare Allowed	Billed Percentage of Medicare Allowable	Eligible Charges as Defined by Plan Document	Member Responsibility (Balance Bill)
Fixed Wing Base Rate	1	\$13,116.00	\$13,116.00	\$4,444.68	295%		
Fixed Wing Mileage Rate	442	\$48,664.20	\$110.10	\$5,569.20	874%		
Miscellaneous Unbundled Charges	10	\$290.44	\$29.04	NA/NA			
Total		\$62,070.64		\$10,013.88	620%	\$25,034.70	\$37,035.94

Vendor B

CLAIM S	Units	Billed Charges	Billed Charge Per Unit	Rural Medicare Allowed	Billed Percentage of Medicare Allowable	Eligible Charges as Defined by Plan Document	Member Responsibility (Balance Bill)
Fixed Wing Base Rate	1	\$13,116.00	\$13,116.00	\$4,444.68	295%		
Fixed Wing Mileage Rate	161	\$17,726.10	\$110.10	\$2,028.60	874%		
Miscellaneous Unbundled Charges	19	\$676.66	\$35.61	NA/NA			
Total		\$31,518.76		\$6,473.28	487%	\$16,183.20	\$15,335.56

Vendor B

CLAIM T		Units	Billed Charges	Billed Charge Per Unit	Rural Medicare Allowed	Billed Medicare	Billed Percentage of Medicare Allowable	Eligible Charges as Defined by Plan Document	Member Responsibility (Balance Bill)
	Fixed Wing Base Rate	1	\$13,116.00	\$13,116.00		\$4,444.68	295%		
	Fixed Wing Mileage Rate	164	\$18,056.40	\$110.10		\$2,066.40	874%		
	Miscellaneous Unbundled Charges	4	\$206.49	\$51.62		NANA			
	Total		\$31,378.89			\$6,511.08	482%	\$16,277.70	\$15,101.19

Vendor B

CLAIM U		Units	Billed Charges	Billed Charge Per Unit	Rural Medicare Allowed	Billed Medicare	Billed Percentage of Medicare Allowable	Eligible Charges as Defined by Plan Document	Member Responsibility (Balance Bill)
	Fixed Wing Base Rate	1	\$13,116.00	\$13,116.00		\$4,444.68	295%		
	Fixed Wing Mileage Rate	172	\$18,937.20	\$110.10		\$2,167.20	874%		
	Miscellaneous Unbundled Charges	9	\$186.04	\$20.67		NANA			
	Total		\$32,239.24			\$6,611.88	488%	\$16,529.70	\$15,709.54

Vendor B

CLAIM V		Units	Billed Charges	Billed Charge Per Unit	Rural Medicare Allowed	Billed Medicare	Billed Percentage of Medicare Allowable	Eligible Charges as Defined by Plan Document	Member Responsibility (Balance Bill)
	Fixed Wing Base Rate	1	\$13,116.00	\$13,116.00		\$4,444.68	295%		
	Fixed Wing Mileage Rate	405	\$44,590.50	\$110.10		\$5,103.00	874%		
	Miscellaneous Unbundled Charges	11	\$542.90	\$49.35		NANA			
	Total		\$58,249.40			\$9,547.68	610%	\$23,869.20	\$34,380.20

Vendor B

CLAIM X		Units	Billed Charges	Billed Charge Per Unit	Rural Medicare Allowed	Billed Medicare	Billed Percentage of Medicare Allowable	Eligible Charges as Defined by Plan Document	Member Responsibility (Balance Bill)
	Fixed Wing Base Rate	1	\$13,116.00	\$13,116.00		\$4,444.68	295%		
	Fixed Wing Mileage Rate	254	\$27,965.40	\$110.10		\$3,200.40	874%		
	Miscellaneous Unbundled Charges	5	\$87.74	\$17.55		NANA			
	Total		\$41,169.14			\$7,645.08	539%	\$19,112.70	\$22,056.44

Vendor F

CLAIM Y	Units	Billed Charges	Billed Charge Per Unit	Rural Medicare Allowed	Billed Percentage of Medicare Allowable	Eligible Charges as Defined by Plan Document	Member Responsibility (Balance Bill)
Fixed Wing Base Rate	1	\$16,538.00	\$16,538.00	\$4,444.68	372%		
Fixed Wing Mileage Rate	195	\$30,030.00	\$154.00	\$2,457.00	1222%		
Total		\$46,568.00		\$6,901.68	675%	\$17,254.20	\$29,313.80

Vendor F

CLAIM Z	Units	Billed Charges	Billed Charge Per Unit	Rural Medicare Allowed	Billed Percentage of Medicare Allowable	Eligible Charges as Defined by Plan Document	Member Responsibility (Balance Bill)
Rotary Wing Base Rate	1	\$19,019.00	\$19,019.00	\$4,444.68	428%		
Rotary Wing Mileage Rate	85	\$16,660.00	\$196.00	\$1,071.00	1556%		
Total		\$35,679.00		\$5,515.68	647%	\$13,789.20	\$21,889.80

Vendor D

CLAIM AA	Units	Billed Charges	Billed Charge Per Unit	Rural Medicare Allowed	Billed Percentage of Medicare Allowable	Eligible Charges as Defined by Plan Document	Member Responsibility (Balance Bill)
Fixed Wing Base Rate	1	\$15,000.00	\$15,000.00	\$4,444.68	337%		
Fixed Wing Mileage Rate	195	\$53,392.00	\$273.81	\$2,457.00	2173%		
Miscellaneous Unbundled Charges	1	\$4,680.00	\$4,680.00	NANA			
Total		\$73,072.00		\$6,901.68	1059%	\$17,254.20	\$55,817.80

Vendor E

CLAIM AB	Units	Billed Charges	Billed Charge Per Unit	Rural Medicare Allowed	Billed Percentage of Medicare Allowable	Eligible Charges as Defined by Plan Document	Member Responsibility (Balance Bill)
Fixed Wing Base Rate	1	\$17,900.00	\$17,900.00	\$4,444.68	403%		
Fixed Wing Mileage Rate	203	\$28,217.00	\$139.00	\$2,557.80	1103%		
Miscellaneous Unbundled Charges	1	\$450.00	\$450.00	NANA			
Total		\$46,567.00		\$7,002.48	665%	\$17,506.20	\$29,060.80

CLAIM AB		Units	Billed Charges	Billed Charge Per Unit	Rural Medicare Allowed	Billed Percentage of Medicare Allowable	Eligible Charges as Defined by Plan Document	Member Responsibility (Balance Bill)
Fixed Wing Base Rate	1	\$21,500.00	\$21,500.00	\$4,444.68	484%			
Fixed Wing Mileage Rate	301	\$37,625.00	\$125.00	\$3,792.60	992%			
Miscellaneous Unbundled Charges	1	\$450.00	\$450.00	NA				
Total		\$59,575.00		\$8,237.28	723%		\$20,593.20	\$38,981.80

Vendor E

CLAIM AC		Units	Billed Charges	Billed Charge Per Unit	Rural Medicare Allowed	Billed Percentage of Medicare Allowable	Eligible Charges as Defined by Plan Document	Member Responsibility (Balance Bill)
Fixed Wing Base Rate	1	\$21,500.00	\$21,500.00	\$4,444.68	484%			
Fixed Wing Mileage Rate	234	\$29,250.00	\$125.00	\$2,948.40	992%			
Miscellaneous Unbundled Charges	1	\$450.00	\$450.00	NA				
Total		\$51,200.00		\$7,393.08	693%		\$18,482.70	\$32,717.30

Vendor E

CLAIM AC		Units	Billed Charges	Billed Charge Per Unit	Rural Medicare Allowed	Billed Percentage of Medicare Allowable	Eligible Charges as Defined by Plan Document	Member Responsibility (Balance Bill)
Fixed Wing Base Rate	1	\$21,500.00	\$21,500.00	\$4,444.68	484%			
Fixed Wing Mileage Rate	257	\$32,125.00	\$125.00	\$3,238.20	992%			
Miscellaneous Unbundled Charges	1	\$450.00	\$450.00	NA				
Total		\$54,075.00		\$7,682.88	704%		\$19,207.20	\$34,867.80

Vendor E