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FISCAL IMPACT REPORT

ORIGINAL DATE 2/4/16
 SPONSOR Sanchez, C LAST UPDATED 2/17/16 HB _____
 SHORT TITLE Study Air Ambulance Transports SM 62/aSPAC
 ANALYST Clark

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Up to \$5.0	Up to \$5.0		Up to \$10.0	Nonrecurring	General Fund

Parenthesis () indicate expenditure decreases

Relates to HM 78

SOURCES OF INFORMATION

LFC Files

Responses Received From

Office of Superintendent of Insurance (OSI)

Workers' Compensation Administration (WCA)

Department of Health (DOH)

SUMMARY

Synopsis of SPAC Amendment

The Senate Public Affairs Committee Amendment adds to the study group the air ambulance industry, the health insurance industry, the New Mexico Hospital Association, and the New Mexico Medical Society. It also extends the reporting deadline from October 1 to December 31, 2016.

Synopsis of Original Bill

Senate Memorial 62 requests the Office of Superintendent of Insurance (OSI) convene an air ambulance study group made up of representatives of the Department of Health (DOH), the Risk Management Division of the General Services Department (GSD), and the Workers' Compensation Administration (WCA) to study issues related to air ambulance transportation in New Mexico. The issues studied are to include the financial aspects, including types and costs of operations, charges for services provided, and billing practices and reimbursement by payors; New Mexico and federal laws applicable to the operation and reimbursement by payors; and mechanisms available to New Mexico to regulate financial aspects of air ambulance transport services to ensure cost-effective use of air ambulance transport services and to assure consumer

protection. The group is requested to produce a report with findings and conclusions to present to LFC by October 1, 2016.

FISCAL IMPLICATIONS

There would be a very small fiscal impact for each of the agencies involved in the study to pay for mileage and other associated costs.

SIGNIFICANT ISSUES

WCA reports the cost of site-to-facility and facility-to-facility transport by air ambulances has skyrocketed, contributing to rising medical costs within the workers' compensation system. OSI reports the national average air ambulance trip is 52 miles and costs between \$12 thousand and \$25 thousand per flight, but according to WCA, such a trip can run between \$20 thousand and \$40 thousand in some instances. The greatest cost within the workers' compensation system is for medical care. The extremely high cost of air transport contributes to higher claims expenses and to rising premiums for all New Mexico employers. However, WCA reports the federal Airline Deregulation Act of 1978 may prohibit cost controls on the air transportation industry by state entities.

OSI reports air ambulances most commonly transport patients with traumatic injuries, pregnancies complications, heart attacks, strokes, and respiratory diseases. The Association of Air Medical Services estimates that more than 550 thousand patients in the U.S. use air ambulances each year. However, using an air ambulance is expensive and might not be covered by the patient's health insurance policy.

The Association of Air Medical Services asserts that the high price accounts for the initial aircraft cost, which can reach \$6 million, as well as medical equipment and maintenance. The federal Airline Deregulation Act prohibits states from setting rates related to air ambulances. If an individual undergoes a medical emergency abroad, the cost of medical evacuation back to the U.S. can reach six figures.

Many insurers will pay what they deem reasonable cost for an air ambulance; however, sometimes the air ambulance company and the insurer disagree on the cost. In most circumstances, the difference between what the insurer pays and the billed charges, which could run in the thousands of dollars, will most likely be the consumer's responsibility.

States that have tried to set payment rates for ambulances have been subject to lawsuits under the federal Airline Deregulation Act. North Dakota passed a law aimed at forcing air ambulance providers to become "participating providers" by joining major insurance company networks. Under this legislation, participating air ambulance providers agree not to charge more than allowed under their insurance contract, leaving the patient to pay only the deductible and copayments, subject to caps, owed according to their policies. The North Dakota legislation also creates a primary call list that includes only operators that qualify as participating providers with major insurance carriers. Air ambulance providers have sued the state for trying to illegally usurp federal regulation with the new air ambulance dispatch law; however, air ambulance providers have agreed to becoming participating providers to maintain business operations.

ADMINISTRATIVE IMPLICATIONS

There would be a minimal administrative impact for the agencies involved in the study.

DUPLICATION

This memorial duplicates HM 78.

OTHER SUBSTANTIVE ISSUES

The Department of Health provided the following analysis.

From 1999 through 2008, the number of patients transported nationally by helicopter air ambulance increased from just over 200,000 to over 270,000, or by about 35 percent, and the number of dedicated air ambulance helicopters increased from 360 to 677, or by about 88 percent. During the same period, the structure of the industry changed from a preponderance of providers affiliated with a specific hospital to a fairly even split between hospital-based and independent providers, often located outside hospitals, in suburban or rural communities. Proponents of a change in the regulatory framework maintain that the growth in helicopters has led to medically unnecessary flights. Stakeholders assert that high fixed costs create economic pressure to fly in unsafe weather and use less costly small helicopters that limit some patient services.

(United States Government Accountability Office, GAO Highlights, September 2010, Effects of Industry Changes on Services Are Unclear)

Air ambulance transport is an under-regulated medical field. This is due in large part to the Federal Airline Deregulation Act, which prohibits states from regulating “rates, routes or services” of air services. This statutory text has been interpreted to extend not only to domestic air carriers generally, but to air ambulance services as well, preventing states from adopting tariffs on the costs of transport and associated medical services, or from otherwise regulating the routes of transport or circumstances under which air transport is permitted. This stands in contrast to ground ambulance services, which are governed by tariffs adopted by the New Mexico Public Regulation Commission, and whose billings are restricted by such tariffs.

As a consequence of Federal law and its interpretation, air ambulance services in New Mexico have had little in the way of restrictions on the amounts that they may charge a patient for their services. In addition, there are virtually no restrictions on the circumstances under which a patient may be transported via air ambulance. This has resulted in many cases of perceived over-billing by air ambulance companies in New Mexico, as well as air transportation being conducted in non-life-threatening circumstances in which ground transportation may have been less dangerous, and more cost-effective. There are additional concerns regarding the extent to which patients are informed of their transportation options and the potential expenses associated with air ambulance transport. The DOH Emergency Medical Systems (EMS) Bureau has received complaints from consumers regarding what they consider to be excessive charges. Charges for air ambulance services have reportedly been sufficiently burdensome to patients that they have been unable to pay them.

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The federal Airline Deregulation Act of 1978 has given the federal government the authority and oversight concerning air ambulance rates, routes and service. States have the authority to regulate only the medical aspects of air ambulances. HM62 would require the affected agencies to report on “mechanisms available to New Mexico to regulate financial aspects of air ambulance transport services to ensure cost-effective use of air ambulance services.” Whether any regulatory mechanisms may be available to States, in light of the current Federal law, is uncertain.

JC/jo/al/jo