

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website ([www.nmlegis.gov](http://www.nmlegis.gov)) and may also be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

SPONSOR Thomson ORIGINAL DATE \_\_\_\_\_ LAST UPDATED \_\_\_\_\_ HB 402

SHORT TITLE Air Ambulance Reimbursement Act SB \_\_\_\_\_

ANALYST Martinez

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY17	FY18		
NFI	NFI	NFI	NFI

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Office of Superintendent of Insurance  
Department of Health

### SUMMARY

#### Synopsis of Bill

House Bill 402 seeks to amend the Insurance Code to regulate reimbursement for air ambulance services by creating the Air Ambulance Reimbursement Act. The Act would hold consumers harmless for balance billing for air ambulance services under health care plan contracts, cap reimbursement amounts for air ambulance services, and establish penalties for violations of the Act.

### FISCAL IMPLICATIONS

This legislation may have a minor impact on the Office of Superintendent of Insurance's (OSI) budget and staffing needs. Additional staff time may be needed to enforce this legislation on behalf of consumers.

This legislation may result in lower uncompensated care costs. Consumers facing balance bills often cannot afford to pay for balance billed air ambulance charges, which can reach upwards of \$30,000. Many declare bankruptcy or seek assistance from remaining uncompensated care funds.

## **SIGNIFICANT ISSUES**

The following significant issues were provided by the Office of the Superintendent of Insurance:

Data collected by OSI for workers' compensation and health insurance carriers between the years of 2005 and 2016 shows that:

- Air ambulance providers have increased in numbers since 2009, from approximately 13 in-state aircraft operating to 21 aircraft in 2016.
- The average charge per claim for air ambulance services increased 229% between 2006 and 2015.
- The average claim paid by health and workers' compensation insurance for air ambulance charges increased 50% from 2006 to 2015.
- The average portion of the claim unpaid by insurance carriers as of 2015 is \$26,829. In some circumstances, providers may balance bill insured's for this unpaid balance.
- Prior to 2015, four air ambulance providers conducted approximately 55% of transports in the state. Three of these companies have recently been purchased by the largest air ambulance provider in the nation, Air Methods.

This legislation may lead to litigation with the air ambulance industry, which has previously argued that states are preempted from regulating air ambulance charges under the Airline Deregulation Act. Recently, Texas has been successful in a counter argument that states have the authority to regulate insurance coverage for air ambulance services under the McCarran Ferguson Act. The McCarran Ferguson Act grants the states the sole authority to regulate the business of insurance. The Airline Deregulation Act does not preempt states' authority to regulate the business of insurance when regulating insurance carriers' regulation of air ambulance fees.

### **The following significant issues were provided by the Department of Health:**

The Airline Deregulation Act (ADA) does not allow states to regulate "rate, route, or service" of air ambulance providers. The number of air services has, therefore, increased significantly in New Mexico, as there can be no "certificate of need" process instituted as is done for ground ambulance agencies. Air ambulance providers do not view health plans or patients as their customer. Rather, they view the referral source as the customer. Relationships between referral sources and air ambulance providers drive demand for patient flights and result in many flights that are potentially "not medically necessary."

In 2016, the National Association of Insurance Commissioners stated that "As a result of flooding the market with aircraft, air ambulance providers now claim Medicare doesn't pay enough. Where providers were realizing a profit on their Medicare business, they now experience a loss. All of this is due to overcapacity in the state and the resulting reduction in the number of transports per aircraft. Air ambulance providers seek an increase in Medicare reimbursement. Billed charges to health plans will increase, not go down."

The Department of Health (NMDOH) EMS Bureau has received several complaints from consumers regarding high fees charged to them by air ambulance providers. This issue has also arisen in many other states.

HB402 will offer some protection to consumers from the balance billing procedures utilized by some air ambulance providers.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

If HB402 is not passed, the Insurance Code will not be amended to regulate reimbursement for air ambulance services.

JM/jle