

Chapter 74.70 RCW
AMBULANCE TRANSPORT FUND

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RCW 74.70.010 Finding—Purpose. (*Contingent expiration date.*)

The legislature finds that the payments to private emergency ambulance service providers for transports for medicaid recipients have not been increased since 2004, resulting in a loss for carriers who provide this service. This has resulted in the shifting of cost of medicaid transports to other payers.

The purpose of this chapter is to provide for a quality assurance fee for specified providers of emergency ambulance services as referenced in 42 C.F.R. Sec. 433.56, which will be used to add on to base funding from all other sources, thereby supporting additional medicaid payments to nonpublic and nonfederal providers of emergency ambulance services as specified in this chapter. [2020 c 354 s 1.]

Contingent expiration date—2020 c 354: See RCW 74.70.100(4)(b).

RCW 74.70.020 Definitions. (*Contingent expiration date.*) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Aggregate fee schedule amount" means the product of the add-on calculated pursuant to RCW 74.70.060(1) multiplied by the number of emergency ambulance transports for the state fiscal year.

(2) "Ambulance transport provider" means an ambulance transport provider that is licensed under RCW 18.73.140 that bills and receives patient care revenue from the provision of ground emergency ambulance transports. "Ambulance transport provider" does not include a provider that is owned or operated by the state, cities, counties, fire protection districts, regional fire protection service authorities, port districts, public hospital districts, community services districts, health care districts, federally recognized Indian tribes, or any unit of government as defined in 42 C.F.R. Sec. 433.50.

(3) "Annual quality assurance fee rate" means the quality assurance fee per emergency ambulance transport during each applicable state fiscal year assessed on each ambulance transport provider.

(4) "Authority" means the Washington state health care authority.

(5) "Available fee amount" means the sum of the following:

(a) The amount deposited in the ambulance transport fund established under RCW 74.70.030 during the applicable state fiscal year, less the amounts described in RCW 74.70.030(3)(a); and

(b) Any federal financial participation obtained as a result of the deposit of the amount described in this subsection, for the applicable state fiscal year.

(6) "Effective state medical assistance percentage" means a ratio of the aggregate expenditures from state-only sources for medicaid divided by the aggregate expenditures from state and federal sources for medicaid for a state fiscal year.

(7) "Emergency ambulance transport" means the act of transporting an individual by use of an ambulance during which a client receives needed emergency medical services en route to an appropriate medical facility. "Emergency ambulance transport" does not include transportation of beneficiaries by passenger cars, taxicabs, litter vans, wheelchair vans, or other forms of public or private conveyances, nor does it include transportation by an air ambulance provider. An "emergency ambulance transport" does not occur when, following evaluation of a patient, a transport is not provided.

(8) "Fee-for-service payment schedule" means the payment rates to ambulance transport providers for emergency ambulance transports by the authority without the inclusion of the add-on described in RCW 74.70.060.

(9) "Gross receipts" means the total amount of payments received as patient care revenue for emergency ambulance transports, determined on a cash basis of accounting. "Gross receipts" includes all payments received as patient care revenue for emergency ambulance transports from medicaid, medicare, commercial insurance, and all other payers as payment for services rendered.

(10) "Medicaid" means the medical assistance program and the state children's health insurance program as established in Title XIX and Title XXI of the social security act, respectively, and as administered in the state of Washington by the authority.

(11) "Program" means the ambulance quality assurance fee program established in this chapter. [2020 c 354 s 2.]

Contingent expiration date—2020 c 354: See RCW 74.70.100(4)(b).

RCW 74.70.030 Ambulance transport fund—Sources—Use. (Contingent expiration date.) (1) A dedicated fund is hereby established within the state treasury to be known as the ambulance transport fund. The purpose and use of the fund shall be to receive and disburse funds, together with accrued interest, in accordance with this chapter. Moneys in the fund, including interest earned, shall not be used or disbursed for any purposes other than those specified in this chapter. Any amounts expended from the fund that are later recouped by the authority on audit or otherwise shall be returned to the fund. Moneys in the account may be spent only after appropriation.

(2) The quality assurance fees collected by the authority pursuant to RCW 74.70.050 must be deposited in the ambulance transport fund.

(3) The moneys in the ambulance transport fund, including any interest and dividends earned on money in the fund, shall be available exclusively for the following purposes in the following order of priority:

(a) To provide funding in an amount not to exceed ten percent of the annual quality assurance fee rate collection amount, exclusive of any federal matching funds, for health care coverage for Washingtonians and for the authority's staffing and administrative costs directly attributable to administering this chapter; and

(b) To make increased payments to ambulance transport providers pursuant to RCW 74.70.060. [2020 c 354 s 3.]

Contingent expiration date—2020 c 354: See RCW 74.70.100(4)(b).

RCW 74.70.040 Report to authority. (Contingent expiration date.)

(1) Each ambulance transport provider must report to the authority the number of emergency ambulance transports by payer type and the annual gross receipts for the state fiscal year ending June 30, 2020, pursuant to form and timing required by the authority. The authority shall establish the timing for such reporting to occur on or after August 15, 2020.

(2) Each ambulance transport provider must report to the authority the number of emergency ambulance transports by payer type for each state fiscal quarter commencing with the state fiscal quarter ending September 30, 2020, pursuant to form and timing required by the authority. The authority shall establish the timing for such reporting to occur on or after the forty-fifth day after the end of each applicable state fiscal quarter.

(3) Each ambulance transport provider must report to the authority the annual gross receipts for each state fiscal year commencing with the state fiscal year ending June 30, 2021, pursuant to form and timing required by the authority. The authority shall establish the timing for such reporting to occur on or after the forty-fifth day after the end of each applicable state fiscal year.

(4) The authority may require a certification by each ambulance transport provider under penalty of perjury of the truth of the reports required under this section. Upon written notice to an ambulance transport provider, the authority may impose a civil penalty of one hundred dollars per day against an ambulance transport provider for every day that an ambulance transport provider fails to make a report required by this section within five days of the date upon which the report was due. Any funds resulting from a penalty imposed pursuant to this subsection shall be deposited in the ambulance transport fund established in RCW 74.70.030. [2020 c 354 s 4.]

Contingent expiration date—2020 c 354: See RCW 74.70.100(4)(b).

RCW 74.70.050 Quality assurance fee—Calculation—Assessment—Interest. (Contingent expiration date.) (1) Beginning July 1, 2021, and annually thereafter, the authority shall assess each ambulance transport provider a quality assurance fee. Each ambulance transport provider must pay the quality assurance fee on a quarterly basis. The quarterly quality assurance fee payment shall be based on the annual quality assurance fee rate for the applicable state fiscal year multiplied by the number of emergency ambulance transports provided by the ambulance transport provider in the second quarter preceding the state fiscal quarter for which the fee is assessed.

(2)(a) For the state fiscal year beginning July 1, 2021, the annual quality assurance fee rate shall be calculated by multiplying the projected total annual gross receipts for all ambulance transport providers by five and one-half percent, which resulting product shall be divided by the projected total annual emergency ambulance transports by all ambulance transport providers for the state fiscal year.

(b) For state fiscal years beginning July 1, 2022, and continuing each state fiscal year thereafter, the quality assurance fee rate shall be calculated by a ratio, the numerator of which shall be the product of the projected aggregate fee schedule amount, and the denominator of which shall be ninety percent of the projected total annual emergency ambulance transports by all ambulance transport providers.

(c) If, during a state fiscal year, the actual or projected available fee amount exceeds or is less than the actual or projected aggregate fee schedule amount by more than one percent, the authority shall adjust the annual quality assurance fee rate so that the available fee amount for the state fiscal year is approximately equal to the aggregate fee schedule amount for the state fiscal year. The available fee amount for a state fiscal year shall be considered to equal the aggregate fee schedule amount for the state fiscal year if the difference between the available fee amount for the state fiscal year and the aggregate fee schedule amount for the state fiscal year constitutes less than one percent of the aggregate fee schedule amount for the state fiscal year.

(3) For each state fiscal year for which the quality assurance fee is assessed, the authority shall send each ambulance transport provider an assessment notice no later than thirty days prior to the beginning of the applicable state fiscal quarter. For each state fiscal quarter for which the quality assurance fee is assessed, the authority shall send to each ambulance transport provider an invoice of the quarterly quality assurance fee payment due for the quarter no later than thirty days before the payment is due. For each state fiscal quarter for which the quality assurance fee is assessed, the ambulance transport provider shall remit payment to the authority by the date established by the authority, which shall be no earlier than fifteen days after the beginning of the applicable state fiscal quarter.

(4)(a) Interest shall be assessed on quality assurance fees not paid on the date due at the rate and in the manner provided in RCW 43.20B.695. Interest shall be deposited in the ambulance transport fund established in RCW 74.70.030.

(b) In the event that any fee payment is more than sixty days overdue, the authority may deduct the unpaid fee and interest owed from any medicaid reimbursement payments owed to the ambulance transport provider until the full amount of the fee, interest, and any penalties assessed under this chapter are recovered. Any deduction made pursuant to this subsection shall be made only after the authority gives the ambulance transport provider written notification. Any deduction made pursuant to this subsection may be deducted over a period of time that takes into account the financial condition of the ambulance transport provider.

(c) In the event that any fee payment is more than sixty days overdue, a penalty equal to the interest charge described in (a) of this subsection shall be assessed and due for each month for which the payment is not received after sixty days. Any funds resulting from a

penalty imposed pursuant to this subsection shall be deposited into the ambulance transport fund established in RCW 74.70.030.

(d) The authority may waive a portion or all of either the interest or penalties, or both, assessed under this chapter in the event the authority determines, in its sole discretion, that the ambulance transport provider has demonstrated that imposition of the full amount of the quality assurance fee pursuant to the timelines applicable under this chapter has a high likelihood of creating an undue financial hardship for the provider. Waiver of some or all of the interest or penalties pursuant to this subsection shall be conditioned on the ambulance transport provider's agreement to make fee payments on an alternative schedule developed by the authority.

(5) The authority shall accept an ambulance transport provider's payment even if the payment is submitted in a rate year subsequent to the rate year in which the fee was assessed.

(6) In the event of a merger, acquisition, or similar transaction involving an ambulance transport provider that has outstanding quality assurance fee payment obligations pursuant to this chapter, including any interest and penalty amounts owed, the resultant or successor ambulance transport provider shall be responsible for paying to the authority the full amount of outstanding quality assurance fee payments, including any applicable interest and penalties, attributable to the ambulance transport provider for which it was assessed, upon the effective date of such transaction. An entity considering a merger, acquisition, or similar transaction involving an ambulance transport provider may submit a request to the authority to ascertain the outstanding quality assurance fee payment obligations of the ambulance transport provider pursuant to this chapter as of the date of the authority's response to that request. [2020 c 354 s 5.]

Contingent expiration date—2020 c 354: See RCW 74.70.100(4)(b).

RCW 74.70.060 Add-on increase—Funding. (Contingent expiration date.) (1) Beginning July 1, 2021, and for each state fiscal year thereafter, reimbursement for emergency ambulance transports provided by ambulance transport providers shall be increased by application of an add-on to the associated medicaid fee-for-service payment schedule. The add-on increase to the fee-for-service payment schedule under this section shall be calculated by June 15, 2021, and shall remain the same for later state fiscal years, to the extent the authority determines federal financial participation is available. The authority shall calculate the projections required by this subsection based on the number of emergency ambulance transports and gross revenue data submitted pursuant to RCW 74.70.040. The fee-for-service add-on shall be equal to the quotient of the available fee amount projected by the authority on or before June 15, 2021, for the 2021-22 state fiscal year, divided by the total medicaid emergency ambulance transports, projected by the authority on or before June 15, 2021, for the 2021-22 state fiscal year. The resulting fee-for-service payment schedule amounts after the application of this section shall be equal to the sum of the medicaid fee-for-service payment schedule amount and the add-on increase.

(2) The increased payments required by this section shall be funded solely from the following:

(a) The quality assurance fee set forth in RCW 74.70.050, along with any interest or other investment income earned on those funds; and

(b) Federal reimbursement and any other related federal funds.

(3) The proceeds of the quality assurance fee set forth in RCW 74.70.050, the matching amount provided by the federal government, and any interest earned on those proceeds shall be used to supplement, and not to supplant, existing funding for emergency ambulance transports provided by ambulance transport providers.

(4) Notwithstanding any provision of this chapter, the authority may seek federal approval to implement any add-on increase to the fee-for-service payment schedule pursuant to this section for any state fiscal year or years, as applicable, on a time-limited basis for a fixed program period, as determined by the authority. [2020 c 354 s 6.]

Contingent expiration date—2020 c 354: See RCW 74.70.100(4)(b).

RCW 74.70.070 Rules. (Contingent expiration date.) The authority may adopt rules to implement this chapter. [2020 c 354 s 7.]

Contingent expiration date—2020 c 354: See RCW 74.70.100(4)(b).

RCW 74.70.080 Federal approval. (Contingent expiration date.)

(1)(a) The authority shall request any approval from the federal centers for medicare and medicaid services it determines are necessary for the use of fees pursuant to this chapter and for the purpose of receiving associated federal matching funds.

(b) This chapter shall be implemented only to the extent that any necessary federal approvals are obtained and federal financial participation is available. The quality assurance fee pursuant to RCW 74.70.050 shall only be assessed and collected for quarters in which the add-on pursuant to RCW 74.70.060 is paid.

(2) The authority may modify or make adjustments to any methodology, fee amount, or other provision specified in this chapter to the minimum extent necessary to meet the requirements of federal law or regulations or to obtain federal approval. If the authority, after consulting with ambulance transport providers, determines that a modification is needed, the authority shall execute a declaration stating that this determination has been made and that the actual or projected available fee amount for a state fiscal year remains approximately equal to the actual or projected aggregate fee schedule amount for each applicable state fiscal year, as defined by RCW 74.70.050(2)(c). The authority shall retain the declaration and provide a copy, within ten working days of the execution of the declaration, to the appropriate fiscal and policy committees of the legislature. [2020 c 354 s 8.]

Contingent expiration date—2020 c 354: See RCW 74.70.100(4)(b).

RCW 74.70.090 Delayed implementation—Retroactive fees. (Contingent expiration date.) If there is a delay in the

implementation of this chapter for any reason, including a delay in any required approval of the quality assurance fee and reimbursement methodology specified by the federal centers for medicare and medicaid services, the following shall apply:

(1) An ambulance transport provider may be assessed the amount the provider would be required to pay to the authority if the add-on increase to the fee-for-service payment schedule described in RCW 74.70.050(2)(c) were already approved, but shall not be required to pay the fee until the add-on increase to the fee-for-service payment schedule described in RCW 74.70.060 is approved. The authority shall establish a schedule for payment of retroactive fees pursuant to this subsection in consultation with ambulance transport providers to minimize the disruption to the cash flow of ambulance transport providers.

(2) The authority may retroactively implement the add-on increase to the fee-for-service payment schedule pursuant to RCW 74.70.060 to the extent the authority determines that federal financial participation is available. [2020 c 354 s 9.]

Contingent expiration date—2020 c 354: See RCW 74.70.100(4)(b).

RCW 74.70.100 Operation and termination—Contingent expiration date. (Contingent expiration date.) (1) The assessment, collection, and disbursement of funds under this chapter shall be conditional upon:

(a) The federal centers for medicare and medicaid services not determining that the quality assurance fee revenues may not be used for the purposes set forth in this chapter;

(b) The state not reducing its fee-for-service payment schedule for emergency ambulance transports provided by ambulance transport providers;

(c) The state not delegating responsibility to pay for emergency ambulance transports to a managed care organization, prepaid inpatient health plan, or prepaid ambulatory health plan, as those terms are defined in 42 C.F.R. Sec. 438.2;

(d) Federal financial participation being available and not otherwise jeopardized;

(e) The program not prohibiting, diminishing, or harming the ground emergency medical transportation services reimbursement program described in RCW 41.05.730; and

(f) Consistent with RCW 74.70.060(3), the state continuing its maintenance of effort for the level of state funding not derived from the quality assurance fee of emergency ambulance transports reimbursement for the 2021-22 rate year, and for each applicable rate year thereafter, in an amount not less than the amount that the state would have paid for the same number of emergency ambulance transports under the rate methodology that was in effect on July 1, 2019.

(2) This chapter ceases to be operative on the first day of the state fiscal year beginning on or after the date one or more of the following conditions is satisfied:

(a) The federal centers for medicare and medicaid services no longer allows the collection or use of the ambulance transport provider assessment provided in this chapter;

(b) The increase to the medicaid payments described in RCW 74.70.060 no longer remains in effect;

(c) The quality assurance fee assessed and collected pursuant to this chapter is no longer available for the purposes specified in this chapter;

(d) A final judicial determination made by any state or federal court that is not appealed, or by a court of appellate jurisdiction that is not further appealed, in any action by any party, or a final determination by the administrator of the federal centers for medicare and medicaid services that is not appealed, that federal financial participation is not available with respect to any payment made under the methodology implemented pursuant to this chapter;

(e) The state reduces its fee-for-service payment schedule for emergency ambulance transports provided by ambulance transport providers;

(f) The state delegates responsibility to pay for emergency ambulance transports to a managed care organization, prepaid inpatient health plan, or prepaid ambulatory health plan, as those terms are defined in 42 C.F.R. Sec. 438.2; and

(g) The program not prohibiting, diminishing, or harming the ground emergency medical transportation services reimbursement program described in RCW 41.05.730.

(3) In the event one or more of the conditions listed in subsection (2) of this section is satisfied, the authority shall notify, in writing and as soon as practicable, the secretary of state, the secretary of the senate, the chief clerk of the house of representatives, the appropriate fiscal and policy committees of the legislature, and the code reviser's office of the condition and the approximate date or dates that it occurred. The authority shall post the notice on the authority's website.

(4)(a) Notwithstanding any other law, in the event this chapter becomes inoperative pursuant to subsection (2) of this section, the authority shall be authorized to conduct all appropriate close-out activities and implement applicable provisions of this chapter for prior state fiscal years during which this chapter was operative including, but not limited to, the collection of outstanding quality assurance fees pursuant to RCW 74.70.050 and payments associated with any add-on increase to the medicaid fee-for-service payment schedule pursuant to RCW 74.70.060. In implementing these close-out activities, the authority shall ensure that the actual or projected available fee amount for each applicable state fiscal year remains approximately equal to the aggregate fee schedule amount for the state fiscal year, as defined by RCW 74.70.050(2)(c). During this close-out period, the full amount of the quality assurance fee assessed and collected remains available only for the purposes specified in this chapter.

(b) Upon a determination by the authority that all appropriate close-out and implementation activities pursuant to (a) of this subsection have been completed, the authority shall notify, in writing, the secretary of state, the secretary of the senate, the chief clerk of the house of representatives, the appropriate fiscal and policy committees of the legislature, and the code reviser's office of that determination. This chapter shall expire as of the effective date of the notification issued by the authority pursuant to this subsection. [2020 c 354 s 10.]

RCW 74.70.900 Effective date—2020 c 354. This act is necessary for the immediate preservation of the public peace, health, or safety,

or support of the state government and its existing public
institutions, and takes effect immediately [April 3, 2020]. [2020 c
354 s 14.]