
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair
2021 - 2022 Regular

Bill No: AB 1104 **Hearing Date:** July 13, 2021
Author: Grayson
Version: July 1, 2021
Urgency: Yes **Fiscal:** Yes
Consultant: MK

Subject: *Air ambulance services*

HISTORY

Source: California Association of Air Medical Services
PHI Health
REACH Air Medical Services
Air Methods

Prior Legislation: AB 2450 (Grayson) Chapter 52, Stats. 2020
AB 651 (Grayson) Chapter 537, Stats. 2019
AB 1410 (Wood) Chapter 718, Stats. 2017
AB 583 (Wood) 2017 held in Assembly Appropriations
AB 326 (Beall) Chapter 797, Stats. 2015
AB 2173 (Beall) Chapter 547, Stats. 2010
SB 82 (Budget) Chapter 176, Stats. 2007
AB 3000 (Budget) Chapter 1124, Stats. 2002

Support: California Children's Hospital Association; California Fire Chiefs Association

Opposition: None known

Assembly Floor Vote: 79 - 0

PURPOSE

The purpose of this bill is to extend the assessment of penalties of the Emergency Medical Air Transportation Act to December 31, 2022, and the date by which funds will be collected, administered, distributed and transferred to July 1, 2023. Requires the Medi-Cal reimbursement rate for air ambulance services, beginning January 1, 2023, to be at 80% of the Medicare reimbursement rate. Contains an urgency clause that will make this bill effective upon enactment.

Existing law establishes the Medi-Cal program, administered by the Department of Health Care Services (DHCS), under which health care services are provided to qualified low-income persons. (WIC §14000, et seq.)

Existing law establishes a schedule of benefits under the Medi-Cal program, which includes emergency and non-emergency medical transportation. (WIC §14132)

Existing law establishes the Emergency Medical Air Transportation Act (EMATA) and the Emergency Medical Air Transportation and Children’s Coverage Fund (Fund). (Government Code §76000.10)

Existing law requires county courts to impose a \$4 penalty on every conviction of a violation of the Vehicle Code or local ordinance pursuant to the Vehicle Code, except parking offenses. Requires money collected by the penalty be deposited into the Fund. (Government Code §76000.10)

Existing law requires DHCS to administer the Fund and money in the Fund be made available, upon appropriation by the Legislature, for the following purposes:

- a) Children’s health coverage;
- b) Emergency medical air transportation provider payments, including:
 - i) Administrative costs for DHCS administering the payments;
 - ii) 20% of the remaining appropriated money to offset the state portion of the Medi-Cal reimbursement for emergency medical air transportation services; and,
 - iii) 80% of the remaining appropriated money to augment emergency medical air transportation reimbursement payments. (Government Code §76000.10)

Existing law requires DHCS to use money from the Fund to seek federal financial participation (FFP) in order to augment Medi-Cal reimbursement paid to emergency medical air transportation providers. Requires the director of DHCS to augment emergency medical air transportation provider payments in accordance with a federally approved reimbursement methodology. Authorizes the director to seek federal approvals or waivers in order to obtain FFP to the maximum extent allowed under existing law. (Government Code §76000.10)

Existing law requires DHCS to augment emergency medical air transportation services reimbursement in an amount not to exceed normal and customary charges charged by the provider and only if moneys from the Fund will cover the cost increased payments and the state does not incur any General Fund (GF) expenses from the reimbursement increase. (Government Code §76000.10)

Existing law terminates the assessment of penalties of the EMATA on July 1, 2021, and requires money from the Fund be collected, administered, distributed and transferred by December 31, 2022.

Existing law sunsets the EMATA on July 1, 2024. (Government Code §76000.10)

This bill extends the assessment of penalties of the EMATA to December 31, 2022, and the date by which funds will be collected, administered, distributed and transferred to July 1, 2023.

This bill requires DHCS, beginning January 1, 2023, to set and maintain a Medi-Cal reimbursement rate for air ambulance services at 80% of the Medicare reimbursement rate. Requires the reimbursement rate for air ambulances in Medi-Cal fee-for service and Medi-Cal managed care to be 80% of the Medicare reimbursement rate.

This bill authorizes the director of DHCS to establish and update the Medi-Cal reimbursement rate for air ambulance services described in this bill by means of provider bulletin or manual, or similar instruction.

This bill contains an urgency clause that will make this bill effective upon enactment.

This bill makes legislative findings and declarations regarding the negative impact of relying on penalty assessments to fund core state programs, the need to ensure funding for emergency air transportation for Medi-Cal beneficiaries, and the intent of the Legislature to cease the collection of penalty assessments on January 1, 2023 in accordance with the requirements of this bill.

COMMENTS

1. Need for This Bill

According to the author:

Every year that the provisions of EMATA must be extended causes a great deal of economic uncertainty for air ambulance providers. For example, last year due to the legislature's limited ability to meet because of COVID-19 restrictions, the provisions of EMATA expired.

Since the 2010 enactment of EMATA, the sunset provisions have consistently been extended. Without action, the penalty and funding stream will expire on July 1, 2021 leaving air ambulance providers without a source of state funding. And while EMATA does not cover all of the costs for the providers, it does at least allow for them to remain operative.

Medi-Cal air ambulance rates have not increased since they were initially established in July 1993. Thus any reduction of funding provided by EMATA at this time, would undoubtedly place the economic viability of many emergency helicopter bases at risk of closing, particularly in rural areas and those providing services to Children's Hospitals who have a disproportionately high percentage of Medi-Cal utilization.

As with other emergency healthcare providers, the COVID-19 crisis has placed an additional economic strain on providers. Therefore, it is imperative that the State continue to provide a stable source of funding for providers that allows them to continue to provide these lifesaving services with economic certainty

2. Penalty Assessments

Emergency medical air transportation services are a covered Medi-Cal benefit. In order to be reimbursed for the service, emergency medical air transportation services providers, also known as air ambulances, must be an enrolled provider with DHCS and be certified for air transportation by the Federal Aviation Administration (FAA). Air ambulances are specifically constructed, modified, or equipped for emergency calls and for transporting critically ill or injured individuals. Air ambulances must have two medical flight crewmembers who are certified or licensed in advanced life support. Medi-Cal covers emergency air medical transportation to the nearest hospital or acute care facility capable of meeting the injured or ill beneficiary's needs only if other transportation is inaccessible or not feasible. Providers bill

Medi-Cal by actual miles flown, calculated with Global Positioning System (GPS) coordinates from point of takeoff to point of landing.

Existing law creates a number of penalty assessments that are imposed on any criminal finds including Vehicle Code violations. Until budget year 2002-2003 there was approximately 170% penalty assessments added to every fine but many have been added since that time. Currently, the penalty assessments currently amount to proximately 310% added to a fine plus an additional \$75. The amount can vary slightly county to county and whether the violation was a Vehicle Code violation or another criminal penalty.

Among these assessments, since 2011, the EMATA has imposed a \$4 penalty on vehicle violations statewide, except for parking violations, in order to provide a rate augmentation for emergency medical air transportation services in fee-for-service (FFS) Medi-Cal. After payment of the DHCS's administrative costs, the remaining appropriated amount is matched with federal funds and used to provide augmentation payments for eligible MediCal emergency medical air transportation services. The rate augmentation is in addition to base rate for emergency air medical transportation services, calculated annually, and based on per transport. The supplemental payments are based on the total amount in the Fund divided among the total eligible air medical transportation providers that have submitted claims and received payment for eligible services. The base rate for emergency medical air transportation services has not increased since 1993

The \$4 penalty assessment sunsetted on July 1, 2021. This bill would extend penalty assessment provisions until December 31, 2022, and would extend the collection and transfer of penalties until December 31, 2023.

In order to not have the assessment continue indefinitely, this bill provides that effective January 1, 2023, subject to appropriation by the Legislature, the Department of Health Care Services shall design and implement a supplemental payment program for emergency medical air transportation services to increase the Medi-Cal reimbursement in an amount not to exceed normal and customary charges charged by qualified emergency medical air transportation providers. The bill provides that the Department of Health Care Services should seek any necessary federal approvals to implement these provisions and would make these provisions inoperative if the federal Centers for Medicare or Medicaid Services denies approval for the implementation of these provisions, if the Legislature fails to appropriate funds, as specified, or if a lawsuit related to this implementation is filed against the state and a preliminary injunction or other order is issued that results in a financial disadvantage to the state, including, but not limited to, a loss of federal financial participation.

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