

# STATE OF NEW YORK

5133

2023-2024 Regular Sessions

## IN ASSEMBLY

March 2, 2023

Introduced by M. of A. McDONALD -- read once and referred to the Committee on Health

AN ACT to amend the public health law and the state finance law, in relation to an ambulance service assessment fee

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The public health law is amended by adding a new section  
2 3033 to read as follows:

3 § 3033. Ambulance service assessment. 1. The department shall charge  
4 every ambulance service a uniform ambulance assessment fee, provided  
5 that the fee shall not apply to any municipal fire department, police  
6 department, or other government entity that provides emergency medical  
7 services, any ambulance service that exclusively provides emergency  
8 medical care by aircraft, or any provider required to pay an assessment  
9 on ambulance service revenue under article twenty-eight of this chapter.

10 2. The uniform assessment fee shall be assessed on each ambulance  
11 service covered under this section at a rate of at least five and three-  
12 quarters percent of a covered ambulance service's annual revenue,  
13 provided however that the commissioner, in consultation with the direc-  
14 tor of the division of the budget, may set such fee at a rate no greater  
15 than the maximum limit allowable under 42 C.F.R. 433.68(f). The depart-  
16 ment shall set and implement such fees using the best data available in  
17 consultation with stakeholders, including trade associations represent-  
18 ing ambulance providers subject to such assessment, and shall update  
19 such fees on a periodic basis but at least annually.

20 3. All fees collected under this section shall be expended by the  
21 commissioner in a timely manner and solely for purposes of increasing  
22 medical assistance payment rates for ambulance services subject to such  
23 fees to more closely align with the average commercial rate of payment,  
24 and ensuring adequacy of the ambulance services in a region as defined  
25 by the commissioner, and to cover the reasonable administrative expenses  
26 of the department in administering the fund. Such monies shall not be  
27 used to reduce or replace other payment commitments by the state.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

LBD00572-01-3

1 4. Fees collected under this section shall be held in a fund adminis-  
2 tered by the department as set forth in section ninety-seven-q-1 of the  
3 state finance law.

4 5. The department may impose penalties for any ambulance service that  
5 fails to pay the fee within the time required by the department.

6 6. Fees under this section shall be collected only if federal finan-  
7 cial participation is available for expenditures incurred under this  
8 section. Any fees collected but not expended in a fiscal year shall  
9 remain available for expenditure in subsequent fiscal years. The  
10 department shall submit all necessary documentation for federal approval  
11 of this program, including amendments to the state plan under title XIX  
12 of the federal social security act, necessary to implement this section  
13 within one hundred eighty days of the effective date of this section.

14 § 2. The state finance law is amended by adding a new section 97-q-1  
15 to read as follows:

16 § 97-q-1. Statewide ambulance fund; assessment of annual fees on ambu-  
17 lance services. 1. There is hereby established in the custody of the  
18 comptroller, a special fund to be known as the "statewide ambulance  
19 fund".

20 2. The fund shall consist of:

21 (a) all fees or penalties collected pursuant to section three thousand  
22 thirty-three of the public health law;

23 (b) an amount equal to any federal financial participation revenues  
24 claimed and received by the state for eligible expenditures to be made  
25 from the fund;

26 (c) any appropriation or other revenue authorized by or required by  
27 law to be credited to the fund; and

28 (d) interest earned on any money in the fund.

29 3. Amounts credited to the fund shall be expended solely for Medicaid  
30 payments to ambulance services subject to fees pursuant to section three  
31 thousand thirty-three of the public health law, and an amount not to  
32 exceed the actual and reasonable administrative expenses of the depart-  
33 ment of health to administer the fund. After payment of the administra-  
34 tive expenses of the department of health, the revenues of the fund  
35 shall be expended exclusively for Medicaid payments to ambulance  
36 services subject to such fees in accordance with section three thousand  
37 thirty-three of the public health law and shall supplement not supplant  
38 existing state payments for ambulance services.

39 4. The department of health shall assess the fee described in section  
40 three thousand thirty-three of the public health law only upon approval  
41 from the Centers for Medicare and Medicaid Services authorizing  
42 enhanced Medicaid payments.

43 5. (a) If the Centers for Medicare and Medicaid Services rescinds  
44 approval of the Medicaid payments made to ambulance services, then all  
45 monies in the fund shall be returned to the ambulance services, pro rata  
46 by contribution amount.

47 (b) If the commissioner of health determines the fee cannot be  
48 collected as required by section three thousand thirty-three of the  
49 public health law, all monies in the fund shall be returned to the  
50 applicable ambulance services pro rata by contribution amount.

51 6. The commissioner of health may order disbursement from the fund in  
52 accordance with a schedule of payments to ambulance service providers  
53 that have contributed to such fund, as provided in section three thou-  
54 sand thirty-three of the public health law.

55 § 3. This act shall take effect immediately.