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:

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

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

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

3. All fees collected under this section shall be expended by the commissioner in a timely manner and solely for purposes of increasing medical assistance payment rates for ambulance services subject to such fees to more closely align with the average commercial rate of payment, and ensuring adequacy of the ambulance services in a region as defined by the commissioner, and to cover the reasonable administrative expenses of the department in administering the fund. Such monies shall not be 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.

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

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

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

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

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

2. The fund shall consist of:

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

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

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

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

3. Amounts credited to the fund shall be expended solely for Medicaid payments to ambulance services subject to fees pursuant to section three thousand thirty-three of the public health law, and an amount not to exceed the actual and reasonable administrative expenses of the department of health to administer the fund. After payment of the administrative expenses of the department of health, the revenues of the fund shall be expended exclusively for Medicaid payments to ambulance services subject to such fees in accordance with section three thousand thirty-three of the public health law and shall supplement not supplant existing state payments for ambulance services.

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

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

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

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

§ 3. This act shall take effect immediately.