

ACT No. 305

2016 Regular Session

HOUSE BILL NO. 662

BY REPRESENTATIVE BARRAS

1 AN ACT

2 To enact R.S. 46:2625.1, relative to emergency ground ambulance service provider fees; to
3 authorize a provider fee on emergency ground ambulance service providers; to
4 establish the maximum allowable fee amount; to provide for definitions; to provide
5 for disposition of collected fees; to provide for enhanced reimbursements; to provide
6 for the termination of the assessment; to require the Department of Health and
7 Hospitals to take certain actions; to provide for an effective date; and to provide for
8 related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 46:2625.1 is hereby enacted to read as follows:

11 §2625.1. Fees on emergency ground ambulance service providers; disposition of
12 fees

13 A. The Department of Health and Hospitals may adopt and impose fees for
14 healthcare services provided by the Medicaid program on emergency ground
15 ambulance service providers. The amount of any fee shall not exceed the total cost
16 to the state of providing the healthcare service subject to the fee.

17 B. The amount of the fees imposed in the first year under the rules and
18 regulations adopted pursuant to this Section shall not exceed one and one-half
19 percent of the net operating revenue of emergency ground ambulance service
20 providers as defined in Subsection I of this Section.

1 C. Any fee authorized by and imposed pursuant to this Section shall be
2 considered an allowable cost for the purposes of insurance or other third party
3 reimbursements and shall be included in the establishment of reimbursement rates.

4 D. Subject to the exceptions contained in Article VII, Section 9(A) and
5 Article VII, Section 10.14 of the Constitution of Louisiana, all fees collected by the
6 department pursuant to the authority granted in this Section shall be paid into the
7 state treasury and shall be credited to the Bond Security and Redemption Fund. Out
8 of the funds remaining in the Bond Security and Redemption Fund after a sufficient
9 amount is allocated from that fund to pay all obligations secured by the full faith and
10 credit of the state which become due and payable within any fiscal year, the treasurer
11 shall, prior to placing the remaining funds in the state general fund, pay into the
12 Emergency Ground Ambulance Service Provider Trust Fund Account, established
13 by the treasurer, within the Louisiana Medical Assistance Trust Fund an amount
14 equal to the total amount of the fees collected. Thereafter the secretary shall use the
15 fees within the fund to carry out the provisions of Subsection G of this Section.

16 E.(1) Notwithstanding any other provision of law to the contrary, except for
17 the first year maximum fee of one and one-half percent of the net operating revenue,
18 the department shall not impose any new fee or increase any fee on any emergency
19 ground ambulance service provider on or after July 1, 2016, without first obtaining
20 either of the following:

21 (a) Prior approval of the specific fee amount by record vote of two-thirds of
22 the elected members of each house of the legislature while in regular session.

23 (b) Written agreement of those providers subject to the fee which provide a
24 minimum of sixty-five percent of the emergency ground ambulance transports.

25 (2) Any fee otherwise imposed or increased by the department on or after
26 July 1, 2016, shall be null and of no effect.

27 F. Notwithstanding any provision of this Section to the contrary, the
28 department shall adopt and promulgate, pursuant to the Administrative Procedure
29 Act and in compliance with Article VII, Section 10.14 of the Constitution of

1 Louisiana, a fee to be imposed pursuant to Subsection A of this Section in
2 accordance with all of the following:

3 (1) The department shall calculate, levy, and collect a fee from every
4 emergency ground ambulance service provider on each emergency ground
5 ambulance transport upon the occurrence of all of the following:

6 (a) Implementation of the reimbursement enhancements as provided for in
7 Subsection G of this Section.

8 (b)(i) Approval from the Centers for Medicare and Medicaid Services.

9 (ii) The department shall submit all required documentation necessary for
10 approval and implementation of the reimbursement enhancements set forth in
11 Subsection G of this Section on or before August 31, 2016.

12 (2) The total assessment for the initial state fiscal year in which the
13 assessment is charged shall not exceed the lesser of the following:

14 (a) The state portion of the cost, excluding any federal financial
15 participation, of the reimbursement enhancements provided for in this Section that
16 are directly attributable to payments to emergency ground ambulance service
17 providers.

18 (b) One and one-half percent of the net operating revenue of all emergency
19 ground ambulance service providers assessed relating to the provision of emergency
20 ground ambulance transportation.

21 (3) The department shall uniformly impose and shall allocate the assessment
22 to each emergency ground ambulance service provider on a consistent basis and the
23 assessment formula shall be the same for every emergency ground ambulance
24 service provider.

25 (4) For the initial year of the assessment, the department shall assess each
26 emergency ground transport provider in accordance with Paragraph (2) of this
27 Subsection. The total amount of the assessment shall be paid by the emergency
28 ground ambulance service provider in installments as prescribed by the secretary in
29 conjunction with the written consent of emergency ground ambulance service

1 providers, and shall be due from the provider within thirty days of the notification
2 of assessment owed.

3 (5) Thereafter, the department shall assess each emergency ground
4 ambulance service provider a percentage fee, determined at the discretion of the
5 secretary subject to the provisions of Paragraph (3) of this Subsection in
6 collaboration and with the express and written mutual agreement of the emergency
7 ground ambulance service providers subject to the assessment and which make up
8 a minimum of sixty-five percent of all emergency ground ambulance transports in
9 the state of Louisiana. The maximum fee allowable pursuant to this Section in any
10 year shall not exceed three and one-half percent of the annual net operating revenue
11 of the emergency ground ambulance service provider as reported by the provider and
12 subject to audit for the previous fiscal year of the provider. The total amount of the
13 assessment shall be paid by the emergency ground ambulance service provider in
14 installments as prescribed by the secretary in conjunction with the agreement of
15 emergency ground ambulance service providers, and shall be due from the provider
16 within thirty days of the notification of the fee amount owed.

17 (6) Prior to levying or collecting the assessment for the applicable
18 assessment period, the department shall publish in the official state journal the total
19 amount of the assessment and the corresponding applicable percentage of net
20 operating revenue that will be applied to the assessed providers.

21 G. For each year in which the assessment is in effect, the department shall
22 provide for reimbursement enhancements in accordance with all of the following:

23 (1) Reimbursement or payment to emergency ground ambulance service
24 providers by any state or state sponsored program, including but not limited to the
25 Bayou Health Plans or their successors, at or above rates at the level which were in
26 effect on July 1, 2015, for emergency transport and related services provided
27 pursuant to the Louisiana medical assistance program provided that funds are
28 appropriated in the budget.

29 (2) The legislature shall annually appropriate from the state general fund and
30 not from the Emergency Ground Ambulance Service Provider Trust Fund Account

1 an amount necessary to fund the state share of the reimbursement to emergency
2 ground ambulance service providers pursuant to Paragraph (1) of this Subsection.

3 (3) Monies collected from the fees shall be appropriated by the state in
4 accordance with Article VII, Section 10.14 of the Constitution of Louisiana as
5 necessary for the state to maximize federal matching funds and all proceeds,
6 including interest from the fees collected, shall be deposited in the Emergency
7 Ground Ambulance Service Provider Trust Fund Account for application in
8 accordance with this Subsection and State Plan Amendment LA-11-23 and any
9 amendments thereto.

10 (4) The enhancement payment level shall be determined in a manner to bring
11 the payments for these services up to the average commercial rate level as described
12 in Section C(8) of State Plan Amendment LA-11-23 and any amendments thereto to
13 the extent of the availability of funds in the Emergency Ground Ambulance Service
14 Trust Fund. The enhancement payment level shall be the difference between the
15 reimbursement levels provided for in Paragraph (1) of this Subsection and the
16 average commercial rate.

17 (5) Funds from the Emergency Ground Ambulance Service Provider Trust
18 Fund Account shall be used to achieve the maximum reimbursement under federal
19 law and appropriated solely to fund the reimbursement enhancements provided for
20 in Paragraph (4) of this Subsection as provided in the most recent formula adopted
21 by the legislature or the secretary as applicable and distributed exclusively among
22 emergency ground ambulance service providers for emergency services provided.

23 H.(1) No additional assessment shall be collected and any assessment shall
24 be terminated for the remainder of the fiscal year from the date on which any of the
25 following occur:

26 (a) The secretary and the emergency ground ambulance service provider
27 representing a minimum of sixty-five percent of all emergency ground transports fail
28 to reach an agreement on any proposed changes to the formula for the next fiscal
29 year.

1 **(b) The department, or its successor or contractors, reduces or does not pay**
2 **reimbursement enhancements established in the current formula as adopted by the**
3 **legislature.**

4 **(c) The appropriations provided for in Subsection D of this Section are**
5 **reduced.**

6 **(d) The amount of the reimbursement for emergency ground ambulance**
7 **services payable by any participant in the Bayou Health Plan or Medicaid managed**
8 **care organization falls below one hundred percent of the Medicaid rate in effect at**
9 **the time the service is rendered.**

10 **(2) The treasurer shall return any monies collected after the date of**
11 **termination of an assessment to the emergency ground ambulance service provider**
12 **from which it was collected, including any interest collected thereon.**

13 **I. For purposes of this Section, the following definitions apply:**

14 **(1) "Ambulance service" has the same meaning as provided in R.S. 40:1131.**

15 **(2) "Average commercial rate" means the average amount payable by**
16 **commercial payors for the same services and as further defined in State Plan**
17 **Amendment LA-11-23 and any amendments thereto in effect on the effective date**
18 **of this Section.**

19 **(3) "Centers for Medicare and Medicaid Services" or "CMS" means the**
20 **division of the United States Department of Health and Human Services which**
21 **regulates the medical assistance program provided for in Title XIX of the Social**
22 **Security Act.**

23 **(4) "Department" means the Department of Health and Hospitals.**

24 **(5) "Emergency ground ambulance service provider" means a private, for**
25 **profit, nonpublic, nonfederal provider of emergency ground ambulance service that**
26 **is contracted with a unit of local or parish government of Louisiana for the provision**
27 **of 911 emergency ground ambulance transportation on a regular twenty-four hour**
28 **per day and seven days per week basis.**

29 **(6) "Emergency Ground Ambulance Service Provider Trust Fund Account"**
30 **or "the fund" means the fund provided for in Article VII, Section 10.14 of the**

1 Constitution of Louisiana upon the payment of fees by emergency ground ambulance
2 service providers pursuant to this Section and to which all fees shall be paid into and
3 utilized solely for the reimbursement enhancements to be provided to emergency
4 ground ambulance service providers.

5 (7) "Net operating revenue" means the gross revenues of the emergency
6 ground ambulance service provider for the provision of emergency ground
7 ambulance transportation services, excluding any Medicaid reimbursements, less any
8 deducted amounts for bad debts, charity care, and payer discounts.

9 (8) "Secretary" means the secretary of the Department of Health and
10 Hospitals.

11 (9) "State" means the state of Louisiana.

12 Section 2. The secretary shall promulgate all rules and regulations in accordance
13 with the Administrative Procedure Act, submit any necessary Medicaid state plan
14 amendments no later than ninety days after the effective date of this Act, and take all other
15 actions as are necessary to institute the assessments and reimbursement enhancements
16 provided for in this Act.

17 Section 3. This Act shall become effective upon signature by the governor or, if not
18 signed by the governor, upon expiration of the time for bills to become law without signature
19 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
20 vetoed by the governor and subsequently approved by the legislature, this Act shall become
21 effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____