

Legislative Analysis



COST NOTIFICATION FOR MEDICAL SERVICE TRANSPORTATION

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5217 as introduced
Sponsor: Rep. Joseph N. Bellino, Jr.

Analysis available at
<http://www.legislature.mi.gov>

House Bill 5218 as introduced
Sponsor: Rep. Tom Barrett

House Bill 5219 as introduced
Sponsor: Rep. Beau Matthew LaFave

Committee: Insurance
Complete to 11-9-17

BRIEF SUMMARY:

HBs 5217, 5218, and 5219 would each amend Article 17 of the Public Health Code (Facilities and Agencies) to implement protocols for medical service transportation, including requirements to use motor vehicle transportation in most instances and to notify patients and patients' representatives about the costs of, and health benefit coverage for, different modes of transportation.

HB 5217 would require protocols adopted by a medical control authority to include a requirement that a motor vehicle ambulance be used to transport a patient, unless medically necessary. It would also require hospitals to use motor vehicle ambulances, unless medically necessary, and, if applicable, to order air transportation for a *nonemergency* patient first from a participating provider in the patient's health benefit plan.

HB 5218 would require a hospital to provide cost and benefit information to *nonemergency* patients with regard to transportation options, complete a notice before ordering aircraft or a rotary aircraft ambulance for a *nonemergency* patient, and provide information to health benefit plans and third party administrators regarding reasons for air transportation.

HB 5219 would require an ambulance operation and an aircraft transport operation to provide information to patients and health benefit plans that is similar to that required of hospitals as proposed in HB 5218.

DETAILED SUMMARY:

House Bill 5217 would amend the Public Health Code to stipulate that written protocols adopted by a medical control authority for the practice of life support agencies and emergency medical services personnel must require that a patient be transported by a motor vehicle ambulance, rather than an aircraft transport vehicle or rotary aircraft ambulance, unless transporting the patient by aircraft or rotary aircraft is medically necessary for the patient.

(Under the Code, the Department of Health and Human Services (DHHS) designates a medical control authority as the medical control for emergency medical services for a particular geographic region. The medical control authority then develops and adopts required written protocols for life support agencies and emergency medical services personnel in accordance with procedures adopted by DHHS.)

The bill would also add a new section 21540 to the Code. Under this section, a hospital would have to require that a patient be transported by a motor vehicle ambulance rather than an aircraft transport vehicle or rotary aircraft ambulance, unless transporting the patient by aircraft or rotary aircraft was medically necessary.

If a hospital determined that ordering an aircraft transport vehicle or rotary aircraft ambulance were medically necessary to transport a *nonemergency* patient, the hospital would be required to first order the transportation from an aircraft transport operation or ambulance operation that is a participating provider with the patient's health benefit plan, before ordering the aircraft or rotary aircraft ambulance from an operation that is not a participating provider with the person's health benefit plan.

A hospital that violated this proposed section would be liable to the aircraft transport operation or ambulance operation for the cost of transportation to the extent that the cost exceeds the amount covered by the patient's health benefit plan. This liability would be in addition to the sanctions provided by Section 20165 of the Code.

(Section 20165 allows the Department of Licensing and Regulatory Affairs, after providing notification and an opportunity for a hearing, to deny, limit, suspend, or revoke the license or certification of, or impose an administrative fine on, a licensee for certain actions, failures, and violations.)

House Bill 5218 would add definitions to Section 21501 of the Code. It would also add a new Section 21541 to the Code (this section would come immediately after Section 21540 proposed in HB 5217).

The bill would require that, *before* ordering an aircraft transport vehicle or a rotary aircraft ambulance to transport a *nonemergency* patient, a hospital must disclose to the patient or "patient's representative" all of the following:

- Whether the aircraft transport operation or ambulance operation is a participating provider with the patient's health benefit plan.
- A good-faith estimate of the cost of using the aircraft transport operation or ambulance operation to transport the patient.
- That the patient has a right to be transported by a method other than an aircraft transport vehicle or rotary aircraft ambulance.
- Upon request, a good-faith estimate of the costs of using each other method of transportation.

(The bill would define "patient's representative" as any of the following: (1) a person to whom the patient has given express written consent to represent the patient; (2) a person

authorized by law to provide consent for a patient; (3) a patient's treating health professional, only if the patient is unable to provide consent. The bill would also define "health benefit plan" and "participating provider" and reference definitions found elsewhere in the code.)

The bill would also require a hospital to complete a **notice**, in a form prescribed by the bill, and obtain the signature of the patient or patient's representative acknowledging that the patient or representative has received, read, and understands the notice. Generally speaking, the notice would provide information regarding the costs and benefit coverage of aircraft and rotary aircraft transportation for the patient, and the rights of the patient. A hospital would be required to keep a copy of this notice for at least 7 years.

Upon request of the *nonemergency* patient's health benefit plan or third party administrator, the hospital would be required to provide a copy of the notice to the person designated in the patient's health benefit plan or by the third party administrator. Within 10 days after ordering an aircraft or rotary aircraft ambulance for an *emergency* or *nonemergency* patient, the hospital would be required to provide the same person with written documentation explaining why transporting the patient by motor vehicle ambulance was medically inappropriate.

A hospital that violated this proposed section would be liable to the aircraft transport operation or ambulance operation for the cost of transportation to the extent that the cost exceeds the amount covered by the patient's health benefit plan. This liability would be in addition to the sanctions provided by section 20165 of the code.

House Bill 5219 would also amend the Public Health Code, to require an ambulance operation to provide information similar to that required of hospitals in HB 5218, specifically, information related to costs of and insurance coverage for rotary aircraft ambulance transportation. It would also require an aircraft transport operation to provide similar information, specifically, information related to costs of and insurance coverage for aircraft transport vehicle transportation.

The bill would require that, *before* transporting a *nonemergency* patient in a rotary aircraft ambulance, an ambulance operation must provide to the patient or patient's representative all of the following:

- Whether the ambulance operation is a participating provider with the nonemergency patient's health benefit plan.
- A good-faith estimate of the cost for transporting the patient.
- That the patient has a right to be transported by a method other than a rotary aircraft ambulance.

The bill would require the ambulance operation to complete a **notice**, in a form prescribed by the bill, and obtain the signature of the patient or patient's representative acknowledging that the patient or representative has received, read, and understands the notice. Generally speaking, the notice would provide information regarding a cost estimate of the rotary

aircraft transportation, health benefit coverage, and rights of the patient. An ambulance operation would be required to keep a copy of this notice for at least 7 years.

Upon request of the *nonemergency* patient's health benefit plan or third party administrator, the ambulance operation would be required to provide a copy of the notice to the person designated in the plan or by the administrator. If an ambulance operation failed to provide a *nonemergency* patient with the required notice, the ambulance operation would be required to accept the amount covered by the patient's health benefit plan as payment in full, other than coinsurance, copayments, or deductibles.

If the patient were an *emergency* patient, the ambulance operation would be required to accept the amount covered by the patient's health benefit plan as payment in full.

Under the bill, if a patient at a hospital requested transportation from an ambulance operation that is a participating provider with the patient's health benefit plan, a rotary aircraft ambulance operated by the ambulance operation would have the right to land at a destination hospital, regardless of whether the ambulance operation was a contracted provider with the originating or destination hospital.

The bill would place similar information requirements on aircraft transport operations that transport *nonemergency* patients by aircraft transport vehicle. *Before* transporting the patient, the aircraft transport operation would be required to provide to the patient or patient's representative all of the following:

- Whether the aircraft transport operation is a participating provider with the patient's health benefit plan.
- A good-faith estimate of the cost for transporting the patient.
- That the patient has a right to be transported by a method other than an aircraft transport vehicle.

The bill would also require an aircraft transport operation to complete a **notice**, in a form prescribed by the bill, and obtain the signature of the patient or patient's representative acknowledging that the patient or representative has received, read, and understands the notice. Generally speaking, the notice would provide information regarding a cost estimate of the aircraft vehicle transportation, health benefit coverage, and rights of the patient. An aircraft transportation operation would be required to keep a copy of this notice for at least 7 years.

The bill would include the same provision that the notice must be provided to a health benefit plan or third party administrator upon request; the same provisions that for *nonemergency* transportation the operation shall accept the amount covered by the health benefit plan if the operation fails to provide the required notice; and the same provision that for *emergency* transportation the operation shall accept the amount covered by the health benefit plan as payment in full.

It would also include the same provision that an aircraft transport vehicle would have the right to land at the destination hospital, regardless of whether the ambulance operation was a contracted provider with the originating or destination hospital.

Finally, the bill would stipulate that if a hospital had the infrastructure to land an aircraft or rotary aircraft ambulance, the hospital would be required to grant the right to land at the hospital to an aircraft or rotary aircraft ambulance that is a participating provider with the patient's health benefit plan. If a hospital denied an aircraft the right to land, the hospital would be required to provide written documentation explaining the denial to the person's health benefit plan within 10 days. Additionally, a hospital would not be able to deny an aircraft the right to land for the purpose of allowing an aircraft that is a contracted provider to remain on standby.

A hospital that violated this proposed section would be liable to the aircraft transport operation or ambulance operation for the cost of transportation to the extent that the cost exceeds the amount covered by the patient's health benefit plan. This liability would be in addition to the sanctions provided by section 20165 of the code.

Each bill would take effect 90 days after being enacted into law. The bills are tie-barred to each other, meaning none could take effect unless all were enacted into law.

MCL 333.20919 and proposed 333.21540 (HB 5217)

MCL 333.21501 and proposed 333.21541 (HB 5218)

Proposed MCL 333.20921b et al. (HB 5219)

FISCAL IMPACT:

The bills would have no fiscal impact on the Department of Health and Human Services, which administers the Emergency Medical Services Program under Part 209 of the Public Health Code. The bills may have a modest fiscal impact on local governments that provide EMS services.

House Bills 5218 and 5219 would have a negligible fiscal impact on the Department of Licensing and Regulatory Affairs. The department would be able to take disciplinary action against licensed entities for failing to comply with the new requirements; however, these costs would likely be supported by existing department resources.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.