

**HOUSE BILL NO. 1493**  
**with Conference Committee Amendments**  
**HOUSE BILL NO. 1493**

Introduced by

Representatives Weisz, Beltz, Fegley, Skroch

Senator Lee

1 A BILL for an Act to amend and reenact section 26.1-47-10 of the North Dakota Century Code  
2 and section 10 of chapter 194 of the 2017 Session Laws, relating to air ambulance services;  
3 and to provide for ambulance service operation funding.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 26.1-47-10 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **26.1-47-10. Preferred provider arrangements - Requirements for accessing air**  
8 **ambulance providers. (~~Contingent effective date~~ - [See note](#))**

9 1. In addition to the other preferred provider arrangement requirements under this  
10 chapter, a preferred provider arrangement must require the health care insurer and  
11 health care provider comply with this section.

12 2. Except as otherwise provided under this section, before a health care provider  
13 arranges for air ambulance services for an individual the health care provider knows to  
14 be a covered person, the health care provider shall request a prior authorization from  
15 the covered person's health care insurer for the air ambulance services to be provided  
16 to the covered person. If the health care provider is unable to request or obtain prior  
17 authorization from the covered person's health care insurer:

18 a. The health care provider shall provide the covered person or the covered  
19 person's authorized representative an out-of-network services written disclosure  
20 stating the following:

21 (1) Certain air ambulance providers may be called upon to render care to the  
22 covered person during the course of treatment;

- 1                   (2) These air ambulance providers might not have contracts with the covered  
2                   person's health care insurer and are, therefore, considered to be out of  
3                   network;
- 4                   (3) If these air ambulance providers do not have contracts with the covered  
5                   person's health care insurer, the air ambulance services will be provided on  
6                   an out-of-network basis;
- 7                   (4) A description of the range of the charges for the out-of-network air  
8                   ambulance services for which the covered person may be responsible;
- 9                   (5) A notification the covered person or the covered person's authorized  
10                  representative may agree to accept and pay the charges for the  
11                  out-of-network air ambulance services, contact the covered person's health  
12                  care insurer for additional assistance, or rely on other rights and remedies  
13                  that may be available under state or federal law; and
- 14                  (6) A statement indicating the covered person or the covered person's  
15                  authorized representative may obtain a list of air ambulance providers from  
16                  the covered person's health care insurer which are preferred providers and  
17                  the covered person or the covered person's representative may request  
18                  those participating air ambulance providers be accessed by the health care  
19                  provider.

- 20                  b. Before air ambulance services are accessed for the covered person, the health  
21                  care provider shall provide the covered person or the covered person's  
22                  authorized representative the written disclosure, as outlined by subdivision a and  
23                  obtain the covered person's or the covered person's authorized representative's  
24                  signature on the disclosure document acknowledging the covered person or the  
25                  covered person's authorized representative received the disclosure document  
26                  before the air ambulance services were accessed. If the health care provider is  
27                  unable to provide the written disclosure or obtain the signature required under  
28                  this subdivision, the health care provider shall document the reason, which may  
29                  include the health and safety of the patient. The health care provider  
30                  documentation satisfies the requirement under this subdivision.

- 31                  3. ~~This section does not:~~

- 1           a. ~~Preclude a covered person from agreeing to accept and pay the charges for the~~  
2           ~~out-of-network services and not access the covered person's health care~~  
3           ~~insurer's out-of-network air ambulance billing process described under this~~  
4           ~~section.~~
- 5           b. ~~Preclude a covered person from agreeing to accept and pay the bill received~~  
6           ~~from the out-of-network air ambulance provider or from not accessing the air~~  
7           ~~ambulance provider mediation process described under this section.~~
- 8           c. ~~Regulate an out-of-network air ambulance provider's ability to charge certain fees~~  
9           ~~for services or to charge any amount of fee for services provided to a covered~~  
10          ~~person by the out-of-network air ambulance provider.~~
- 11          4. ~~A health care insurer shall develop a program for payment of out-of-network air~~  
12          ~~ambulance bills submitted under this section. A health benefit plan may not be issued~~  
13          ~~in this state without the terms of the health benefit plan including the provisions of the~~  
14          ~~health care insurer's program for payment of out-of-network air ambulance bills.~~
- 15          a. ~~A health care insurer may elect to pay out-of-network air ambulance provider bills~~  
16          ~~as submitted, or the health care insurer may elect to use the out-of-network air~~  
17          ~~ambulance provider mediation process described in subsection 5.~~
- 18          b. ~~This section does not preclude a health care insurer and an out-of-network facility~~  
19          ~~air ambulance provider from agreeing to a separate payment arrangement.~~
- 20          5. ~~A health care insurer shall establish an air ambulance provider mediation process for~~  
21          ~~payment of out-of-network air ambulance provider bills. A health benefit plan may not~~  
22          ~~be issued in this state if the terms of the health benefit plan do not include the~~  
23          ~~provisions of the health care insurer's air ambulance provider mediation process for~~  
24          ~~payment of out-of-network air ambulance provider bills.~~
- 25          a. ~~A health care insurer's air ambulance provider mediation process must be~~  
26          ~~established in accordance with mediation standards recognized by the~~  
27          ~~department by rule.~~
- 28          b. ~~If the health care insurer and the out-of-network air ambulance provider agree to~~  
29          ~~a separate payment arrangement or if the covered person agrees to accept and~~  
30          ~~pay the out-of-network air ambulance provider's charges for the out-of-network~~

- 1                    ~~services, compliance with the air ambulance provider mediation process is not~~  
2                    ~~required.~~
- 3                    e. ~~A health care insurer shall maintain records on all requests for mediation and~~  
4                    ~~completed mediation under this subsection for one year and, upon request of the~~  
5                    ~~commissioner, submit a report to the commissioner in the format specified by the~~  
6                    ~~commissioner.~~
- 7                    6. The rights and remedies provided under this section to covered persons are in  
8                    addition to and may not preempt any other rights and remedies available to covered  
9                    persons under state or federal law.
- 10                  7.4. The department shall enforce this section and shall report a violation of this section by  
11                  a facility to the state department of health.
- 12                  8.5. This section does not apply to a policy or certificate of insurance, whether written on a  
13                  group or individual basis, which provides coverage limited to:
- 14                  a. A specified disease, a specified accident, or accident-only coverage;  
15                  b. Credit;  
16                  c. Dental;  
17                  d. Disability;  
18                  e. Hospital;  
19                  f. Long-term care insurance as defined by chapter 26.1-45;  
20                  g. Vision care or any other limited supplemental benefit;  
21                  h. A Medicare supplement policy of insurance, as defined by the commissioner by  
22                  rule or coverage under a plan through Medicare;  
23                  i. Medicaid;  
24                  j. The federal employees health benefits program and any coverage issued as a  
25                  supplement to that coverage;  
26                  k. Coverage issued as supplemental to liability insurance, workers' compensation,  
27                  or similar insurance; or  
28                  l. Automobile medical payment insurance.
- 29                  9.6. A health care provider is exempt from complying with this section if the health care  
30                  provider determines and documents that due to emergency circumstances,  
31                  compliance might jeopardize the health or safety of the patient.

1        7. The commissioner may adopt rules to implement this section.

2        **SECTION 2. AMENDMENT.** Section 10 of chapter 194 of the 2017 Session Laws is  
3 amended and reenacted as follows:

4                **SECTION 10. EFFECTIVE DATE –~~CONTINGENT EFFECTIVE DATE.~~** Sections  
5                2, 4, 5, and 6 of this Act become effective January 1, 2018. ~~If section 6 of this Act is~~  
6                ~~declared invalid, sections~~Sections 3, 7, and 8 of this Act become effective on the date  
7                ~~the insurance commissioner certifies the invalidity of section 6 to the secretary of state~~  
8                ~~and the legislative council~~August 1, 2021.

9        **SECTION 3. AMBULANCE SERVICE OPERATION FUNDING DISTRIBUTION.**

10 Notwithstanding section 23-46-04, during the biennium beginning July 1, 2021, and ending  
11 June 30, 2023, the state department of health, in consultation with the emergency medical  
12 services advisory council, shall provide state financial assistance annually to each eligible  
13 ambulance service operation pursuant to the following calculation:

- 14        1. The minimum reasonable budget for each operation must be determined by adding  
15                the product of the operation's average number of runs for the two most recent  
16                calendar years multiplied by the median cost of a run. The cost of a run is determined  
17                using statewide data. The minimum budget for each ambulance service operation may  
18                not be less than \$60,000, or other base amount determined by the department.
- 19        2. The operation's grant amount must be determined by deducting the following amounts  
20                from the operation's budget calculated under subsection 1:
  - 21                a. The product of the operation's average number of runs for the two most recent  
22                        calendar years multiplied by the median amount of reimbursement for a run. The  
23                        reimbursement amount for a run is determined using statewide data; and
  - 24                b. The product of the property tax valuation, as provided to the state department of  
25                        health by the county auditor no later than July thirty-first of each year, of the  
26                        operation's response area for the prior taxable year multiplied by five mills. If the  
27                        response area covers multiple counties, the county auditor with the most  
28                        response area is responsible for coordinating with the other county auditors.
- 29        3. The department shall distribute a prorated share of the operation's calculated grant  
30                amount if legislative appropriations for state financial assistance for emergency

- 1            medical services is not sufficient to provide full grant funding calculated under this  
2            section.
- 3        4.    An operation is not eligible to receive funding under this section if the operation's  
4            average number of runs for the two most recent fiscal years is more than seven  
5            hundred.