WEST virginia legislature

2024 regular session

Committee Substitute

for

Senate Bill 533

By Senators Deeds, Barrett, Hamilton, Hunt, Nelson, Phillips, Queen, Roberts, Swope, Takubo, Plymale, Maroney, and Woodrum

[Originating in the Committee on Health and Human Resources; reported February 16, 2024]

A BILL to amend and reenact §16-4C-3 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §16-4C-26; to amend said code by adding thereto a new section, designated §33-15-4x; to amend said code by adding thereto a new section, designated, §33-16-3rr; to amend said code by adding thereto a new section, designated §33-24-7y; to amend said code by adding thereto a new section, designated 33-25-8v; and to amend said code by adding thereto a new section, designated §33-25A-8y, all relating to emergency medical services; defining terms; providing that an emergency medical services agency may triage and transport a patient to an alternate destination in certain circumstances; mandating insurance coverage of emergency medical services include triage, treat, and transport to an alternative destination, or to treat in place; and providing effective date.

Be it enacted by the Legislature of West Virginia:

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 4C. EMERGENCY MEDICAL SERVICES ACT.

§16-4C-3. Definitions.

As used in this article, unless the context clearly requires a different meaning:

(a) "Ambulance" means any privately, ~~or~~ publicly-owned vehicle, or aircraft which is designed, constructed, or modified; equipped or maintained; and operated for the transportation of patients, including, but not limited to, emergency medical services vehicles; rotary and fixed wing air ambulances; gsa kkk-A-1822 federal standard type I, type II, and type III vehicles; and specialized multipatient medical transport vehicles operated by an emergency medical services agency;

(b)(1) "Alternative destination" means a lower-acuity facility that provides medical services, including without limitation:

(A) A federally-qualified health center;

(B) An urgent care center;

(C) A physician office or medical clinic, as selected by the patient; and

(D) A behavioral or mental health care facility including, without limitation, a crisis stabilization unit.

(2) "Alternative destination" does not include a:

(A) Critical access hospital;

(B) Dialysis center;

(C) Hospital;

(D) Private residence; or

(E) Skilled nursing facility.

~~(b)~~ (c) "Commissioner" means the Commissioner of the Bureau for Public Health;

~~(c)~~ (d) "Council" means the Emergency Medical Services Advisory Council created pursuant to this article;

~~(d)~~ (e) Director means the Director of the Office of Emergency Medical Services in the Bureau for Public Health;

~~(e)~~ (f) "Emergency Medical Services" means all services ~~which are~~ set forth in Public Law 93-154 The Emergency Medical Services Systems Act of 1973 and those included in and made a part of the emergency medical services plan of the ~~Department of Health and Human Resources~~ Department of Health inclusive of, but not limited to, responding to the medical needs of an individual to prevent the loss of life or aggravation of illness or injury;

~~(f)~~ (g) "Emergency medical service agency" means any agency licensed under ~~section six-a of this article~~ §16-4C-6a of this code to provide emergency medical services;

~~(g)~~ (h) "Emergency medical service personnel" means any person certified by the commissioner to provide emergency medical services as set forth by legislative rule;

~~(h)~~ (i) "Emergency medical service provider" means any authority, person, corporation, partnership, or other entity, public or private, which owns or operates a licensed emergency medical services agency providing emergency medical services in this state;

~~(i)~~ (j) "Governing body" has the meanings ascribed to it as applied to a municipality in §8-1-2(b)(1) of this code;

~~(j)~~ (k) "Line officer" means the emergency medical service personnel, present at the scene of an accident, injury, or illness, who has taken the responsibility for patient care;

~~(k)~~ (l) "Medical command" means the issuing of orders by a physician from a medical facility to emergency medical service personnel for the purpose of providing appropriate patient care;

~~(l)~~ (m) "Municipality" has the meaning ascribed to it in §8-1-2(a)(1) of this code;

~~(m)~~ (n) "Patient" means any person who is a recipient of the services provided by emergency medical services;

~~(n)~~ (o) "Service reciprocity" means the provision of emergency medical services to citizens of this state by emergency medical service personnel certified to render those services by a neighboring state;

~~(o)~~ (p) "Small emergency medical service provider" means any emergency medical service provider which is made up of less than ~~twenty~~ 20 emergency medical service personnel; and

~~(p)~~ (q) "Specialized multipatient medical transport" means a type of ambulance transport provided for patients with medical needs greater than those of the average population, which may require the presence of a trained emergency medical technician during the transport of the patient: *Provided,* That the requirement of "greater medical need" may not prohibit the transportation of a patient whose need is preventive in nature.

§16-4C-26 Triage, Treat, and Transport to Alternative Destination.

(a)  An emergency medical services agency may triage and transport a patient to an alternative destination in this state or treat in place if the emergency medical services agency is coordinating the care of the patient through medical command or telehealth services with a physician for a medical-based complaint or with a behavioral health specialist for a behavioral-based complaint.

(b) On or before May 28, 2024, the commissioner shall submit a proposed legislative rule to the Emergency Medical Services Advisory Council for review, and on or before June 30, 2024, shall file the proposed legislative rule with the Office of the Secretary of State in accordance with the provisions of §29A-3-1 *et seq.* of this code to establish protocols for emergency medical service agencies to triage, treat, and transport to alternative destinations.

CHAPTER 33. INSURANCE.

[ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.](https://code.wvlegislature.gov/33-15/)

§33-15-4x. Coverage of Emergency Medical Services to Triage and Transport to Alternative Destination or Treat in Place.

(a) The following terms are defined:

(1) "911 call" means a communication indicating that an individual may need emergency medical services;

(2) "Alternative destination" means a lower-acuity facility that provides medical services and elects to participate in this program, including, without limitation:

(A) A federally-qualified health center;

(B) An urgent care center;

(C) A physician office or medical clinic as selected by the patient; and

(D) A behavioral or mental health care facility including, without limitation, a crisis stabilization unit.

"Alternative destination" does not include a:

(A) Critical access hospital;

(B) Dialysis center;

(C) Hospital;

(D) Private residence; or

(E) Skilled nursing facility;

(3) "Emergency medical service agency" means any agency licensed under §16-4C-6a of this code to provide emergency medical services: *Provided*, That rotary and fixed wing air ambulances are specifically excluded from the definition of an emergency medical service agency;

(4) "Medical command" means the issuing of orders by a physician from a medical facility to emergency medical service personnel for the purpose of providing appropriate patient care; and

(5) "Telehealth services" means the use of synchronous or asynchronous telecommunications technology or audio-only telephone calls by a health care practitioner to provide health care services, including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a patient; transfer of medical data; patient and professional health-related education; public health services; and health administration. The term does not include e-mail messages or facsimile transmissions.

(b) An insurer which issues or renews a health insurance policy on or after January 1, 2025, shall provide coverage for:

(1) An emergency medical services agency to:

(A) Treat an enrollee in place if the ambulance service is coordinating the care of the enrollee through telehealth services with a physician for a medical-based complaint or with a behavioral health specialist for a behavioral-based complaint;

(B) Triage or triage and transport an enrollee to an alternative destination if the ambulance service is coordinating the care of the enrollee through telehealth services with a physician for a medical-based complaint or with a behavioral health specialist for a behavioral-based complaint; or

(C) An encounter between an ambulance service and enrollee that results in no transport of the enrollee if:

(i) The enrollee declines to be transported against medical advice; and

(ii) The emergency medical service agency is coordinating the care of the enrollee through telehealth services or medical command with a physician for a medical-based complaint or with a behavioral health specialist for a behavioral-based complaint.

(c) The coverage under this section:

(1) Only includes emergency medical services transportation to the treatment location;

(2) Is subject to the initiation of response, triage, and treatment as a result of a 911 call that is documented in the records of the emergency medical services agency;

(3) Is subject to deductibles or copayment requirements of the policy, contract, or plan;

(4) Does not diminish or limit benefits otherwise allowable under a health benefit plan, even if the billing claims for medical or behavioral health services overlap in time that is billed by the ambulance service also providing care; and

(5) Does not include rotary of fixed wing air ambulance services.

(d) The reimbursement rate for an emergency medical services agency that triages, treats, and transports a patient to an alternative destination, or triages, treats, and does not transport a patient if the patient declines to be transported against medical advice, if the ambulance service is coordinating the care of the enrollee through medical command or telemedicine with a physician for a medical-based complaint, or with a behavioral health specialist for a behavioral-based complaint under this section, shall be reimbursed at the same rate as if the patient were transported to an emergency room of a facility provider.

[ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.](https://code.wvlegislature.gov/33-16/)

§33-16-3rr. Coverage of Emergency Medical Services to Triage and Transport to Alternative Destination or Treat in Place.

(a) The following terms are defined:

(1) "911 call" means a communication indicating that an individual may need emergency medical services;

(2) "Alternative destination" means a lower-acuity facility that provides medical services and elects to participate in this program, including, without limitation:

(A) A federally-qualified health center;

(B) An urgent care center;

(C) A physician office or medical clinic as selected by the patient; and

(D) A behavioral or mental health care facility including, without limitation, a crisis stabilization unit.

"Alternative destination" does not include a:

(A) Critical access hospital;

(B) Dialysis center;

(C) Hospital;

(D) Private residence; or

(E) Skilled nursing facility;

(3) "Emergency medical service agency" means any agency licensed under §16-4C-6a of this code to provide emergency medical services: *Provided*, That rotary and fixed wing air ambulances are specifically excluded from the definition of an emergency medical service agency;

(4) "Medical command" means the issuing of orders by a physician from a medical facility to emergency medical service personnel for the purpose of providing appropriate patient care; and

(5) "Telehealth services" means the use of synchronous or asynchronous telecommunications technology or audio-only telephone calls by a health care practitioner to provide health care services, including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a patient; transfer of medical data; patient and professional health-related education; public health services; and health administration. The term does not include e-mail messages or facsimile transmissions.

(b) An insurer which issues or renews a health insurance policy on or after January 1, 2025, shall provide coverage for:

(1) An emergency medical services agency to:

(A) Treat an enrollee in place if the ambulance service is coordinating the care of the enrollee through telehealth services with a physician for a medical-based complaint or with a behavioral health specialist for a behavioral-based complaint;

(B) Triage or triage and transport an enrollee to an alternative destination if the ambulance service is coordinating the care of the enrollee through telehealth services with a physician for a medical-based complaint or with a behavioral health specialist for a behavioral-based complaint; or

(C) An encounter between an ambulance service and enrollee that results in no transport of the enrollee if:

(i) The enrollee declines to be transported against medical advice; and

(ii) The emergency medical service agency is coordinating the care of the enrollee through telehealth services or medical command with a physician for a medical-based complaint or with a behavioral health specialist for a behavioral-based complaint.

(c) The coverage under this section:

(1) Only includes emergency medical services transportation to the treatment location;

(2) Is subject to the initiation of response, triage, and treatment as a result of a 911 call that is documented in the records of the emergency medical services agency;

(3) Is subject to deductibles or copayment requirements of the policy, contract, or plan;

(4) Does not diminish or limit benefits otherwise allowable under a health benefit plan, even if the billing claims for medical or behavioral health services overlap in time that is billed by the ambulance service also providing care; and

(5) Does not include rotary of fixed wing air ambulance services.

(d) The reimbursement rate for an emergency medical services agency that triages, treats, and transports a patient to an alternative destination, or triages, treats, and does not transport a patient if the patient declines to be transported against medical advice, if the ambulance service is coordinating the care of the enrollee through medical command or telemedicine with a physician for a medical-based complaint or with a behavioral health specialist for a behavioral-based complaint under this section shall be reimbursed at the same rate as if the patient were transported to an emergency room of a facility provider.

ARTICLE 24. HOSPITAL SERVICE CORPORATIONS, MEDICAL SERVICE CORPORATIONS, DENTAL SERVICE CORPORATIONS, AND HEALTH SERVICE CORPORATIONS.

§33-24-7y. Coverage of Emergency Medical Services to Triage and Transport to Alternative Destination or Treat in Place.

(a) The following terms are defined:

(1) "911 call" means a communication indicating that an individual may need emergency medical services;

(2) "Alternative destination" means a lower-acuity facility that provides medical services and elects to participate in this program, including, without limitation:

(A) A federally-qualified health center;

(B) An urgent care center;

(C) A physician office or medical clinic as selected by the patient; and

(D) A behavioral or mental health care facility including, without limitation, a crisis stabilization unit.

"Alternative destination" does not include a:

(A) Critical access hospital;

(B) Dialysis center;

(C) Hospital;

(D) Private residence; or

(E) Skilled nursing facility;

(3) "Emergency medical service agency" means any agency licensed under §16-4C-6a of this code to provide emergency medical services: *Provided*, That rotary and fixed wing air ambulances are specifically excluded from the definition of an emergency medical service agency;

(4) "Medical command" means the issuing of orders by a physician from a medical facility to emergency medical service personnel for the purpose of providing appropriate patient care; and

(5) "Telehealth services" means the use of synchronous or asynchronous telecommunications technology or audio-only telephone calls by a health care practitioner to provide health care services, including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a patient; transfer of medical data; patient and professional health-related education; public health services; and health administration. The term does not include e-mail messages or facsimile transmissions.

(b) An insurer which issues or renews a health insurance policy on or after January 1, 2025, shall provide coverage for:

(1) An emergency medical services agency to:

(A) Treat an enrollee in place if the ambulance service is coordinating the care of the enrollee through telehealth services with a physician for a medical-based complaint or with a behavioral health specialist for a behavioral-based complaint;

(B) Triage or triage and transport an enrollee to an alternative destination if the ambulance service is coordinating the care of the enrollee through telehealth services with a physician for a medical-based complaint or with a behavioral health specialist for a behavioral-based complaint; or

(C) An encounter between an ambulance service and enrollee that results in no transport of the enrollee if:

(i) The enrollee declines to be transported against medical advice; and

(ii) The emergency medical service agency is coordinating the care of the enrollee through telehealth services or medical command with a physician for a medical-based complaint or with a behavioral health specialist for a behavioral-based complaint.

(c) The coverage under this section:

(1) Only includes emergency medical services transportation to the treatment location;

(2) Is subject to the initiation of response, triage, and treatment as a result of a 911 call that is documented in the records of the emergency medical services agency;

(3) Is subject to deductibles or copayment requirements of the policy, contract, or plan;

(4) Does not diminish or limit benefits otherwise allowable under a health benefit plan, even if the billing claims for medical or behavioral health services overlap in time that is billed by the ambulance service also providing care; and

(5) Does not include rotary of fixed wing air ambulance services.

(d) The reimbursement rate for an emergency medical services agency that triages, treats, and transports a patient to an alternative destination, or triages, treats, and does not transport a patient if the patient declines to be transported against medical advice, if the ambulance service is coordinating the care of the enrollee through medical command or telemedicine with a physician for a medical-based complaint or with a behavioral health specialist for a behavioral-based complaint under this section shall be reimbursed at the same rate as if the patient were transported to an emergency room of a facility provider.

**ARTICLE 25. HEALTH CARE CORPORATIONS.**

§33-25-8v. Coverage of Emergency Medical Services to Triage and Transport to Alternative Destination or Treat in Place.

(a) The following terms are defined:

(1) "911 call" means a communication indicating that an individual may need emergency medical services;

(2) "Alternative destination" means a lower-acuity facility that provides medical services and elects to participate in this program, including, without limitation:

(A) A federally-qualified health center;

(B) An urgent care center;

(C) A physician office or medical clinic as selected by the patient; and

(D) A behavioral or mental health care facility including, without limitation, a crisis stabilization unit.

"Alternative destination" does not include a:

(A) Critical access hospital;

(B) Dialysis center;

(C) Hospital;

(D) Private residence; or

(E) Skilled nursing facility;

(3) "Emergency medical service agency" means any agency licensed under §16-4C-6a of this code to provide emergency medical services: *Provided*, That rotary and fixed wing air ambulances are specifically excluded from the definition of an emergency medical service agency;

(4) "Medical command" means the issuing of orders by a physician from a medical facility to emergency medical service personnel for the purpose of providing appropriate patient care; and

(5) "Telehealth services" means the use of synchronous or asynchronous telecommunications technology or audio-only telephone calls by a health care practitioner to provide health care services, including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a patient; transfer of medical data; patient and professional health-related education; public health services; and health administration. The term does not include e-mail messages or facsimile transmissions.

(b) An insurer which issues or renews a health insurance policy on or after January 1, 2025, shall provide coverage for:

(1) An emergency medical services agency to:

(A) Treat an enrollee in place if the ambulance service is coordinating the care of the enrollee through telehealth services with a physician for a medical-based complaint or with a behavioral health specialist for a behavioral-based complaint;

(B) Triage or triage and transport an enrollee to an alternative destination if the ambulance service is coordinating the care of the enrollee through telehealth services with a physician for a medical-based complaint or with a behavioral health specialist for a behavioral-based complaint; or

(C) An encounter between an ambulance service and enrollee that results in no transport of the enrollee if:

(i) The enrollee declines to be transported against medical advice; and

(ii) The emergency medical service agency is coordinating the care of the enrollee through telehealth services or medical command with a physician for a medical-based complaint or with a behavioral health specialist for a behavioral-based complaint.

(c) The coverage under this section:

(1) Only includes emergency medical services transportation to the treatment location;

(2) Is subject to the initiation of response, triage, and treatment as a result of a 911 call that is documented in the records of the emergency medical services agency;

(3) Is subject to deductibles or copayment requirements of the policy, contract, or plan;

(4) Does not diminish or limit benefits otherwise allowable under a health benefit plan, even if the billing claims for medical or behavioral health services overlap in time that is billed by the ambulance service also providing care; and

(5) Does not include rotary of fixed wing air ambulance services.

(d) The reimbursement rate for an emergency medical services agency that triages, treats, and transports a patient to an alternative destination, or triages, treats, and does not transport a patient if the patient declines to be transported against medical advice, if the ambulance service is coordinating the care of the enrollee through medical command or telemedicine with a physician for a medical-based complaint or with a behavioral health specialist for a behavioral-based complaint under this section shall be reimbursed at the same rate as if the patient were transported to an emergency room of a facility provider.

**ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.**

§33-25A-8y. Coverage of Emergency Medical Services to Triage and Transport to Alternative Destination or Treat in Place.

(a) The following terms are defined:

(1) "911 call" means a communication indicating that an individual may need emergency medical services;

(2) "Alternative destination" means a lower-acuity facility that provides medical services and elects to participate in this program, including, without limitation:

(A) A federally-qualified health center;

(B) An urgent care center;

(C) A physician office or medical clinic as selected by the patient; and

(D) A behavioral or mental health care facility including, without limitation, a crisis stabilization unit.

"Alternative destination" does not include a:

(A) Critical access hospital;

(B) Dialysis center;

(C) Hospital;

(D) Private residence; or

(E) Skilled nursing facility;

(3) "Emergency medical service agency" means any agency licensed under §16-4C-6a of this code to provide emergency medical services: *Provided*, That rotary and fixed wing air ambulances are specifically excluded from the definition of an emergency medical service agency;

(4) "Medical command" means the issuing of orders by a physician from a medical facility to emergency medical service personnel for the purpose of providing appropriate patient care; and

(5) "Telehealth services" means the use of synchronous or asynchronous telecommunications technology or audio-only telephone calls by a health care practitioner to provide health care services, including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a patient; transfer of medical data; patient and professional health-related education; public health services; and health administration. The term does not include e-mail messages or facsimile transmissions.

(b) An insurer which issues or renews a health insurance policy on or after January 1, 2025, shall provide coverage for:

(1) An emergency medical services agency to:

(A) Treat an enrollee in place if the ambulance service is coordinating the care of the enrollee through telehealth services with a physician for a medical-based complaint or with a behavioral health specialist for a behavioral-based complaint;

(B) Triage or triage and transport an enrollee to an alternative destination if the ambulance service is coordinating the care of the enrollee through telehealth services with a physician for a medical-based complaint or with a behavioral health specialist for a behavioral-based complaint; or

(C) An encounter between an ambulance service and enrollee that results in no transport of the enrollee if:

(i) The enrollee declines to be transported against medical advice; and

(ii) The emergency medical service agency is coordinating the care of the enrollee through telehealth services or medical command with a physician for a medical-based complaint or with a behavioral health specialist for a behavioral-based complaint.

(c) The coverage under this section:

(1) Only includes emergency medical services transportation to the treatment location;

(2) Is subject to the initiation of response, triage, and treatment as a result of a 911 call that is documented in the records of the emergency medical services agency;

(3) Is subject to deductibles or copayment requirements of the policy, contract, or plan;

(4) Does not diminish or limit benefits otherwise allowable under a health benefit plan, even if the billing claims for medical or behavioral health services overlap in time that is billed by the ambulance service also providing care; and

(5) Does not include rotary of fixed wing air ambulance services.

(d) The reimbursement rate for an emergency medical services agency that triages, treats, and transports a patient to an alternative destination, or triages, treats, and does not transport a patient if the patient declines to be transported against medical advice, if the ambulance service is coordinating the care of the enrollee through medical command or telemedicine with a physician for a medical-based complaint or with a behavioral health specialist for a behavioral-based complaint under this section shall be reimbursed at the same rate as if the patient were transported to an emergency room of a facility provider.