

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]

1 A BILL to amend and reenact §16-4C-3 of the Code of West Virginia, 1931, as amended; to
2 amend said code by adding thereto a new section, designated §16-4C-26; to amend said
3 code by adding thereto a new section, designated §33-15-4x; to amend said code by
4 adding thereto a new section, designated, §33-16-3rr; to amend said code by adding
5 thereto a new section, designated §33-24-7y; to amend said code by adding thereto a new
6 section, designated §33-25-8v; and to amend said code by adding thereto a new section,
7 designated §33-25A-8y, all relating to emergency medical services; defining terms;
8 providing that an emergency medical services agency may triage and transport a patient
9 to an alternate destination in certain circumstances; mandating insurance coverage of
10 emergency medical services include triage, treat, and transport to an alternative
11 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.

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

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

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

10 (A) A federally-qualified health center;

- 11 (B) An urgent care center;
12 (C) A physician office or medical clinic, as selected by the patient; and
13 (D) A behavioral or mental health care facility including, without limitation, a crisis
14 stabilization unit.
- 15 (2) "Alternative destination" does not include a:
16 (A) Critical access hospital;
17 (B) Dialysis center;
18 (C) Hospital;
19 (D) Private residence; or
20 (E) Skilled nursing facility.
- 21 ~~(b)~~ (c) "Commissioner" means the Commissioner of the Bureau for Public Health;
22 ~~(e)~~ (d) "Council" means the Emergency Medical Services Advisory Council created
23 pursuant to this article;
24 ~~(d)~~ (e) "Director" means the Director of the Office of Emergency Medical Services in the
25 Bureau for Public Health;
26 ~~(e)~~ (f) "Emergency Medical Services" means all services ~~which are~~ set forth in Public Law
27 93-154 The Emergency Medical Services Systems Act of 1973 and those included in and made
28 a part of the emergency medical services plan of the ~~Department of Health and Human Resources~~
29 Department of Health inclusive of, but not limited to, responding to the medical needs of an
30 individual to prevent the loss of life or aggravation of illness or injury;
31 ~~(f)~~ (g) "Emergency medical service agency" means any agency licensed under ~~section six-~~
32 ~~a of this article~~ §16-4C-6a of this code to provide emergency medical services;
33 ~~(g)~~ (h) "Emergency medical service personnel" means any person certified by the
34 commissioner to provide emergency medical services as set forth by legislative rule;
35 ~~(h)~~ (i) "Emergency medical service provider" means any authority, person, corporation,
36 partnership, or other entity, public or private, which owns or operates a licensed emergency
37 medical services agency providing emergency medical services in this state;

38 ~~(j)~~ (i) "Governing body" has the meanings ascribed to it as applied to a municipality in §8-
39 1-2(b)(1) of this code;

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

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

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

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

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

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

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

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

1 (a) An emergency medical services agency may triage and transport a patient to an
2 alternative destination in this state or treat in place if the emergency medical services agency is
3 coordinating the care of the patient through medical command or telehealth services with a

4 physician for a medical-based complaint or with a behavioral health specialist for a behavioral-
5 based complaint.

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

CHAPTER 33. INSURANCE.

ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.

§33-15-4x. Coverage of Emergency Medical Services to Triage and Transport to Alternative

Destination or Treat in Place.

1 (a) The following terms are defined:

2 (1) "911 call" means a communication indicating that an individual may need emergency
3 medical services;

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

6 (A) A federally-qualified health center;

7 (B) An urgent care center;

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

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

11 "Alternative destination" does not include a:

12 (A) Critical access hospital;

13 (B) Dialysis center;

14 (C) Hospital;

15 (D) Private residence; or

16 (E) Skilled nursing facility;

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

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

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

30 (b) An insurer which issues or renews a health insurance policy on or after January 1,
31 2025, shall provide coverage for:

32 (1) An emergency medical services agency to:

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

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

39 or

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

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

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

46 (c) The coverage under this section:

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

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

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

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

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

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

ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.

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

1 (a) The following terms are defined:

2 (1) "911 call" means a communication indicating that an individual may need emergency
3 medical services;

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

6 (A) A federally-qualified health center;

7 (B) An urgent care center;

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

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

11 "Alternative destination" does not include a:

12 (A) Critical access hospital;

13 (B) Dialysis center;

14 (C) Hospital;

15 (D) Private residence; or

16 (E) Skilled nursing facility;

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

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

24 (5) "Telehealth services" means the use of synchronous or asynchronous
25 telecommunications technology or audio-only telephone calls by a health care practitioner to
26 provide health care services, including, but not limited to, assessment, diagnosis, consultation,
27 treatment, and monitoring of a patient; transfer of medical data; patient and professional health-

28 related education; public health services; and health administration. The term does not include e-
29 mail messages or facsimile transmissions.

30 (b) An insurer which issues or renews a health insurance policy on or after January 1,
31 2025, shall provide coverage for:

32 (1) An emergency medical services agency to:

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

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

39 or

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

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

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

46 (c) The coverage under this section:

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

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

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

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

54 (5) Does not include rotary of fixed wing air ambulance services.
55 (d) The reimbursement rate for an emergency medical services agency that triages, treats,
56 and transports a patient to an alternative destination, or triages, treats, and does not transport a
57 patient if the patient declines to be transported against medical advice, if the ambulance service
58 is coordinating the care of the enrollee through medical command or telemedicine with a physician
59 for a medical-based complaint or with a behavioral health specialist for a behavioral-based
60 complaint under this section shall be reimbursed at the same rate as if the patient were
61 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.

1 (a) The following terms are defined:
2 (1) "911 call" means a communication indicating that an individual may need emergency
3 medical services;
4 (2) "Alternative destination" means a lower-acuity facility that provides medical services
5 and elects to participate in this program, including, without limitation:
6 (A) A federally-qualified health center;
7 (B) An urgent care center;
8 (C) A physician office or medical clinic as selected by the patient; and
9 (D) A behavioral or mental health care facility including, without limitation, a crisis
10 stabilization unit.
11 "Alternative destination" does not include a:
12 (A) Critical access hospital;

13 (B) Dialysis center;

14 (C) Hospital;

15 (D) Private residence; or

16 (E) Skilled nursing facility;

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

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

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

30 (b) An insurer which issues or renews a health insurance policy on or after January 1,
31 2025, shall provide coverage for:

32 (1) An emergency medical services agency to:

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

36 (B) Triage or triage and transport an enrollee to an alternative destination if the ambulance
37 service is coordinating the care of the enrollee through telehealth services with a physician for a

38 medical-based complaint or with a behavioral health specialist for a behavioral-based complaint;

39 or

40 (C) An encounter between an ambulance service and enrollee that results in no transport

41 of the enrollee if:

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

43 (ii) The emergency medical service agency is coordinating the care of the enrollee through

44 telehealth services or medical command with a physician for a medical-based complaint or with

45 a behavioral health specialist for a behavioral-based complaint.

46 (c) The coverage under this section:

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

48 (2) Is subject to the initiation of response, triage, and treatment as a result of a 911 call

49 that is documented in the records of the emergency medical services agency;

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

51 (4) Does not diminish or limit benefits otherwise allowable under a health benefit plan,

52 even if the billing claims for medical or behavioral health services overlap in time that is billed by

53 the ambulance service also providing care; and

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

55 (d) The reimbursement rate for an emergency medical services agency that triages, treats,

56 and transports a patient to an alternative destination, or triages, treats, and does not transport a

57 patient if the patient declines to be transported against medical advice, if the ambulance service

58 is coordinating the care of the enrollee through medical command or telemedicine with a physician

59 for a medical-based complaint or with a behavioral health specialist for a behavioral-based

60 complaint under this section shall be reimbursed at the same rate as if the patient were

61 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.

1 (a) The following terms are defined:

2 (1) "911 call" means a communication indicating that an individual may need emergency
3 medical services;

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

6 (A) A federally-qualified health center;

7 (B) An urgent care center;

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

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

11 "Alternative destination" does not include a:

12 (A) Critical access hospital;

13 (B) Dialysis center;

14 (C) Hospital;

15 (D) Private residence; or

16 (E) Skilled nursing facility;

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

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

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

30 (b) An insurer which issues or renews a health insurance policy on or after January 1,
31 2025, shall provide coverage for:

32 (1) An emergency medical services agency to:

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

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

39 or

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

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

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

46 (c) The coverage under this section:

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

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

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

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

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

55 (d) The reimbursement rate for an emergency medical services agency that triages, treats,
56 and transports a patient to an alternative destination, or triages, treats, and does not transport a
57 patient if the patient declines to be transported against medical advice, if the ambulance service
58 is coordinating the care of the enrollee through medical command or telemedicine with a physician
59 for a medical-based complaint or with a behavioral health specialist for a behavioral-based
60 complaint under this section shall be reimbursed at the same rate as if the patient were
61 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.

1 (a) The following terms are defined:

2 (1) "911 call" means a communication indicating that an individual may need emergency
3 medical services;

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

6 (A) A federally-qualified health center;

7 (B) An urgent care center;

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

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

11 "Alternative destination" does not include a:

12 (A) Critical access hospital;

13 (B) Dialysis center;

14 (C) Hospital;

15 (D) Private residence; or

16 (E) Skilled nursing facility;

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

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

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

30 (b) An insurer which issues or renews a health insurance policy on or after January 1,
31 2025, shall provide coverage for:

32 (1) An emergency medical services agency to:

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

36 (B) Triage or triage and transport an enrollee to an alternative destination if the ambulance
37 service is coordinating the care of the enrollee through telehealth services with a physician for a

38 medical-based complaint or with a behavioral health specialist for a behavioral-based complaint;

39 or

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

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

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

46 (c) The coverage under this section:

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

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

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

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

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

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