SENATE FILE NO. SF0115

Air ambulance remedies.

Sponsored by: Senator(s) Scott and Representative(s) Barlow

A BILL

for

AN ACT relating to public health and safety; making legislative findings in regard to air ambulance services; specifying authority of boards of county commissioners, county memorial hospitals and district hospitals, special hospital districts and special rural health care districts to contract for air ambulance services; requiring the state employees' and officials' group insurance plan to offer air ambulance services under the air ambulance transport services program only upon federal approval of the program; making the operation of air ambulance provisions in Medicaid statutes contingent upon federal approval of the air ambulance transport services program; requiring a legislative committee study as specified and authorizing the committee to introduce related legislation; and providing for an effective date.
Be It Enacted by the Legislature of the State of Wyoming:

Section 1.

(a) The legislature finds that:

(i) Air ambulance services are an important and sometimes lifesaving part of our health care system and are especially important in Wyoming because of our low population, low population density and consequently long distances that people may be required to travel rapidly in order to receive essential medical services;

(ii) The legislature is aware that too many times Wyoming residents have received excessive and unreasonable bills for the use of air ambulance services;

(iii) Federal court precedent has placed air ambulance services under the preemptive authority of the Airline Deregulation Act of 1978 which, to control prices, relies on informed consumers with a practical choice as to which service to use and whether or not to use any service;
(iv) Often air ambulance services are needed in life threatening circumstances where the need for prompt transportation to needed medical services deprives the consumer of a real choice in service and choice of whether or not to use any service;

(v) Air ambulance services are largely interstate commerce which Congress has the right to regulate under the United States Constitution;

(vi) Over time the several states have learned that where consumers are deprived by circumstances of a choice of supplier of needed services, a degree of or threat of governmental price regulation is needed to restrain prices and prevent price gouging;

(vii) The credible threat of price regulation does restrain prices for medical services;

(viii) Inaction by the Unites States congress has allowed for the continued inability of state regulation of air ambulance prices;
(ix) This inaction is apparent because in worker's compensation, an area where Wyoming does regulate medical prices, Wyoming's efforts to restrain air ambulance prices have twice been found contrary to federal law by the United States Court of Appeals for the Tenth Circuit;

(x) The current dysfunction of the United States congress means that the defects of the federal regulatory nonsystem for air ambulance services are not being corrected;

(xi) The federal government does regulate air ambulance prices for the major medical programs which the federal government pays for including specifically the Medicare program, the largest federal medical program;

(xii) The federal centers for Medicaid and Medicare services have denied Wyoming's request to regulate air ambulance services using the Medicaid program in light of the preemptive authority of the Airline Deregulation Act of 1978;
(xiii) It is within the power of the state to encourage private contracting for air ambulance services before the urgent need for transportation to critical medical services arises to enable a real choice from among potential suppliers;

(xiv) It is not in the public interest for any branch of the Wyoming state government to facilitate price gouging for air ambulance services; and

(xv) Because of the federal preemption, the legislature has been unable to enact a statute preventing price gouging for air ambulance services. Nonetheless, the legislature encourages the courts to do justice for all parties in any controversy over payment for air ambulance services and if a court is unable to do justice due to federal preemption, to say so clearly in any relevant opinion.

Section 2. W.S. 18-2-101 by creating new subsections (b) through (d), 18-8-108(b), 35-2-403(c) and 35-2-703(a) by creating a new paragraph (xii) are amended to read:

(b) As authorized by paragraph (a)(iii) of this section, the board of county commissioners for any county may contract with one (1) or more entities providing air ambulance services provided that:

(i) Persons may agree to being covered under the terms and conditions of the contract, and any additional terms as specified by the board of county commissioners, and shall pay at least an annual fee for the coverage of the contracted services to the county;

(ii) In no case may the terms specified by the board of county commissioners require payment of copayments and deductibles whose sum exceeds the charge that the federal Medicare program requires for the same or similar services;

(iii) Any insurer providing air ambulance coverage may, by agreement with the board of county commissioners, use the county negotiated system as a preferred provider within the county;
(iv) No person, except a county employee for whom the county is providing health coverage, shall be required to use the air ambulance coverage negotiated by the board of county commissioners;

(v) When negotiating for air ambulance coverage the board of county commissioners shall consult with every hospital located within the county but shall not be required to obtain the permission of any hospital to enter into any contract.

(c) Any provider contracting with a board of county commissioners under this section shall receive first priority in dispatching within the county. Any provider acting as an any willing provider accepting the negotiated prices shall have second priority. Other providers may be dispatched if the first two (2) priority providers are not available in a timely fashion. The board of county commissioners shall publish on county's official web site the relevant terms and conditions in order to notify any interested air ambulance provider not included in the contract and wishing to be an any willing provider.
(d) Two (2) or more boards of county commissioners may join together to negotiate and enter into a common contract under subsection (b) of this section for the receipt of air ambulance services from a provider for their respective counties.

18-8-108. Authority to enter contract for operation; terms and conditions of contract.

(b) A county memorial hospital with the approval and consent of the board of county commissioners, or district hospital with the consent of the board of trustees, may contract:

(i) With another licensed hospital located within a reasonable distance to share or divide speciality or costly hospital services and equipment, or a county memorial hospital or district hospital with such approval may discontinue or avoid duplication of speciality or costly hospital services and equipment otherwise available to the community served for the purpose of minimizing costs for such hospital services or improving health care.
(ii) With entities providing air ambulance services. Any contract executed as authorized under this paragraph shall conform to the requirements specified under W.S. 18-2-101(b)(i) through (iii), (c) and (d). No person, except a county memorial hospital or district hospital employee for whom the hospital is providing health coverage, shall be required to use the air ambulance coverage negotiated by the county memorial hospital or district hospital.

35-2-403. Body corporate; name and style; powers generally; rules and regulations of trustees; definitions of certain terms.

(c) In addition to subsection (a) of this section, each district:

(i) May engage in activities authorized under W.S. 18-8-301 subject to requirements and conditions specified therein.
(ii) May contract with entities providing air ambulance services. Any contract executed as authorized under this paragraph shall conform to the requirements specified under W.S. 18-2-101(b)(i) through (iii), (c) and (d). No person, except a special hospital district employee for whom the hospital district is providing health coverage, shall be required to use the air ambulance coverage negotiated by the special hospital district.

35-2-703. Body corporate; name and style; powers generally; rules and regulations of trustees.

(a) Each district so established is a body corporate and shall be designated by the name of the .... rural health care district. The district name shall be entered upon the commissioners' records and shall be selected by the board of county commissioners of the county in which the greater area of land within the district is located. In the name so selected, the district through its governing board may:

(xii) Contract with entities providing air ambulance services. Any contract executed as authorized
under this paragraph shall conform to the requirements specified under W.S. 18-2-101(b)(i) through (iii), (c) and (d). No person, except a special rural health care district employee for whom the rural health care district is providing health coverage, shall be required to use the air ambulance coverage negotiated by the special rural health care district.

Section 3. W.S. 9-3-219(a) and (b) and 42-4-123(b) as created by 2019 Wyoming Session Laws, Chapter 189, Section 2 are amended to read:

9-3-219. Air ambulance transport services for employees, officials and dependents; reimbursement; sunset.

(a) Emergency and medically necessary air ambulance transport services for employees, officials and their dependents shall be covered under W.S. 42-4-123, subject to availability and any limitations specified by the department of health under W.S. 42-4-123(a) and subject to operation of the air ambulance transport services program under W.S. 42-4-123(b).
(b) Contingent on operation of the air ambulance transport services program under W.S. 42-4-123(b), the department of administration and information shall pay reimbursement for services under this section to the department of health, as specified under W.S. 42-4-123.

42-4-123. Air ambulance transport services for Wyoming residents; sunset.

(b) Contingent on federal approval under subsection (a) of this section, there is created the air ambulance transport services program under the department. Operation of the air ambulance services program as provided in subsections (c) through (p) of this section shall be contingent on the federal approval required by subsection (a) of this section.

Section 4.

(a) The joint labor, health and social services interim committee shall undertake to study avenues available to the state for ensuring the delivery of high quality air ambulance services while ensuring those
services are delivered at a fair market price to consumers. In conducting the study, the committee shall consider:

(i) Partnerships that may be entered into by vested stakeholders, including public and private entities, organizations and associations that would enhance the state's bargaining power for obtaining air ambulance services for the people of Wyoming;

(ii) Innovative approaches for dispute resolution pertaining to the payment for the delivery of air ambulance services by consumers and insurance providers in the state;

(iii) Statutory changes that may aid in decreasing the cost for the delivery of high quality air ambulance services;

(iv) The ability of the state to limit the jurisdiction of its courts for complaints seeking payment for unregulated and unjust air ambulance service expenses;
(v) The ability of the state to file a consumer protection complaint regarding the cost of air ambulance services on behalf of its citizens with the appropriate federal agency or commission.

(b) In addition to subsection (a) of this section, the joint labor, health and social services interim committee may receive testimony regarding the efficacy of this act and on air ambulance services in general and introduce legislation as the committee deems appropriate for the 2021 legislative session.

Section 5. This act is repealed effective July 1, 2029.

Section 6. This act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)