

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO. [BILL NUMBER]

Worker's Compensation-ambulances.

Sponsored by: Joint Labor, Health & Social Services Interim
Committee

A BILL

for

1 AN ACT relating to worker's compensation; providing for
2 payments to air ambulance service providers; allowing air
3 ambulance service fees to be collected from injured employees
4 and providing for an effective date.

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6 *Be It Enacted by the Legislature of the State of Wyoming:*

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STAFF COMMENT

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11 This bill draft contains the statutory structure and
12 language proposed by the Department of Workforce
13 Services to address air ambulance issues. LSO has
14 placed that structure and language into a formal
15 legislative format, but has not otherwise had the
16 opportunity to conduct a full review of the proposed
17 legislation. Of note, the Airline Deregulation Act,

1 49 U.S.C.S. § 1371 et seq., preempts states from
 2 economic regulation of air ambulances--i.e.,
 3 regulating rates, route, or services. The United
 4 States Supreme Court has explained that the Act
 5 expresses a broad preemptive purpose. Whether the
 6 Department's legislative proposal would be
 7 preempted under federal law is not clear. Credible
 8 arguments can be made both for and against
 9 preemption.

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 11 *****
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13 **Section 1.** W.S. 27-14-409 is created to read:

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15 **27-14-409. Payments for air ambulance services.**

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17 (a) This section controls all payments for air
 18 ambulance services.

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20 (b) Compensation related to air ambulance services may
 21 only be allowed if transportation by air ambulance is a
 22 medical necessity because of a work injury covered under this
 23 act.

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25 (c) Payments to an air ambulance service provider may
 26 be allowed as follows:

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1 (i) Payments will be according to a schedule
2 established by the director taking into account the miles
3 traveled and the type of aircraft used, and the director shall
4 attempt to approximate twice what Medicare would pay for air
5 ambulance services in determining the payment schedule; and
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7 (ii) Any provider of air ambulance services may
8 voluntarily submit a claim for payment to the division within
9 forty-five (45) days of providing the services. If a provider
10 submits a claim for payment to the division, the division
11 shall review the claim, and if the services are determined
12 compensable, the division will offer to pay the claim in
13 accordance with subsection (c)(i) conditioned on the
14 provider's timely voluntary agreement to accept this payment
15 in full and final satisfaction for all services provided and
16 that the provider will not bill the injured worker. Failure
17 of any provider to accept the division's conditional offer of
18 payment within thirty (30) days may, in the division's
19 discretion, be considered a rejection of the payment offer;
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21 (iii) If the requirements for payment of services
22 under subsection (c)(ii) are not met, then the division will
23 make no payment to the provider of air ambulance services.

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2 (d) If the requirements for payment to an air ambulance
3 service provider under subsection (c) are not met, then the
4 division shall proceed as follows:

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6 (i) If compensable air ambulance services are
7 provided to an employee covered under Medicare or Medicaid,
8 then the Division will reimburse Medicare or Medicaid for the
9 fee paid by Medicare or Medicaid for the air ambulance
10 services, and no other payment will be made;

11

12 (ii) If the division will not be making payment
13 under subsection (c) or subsection (d)(i) the division will
14 notify the injured employee that the employee may directly
15 submit a claim to the division for air ambulance services
16 within sixty (60) days of receiving notice from the division.
17 If the injured employee submits a claim for payment to the
18 division, the division shall review the claim, and if the
19 services are determined compensable the division will make
20 payment to the injured employee in accordance with the
21 scheduled amounts allowed under subsection (c)(i), and no
22 other payment for air ambulance services will be made by the
23 division. An employee may, but is not required to, use any

1 payment received under this section for payment of air
2 ambulance services.

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4 (e) The division's decision as to whether to make
5 payment under subsection (c), subsection (d)(i) or subsection
6 d(ii) shall not be subject to further administrative or
7 judicial review, and the division's payment under any of these
8 subsections will fully satisfy any payment obligation of the
9 division in regard to air ambulance services.

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11 **Section 2.** W.S. 27-14-401(e), 27-14-501 by creating a
12 new subsection (g) and 27-14-601 by creating a new subsection
13 (p) are amended to read:

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15 **27-14-401. Medical, hospital and ambulance expenses;**
16 **review of claim; employer and division designated providers;**
17 **contracts for bill review, case management and related**
18 **programs.**

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20 (e) If transportation by ground ambulance is necessary,
21 the division shall allow a reasonable charge for the ambulance
22 service at a rate not in excess of the rate schedule

1 established by the director under the procedure set forth for
2 payment of medical and hospital care.

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4 **27-14-501. Report by health care provider accepting**
5 **cases; report of examination; recertification; bills; filing**
6 **of claims.**

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8 (g) The limitation in subsection (a) requiring that
9 fees or portions of fees for injury related services or
10 products will not be billed to or collected from the injured
11 employee shall not apply to fees for air ambulance services
12 controlled by the federal Airline Deregulation Act of 1978.

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14 **27-14-601. Payment or denial of claim by division;**
15 **notice; objections; review and settlement of claims; filing**
16 **fee; preauthorization of hospitalization or surgery.**

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18 (p) Air ambulance service providers shall request
19 preauthorization review from the division for all non-
20 emergent flights related to compensable work injury. The
21 division shall issue a determination regarding approval or
22 denial pursuant to its rules and regulations regarding non-
23 emergent air ambulance flights. Preauthorization of air

1 medical flights is subject to the criteria listed §27-14-
2 601(o)(i)-(iv).

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4 **Section 2.** This act is effective July 1, 2019.

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(END)