**South Carolina General Assembly**

125th Session, 2023-2024

**A139, R154, H4113**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Herbkersman, Sandifer, Jefferson, M.M. Smith, Kirby and Gilliard

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Introduced in the House on March 9, 2023

Introduced in the Senate on March 7, 2024

Currently residing in the House

Governor's Action: May 13, 2024, Signed

Summary: Ambulance Assessment

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 3/9/2023 House Introduced and read first time (House Journal‑page 10)

 3/9/2023 House Referred to Committee on **Labor, Commerce and Industry** (House Journal‑page 10)

 4/25/2023 House Member(s) request name added as sponsor: Sandifer

 1/17/2024 House Member(s) request name added as sponsor: Jefferson

 1/30/2024 House Member(s) request name added as sponsor: M.M. Smith

 2/14/2024 House Member(s) request name added as sponsor: Kirby

 2/28/2024 House Committee report: Favorable **Labor, Commerce and Industry** (House Journal‑page 5)

 3/5/2024 House Member(s) request name added as sponsor: Gilliard

 3/5/2024 House Read second time (House Journal‑page 42)

 3/5/2024 House Roll call Yeas-88 Nays-26 (House Journal‑page 42)

 3/6/2024 House Read third time and sent to Senate (House Journal‑page 29)

 3/7/2024 Senate Introduced and read first time (Senate Journal‑page 2)

 3/7/2024 Senate Referred to Committee on **Medical Affairs** (Senate Journal‑page 2)

 4/18/2024 Senate Committee report: Favorable **Medical Affairs** (Senate Journal‑page 8)

 4/25/2024 Senate Read second time (Senate Journal‑page 35)

 4/25/2024 Senate Roll call Ayes-40 Nays-0 (Senate Journal‑page 35)

 4/30/2024 Senate Read third time and enrolled (Senate Journal‑page 13)

 5/8/2024 Ratified R 154

 5/13/2024 Signed By Governor

 5/20/2024 Effective date 05/13/24

 5/20/2024 Act No. 139

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**VERSIONS OF THIS BILL**

[03/09/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/4113_20230309.docx)

[02/28/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/4113_20240228.docx)

[04/18/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/4113_20240418.docx)

(A139, R154, H4113)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING ARTICLE 9 TO CHAPTER 6, TITLE 44 SO AS TO CREATE AN AMBULANCE ASSESSMENT FEE FOR PRIVATE AMBULANCE SERVICES; TO REQUIRE THE SOUTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES TO ESTABLISH AND CHARGE AMBULANCE SERVICES A UNIFORM FEE; TO ESTABLISH AN AMBULANCE FEE TRUST FUND AND TO PROVIDE FOR THE AUTHORIZED USES OF THE FUND; TO ALLOW THE DEPARTMENT TO IMPOSE PENALTIES AGAINST AMBULANCE SERVICES THAT FAIL TO PAY ASSESSED FEES; AND FOR OTHER PURPOSES.

Be it enacted by the General Assembly of the State of South Carolina:

Ambulance assessment

SECTION 1. Chapter 6, Title 44 of the S.C. Code is amended by adding:

 Article 9

 Ambulance Assessment

 Section 44‑6‑1110. As used in this article:

 (1) “Ambulance service” means any entity defined in Section 44‑61‑20, which is currently certified or licensed by the Department of Health and Environmental Control pursuant to Chapter 61, Title 44, but does not include a municipal fire or police department or any other county, district, municipality, or metropolitan government or agency that provides emergency medical services, entities that exclusively provide air ambulance services, and providers that are required to pay the indigent care assessment tax pursuant to the South Carolina Medically Indigent Assistance Act.

 (2) “Department” means the South Carolina Department of Health and Human Services.

 (3) “Fee” means the ambulance assessment fee authorized by this article.

 (4) “Net revenue” means gross revenue collected by ambulance services for emergency ground transportations and, to the extent permitted for a permissible health care‑related tax under Section 1903b(w) of the Social Security Act, revenue collected by ambulance services for other transports less bad debt, charity care, and payer discounts.

 (5) “Total ambulance service assessment amount” means an amount not less than one quarter of one percent lower than the maximum limit for a provider assessment pursuant to 42 C.F.R. 433.68(f).

 Section 44‑6‑1115. The department shall charge every ambulance service a uniform ambulance assessment fee. The fee must equal the product of the ratio of the ambulance service’s net revenue to all ambulance services’ net revenue statewide multiplied by the total ambulance services assessment amount. The department shall establish each ambulance service’s fee amount using the best data available as determined by the department in consultation with the South Carolina EMS Association and shall update each ambulance service’s fee amount on a periodic basis, but at least annually, as updated information becomes available. All ambulance services, regardless of payment model, shall be charged a fee including, but not limited to, ambulance services using fee‑for‑service and managed care arrangements. An ambulance service’s liability to pay the fee shall, in the case of a transfer of ownership, be assumed by the successor‑in‑interest to the ambulance service.

 Section 44‑6‑1120. There is created in the State Treasury the Ambulance Fee Trust Fund. This fund is separate and distinct from the general fund of the State and all other funds. Earnings and interest on this fund must be credited to it and any balance in this fund at the end of a fiscal year carries forward in the fund in the succeeding fiscal year. The amounts in the fund must be provided to the department solely for Medicaid payments to ambulance services as provided in Section 44‑6‑1130 and must not be expended for any other purpose. There shall be credited to the fund:

 (1) all revenues generated from the fee collected pursuant to Section 44‑6‑1115;

 (2) an amount equal to any federal financial participation revenues claimed and received by the State for eligible expenditures made from the fund;

 (3) any revenue from appropriations or other money authorized by the South Carolina General Assembly and specifically designated to be credited to the fund; and

 (4) interest earned on any money in the fund.

 Section 44‑6‑1125. The department shall charge the fee described in Section 44‑6‑1115 only if the following conditions are met:

 (1) The department has received such approval from the Centers for Medicare and Medicaid Services necessary to authorize the Medicaid payments to ambulance services in accordance with Section 44‑6‑1130.

 (2) The funds generated from the fee are separate and distinct from the general fund of the State and all other funds and the balance in the fund carries over from one fiscal year to the next, as required pursuant to Section 44‑6‑1120.

 Section 44‑6‑1130. Amounts in the fund described in Section 44‑6‑1120 shall be expended exclusively for Medicaid payments to ambulance services and shall not be used to replace payment commitments between the ambulance services and the State. The expenditures shall be established by the department in a manner consistent with the requirements and conditions of federal financial participation under 42 U.S.C. Section 1396b(w) and 42 C.F.R. 433.68, including the prohibitions against hold harmless provisions as defined under 42 U.S.C. Section 1396b(w)(4) and 42 C.F.R. 433.68(f) and shall be made only under federally approved payment methods and consistent with federal funding requirements and all federal payment limits as determined by the Secretary of the U.S. Department of Health and Human Services. Federal financial participation shall be sought in a manner that achieves the maximum amount of federal revenue such that the assessment amount equals the state share of the qualifying Medicaid ambulance services payments under this article.

 Section 44‑6‑1135. If the Centers for Medicare and Medicaid Services does not authorize or withdraws approval of the Medicaid payments made to ambulance services in accordance with Section 44‑6‑1130, all monies in the fund described in Section 44‑6‑1120 shall be returned to ambulance services. If the department no longer collects the fee described in Section 44‑6‑1115, all monies in the fund described in Section 44‑6‑1120 shall be returned to ambulance services.

 Section 44‑6‑1140. The payment amounts to be established and distributed by the department pursuant to Section 44‑6‑1130 shall be developed in a manner that closes the gap between Medicaid rates and average commercial rates. The department shall consult with the South Carolina EMS Association in the development and implementation of the payments.

 Section 44‑6‑1145. The ambulance assessment program described in this article must be used to supplement, not supplant, general fund appropriations to support ambulance services reimbursements as of the effective date of this article. The department shall not reduce Medicaid rates for ambulance services below the rates in effect as of the effective date of this article so long as the fee is collected.

 Section 44‑6‑1150. The department may impose a penalty of up to five percent of the fee for any ambulance service that fails to pay the fee within the time required by the department for each month, or fraction thereof, that such fee is overdue. If a fee has not been received by the department in accordance with department timelines, the department may withhold an amount equal to the overdue fee and any penalty imposed by the department from any payments otherwise due such ambulance service.

 Section 44‑6‑1155. The department shall submit to the Centers for Medicare and Medicaid Services any and all Medicaid state plan amendments, waiver requests, preprints, and other documents required to implement or continue the implementation of this article no later than six months after enactment of this article.

Time effective

SECTION 2. This act takes effect upon approval by the Governor.

Ratified the 8th day of May, 2024.

Approved the 13th day of May, 2024.

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