

August 6, 2018

Senator John Thune, Chairman
Committee on Commerce, Science, and Transportation
United States Senate
512 Dirksen Office Building
Washington, D.C. 20510

Senator Bill Nelson, Ranking Member
Committee on Commerce, Science, and Transportation
United States Senate
512 Dirksen Office Building
Washington, DC 20510

Dear Chairman Thune and Ranking Member Nelson:

As your committee works to produce a comprehensive FAA reauthorization bill, urgent attention is needed to reform the regulation of the air ambulance system in our nation. Without reform, America's families and health care providers face an increasing and often conflicting set of rules and regulations that fail to provide any semblance of financial certainty when life-saving air ambulance services are employed.

With increasing frequency, patients are faced with tens of thousands of dollars in balance bills from air ambulance service providers, even after the air ambulance company has accepted payment from the patient's health plan. Rural areas of the country are especially hurt by the soaring costs of air ambulance services, as many times ground transportation options are too slow or unfeasible for critically injured patients. Additionally, this issue has adversely impacted workers compensation insurance claims in states, as many times there are questions as to which laws ultimately apply to air ambulance rates in a workers compensation situation.

The Airline Deregulation Act of 1978 (ADA), originally passed with the intent of encouraging competition in the airline industry, prohibits states from regulating the prices air carriers charge, including air ambulances. Despite many states' attempts to pass laws to provide reasonable guidelines to regulate the costs of air ambulance services, they have been preempted by the ADA. The lack of oversight has allowed the prices of these services to increase dramatically, along with increased utilization rates. The Association of Air Medical Services estimates that more than 375,000 patients in the U.S. require air ambulances each year. Allowing states greater oversight in this area would be consistent with how other health care providers and insurance matters are currently regulated.

During the FAA extension debate in 2016, Senator Jon Tester and Senator John Hoeven offered an amendment allowing states to decide if they want to create rules governing air ambulance rates and services.

The text of the amendment stated:

“Notwithstanding any other provision of law or regulation, including section 41713 of title 49, United States Code, a State may enact or enforce a law, regulation, or other provision having the force and effect of law that regulates the price or service of an air carrier that provides air ambulance service in that State.”

Because this provision was not included in the legislation, the problem persists. Therefore, we urge you to consider a similar provision in the current FAA reauthorization bill to allow states to provide greater clarity and certainty to this increasingly complex and expensive health care service. With the number of Americans left with soaring air ambulance costs on the rise and the uncertainty this creates for workers compensation cases, now may be the time to grant states the authority to oversee this critical service to so many Americans. Great care must be taken to ensure that any increased role for states does not impede cross-border transportation of patients, nor in any way interfere with federal law governing health plans. Employers are sympathetic to the need for uniformity.

Cost-shifting from inadequate reimbursement from Medicare and Medicaid also plays a key role in exorbitant charges. Employers rightly resist cost-shifting and governments must work to provide fair reimbursement to air ambulance providers. Progress on negotiations toward inclusion of air ambulance services in health plan networks is also encouraging.

Thank you for your consideration in addressing this important issue as you finish your work on the reauthorization bill, and we look forward to working with you on addressing the needs of your constituents. If you have any questions, please contact Adam Greathouse at The ERISA Industry Committee at agreathouse@eric.org or 202-627-1914.

Sincerely,

America's Health Insurance Plans
American Benefits Council
American Rental Association
Anthem
AutoCare Association
Blue Cross Blue Shield of Michigan
Corporate Health Care Coalition
Economic Alliance for Michigan
The ERISA Industry Committee (ERIC)
General Motors Corporation
Greater Philadelphia Business Coalition on Health
HealthCare 21 Business Coalition (Tennessee)
Michigan Association of Health Plans
National Alliance of Healthcare Purchaser Coalitions
National Association of Health Underwriters
National Business Group on Health
National Retail Federation
New Mexico Coalition for Healthcare Value
Outdoor Amusement Business Association, Inc.

Pittsburgh Business Group on Health
Society of Professional Benefit Administrators
St. Louis Area Business Coalition
Wyoming Business Coalition on Health

cc: Members, Senate Committee on Commerce, Science, and Transportation