

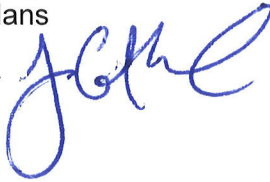


# North Dakota Insurance Department

Jon Godfread, Commissioner

## BULLETIN 2021-2

TO: Health Care Providers arranging Air Ambulance Services, Insurance Carriers offering Health Benefit Plans, Self-Funded Plans

FROM: Jon Godfread, Commissioner 

DATE: July 6, 2021

SUBJECT: Air Ambulance Preauthorization and Notification Requirements

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In response to House Bill No. 1493 (2021) ("HB1493") signed by Governor Doug Burgum on April 23, 2021, the North Dakota Insurance Department issues this Bulletin regarding preauthorization and patient notification requirements of health care providers arranging non-emergency air ambulance services. This Bulletin is intended to provide health care providers guidance in satisfying the air ambulance preauthorization and notification requirements associated with HB1493. Although not addressed in this Bulletin, please be aware that beginning January 1, 2022, the federal "No Surprises Act" provides new regulations related to emergency air ambulance services.

### **Air Ambulance Services Preauthorization and Notification Requirements**

Beginning August 1, 2021, health care providers arranging non-emergency air ambulance services are required to comply with the requirements of HB1493. Among other changes, HB1493 amends N.D.C.C. § 26.1-47-10 by setting an effective date of August 1, 2021. As more fully detailed in N.D.C.C. § 26.1-47-10, the section requires health care providers in non-emergency situations to:

Before arranging for air ambulance services for an individual the health care provider knows to be covered by health insurance, the health care provider must request a prior authorization from the covered person's health care insurer for the air ambulance services to be provided to the covered person.

Under the circumstances where a health care provider is unable to request or obtain prior authorization, the health care provider must provide the covered person or the covered person's authorized representative an out-of-network services written disclosure. Before air ambulance services are accessed for the covered person, the health care provider must provide the covered person or the covered person's authorized representative the written disclosure and obtain the covered person's or the covered person's authorized representative's signature on the disclosure document acknowledging the covered person or the covered person's authorized representative received the disclosure document before the air ambulance services were accessed. The disclosure must include the following:

- (1) Certain air ambulance providers may be called upon to render care to the covered person during the course of treatment;

(2) These air ambulance providers might not have contracts with the covered person's health care insurer and are, therefore, considered to be out of network;

(3) If these air ambulance providers do not have contracts with the covered person's health care insurer, the air ambulance services will be provided on an out-of-network basis;

(4) A description of the range of the charges for the out-of-network air ambulance services for which the covered person may be responsible;

(5) A notification the covered person or the covered person's authorized representative may agree to accept and pay the charges for the out-of-network air ambulance services, contact the covered person's health care insurer for additional assistance, or rely on other rights and remedies that may be available under state or federal law; and

(6) A statement indicating the covered person or the covered person's authorized representative may obtain a list of air ambulance providers from the covered person's health care insurer which are preferred providers and the covered person or the covered person's representative may request those participating air ambulance providers be accessed by the health care provider.

Under the circumstances where the health care provider is unable to provide the written disclosure or obtain the signature of the covered person or the covered person's authorized representative, the health care provider must document the reason.

### **Preauthorization and Notification Exception**

HB1493 provides a blanket exception to the preauthorization and notification requirements under this new law. A health care provider is exempt from complying with the preauthorization and notification requirements if the health care provider determines and documents that due to emergency circumstances, compliance might jeopardize the health or safety of the patient. The "due to emergency circumstances, compliance might jeopardize the health or safety of the patient" standard can also be found in N.D.C.C. § 23-16-17.

### **Effect and Questions**

This Bulletin is in effect until rescinded by the North Dakota Insurance Commissioner. If you have any questions about this Bulletin, please contact the North Dakota Insurance Department by phone at 701-328-2440 or by email at [insurance@nd.gov](mailto:insurance@nd.gov).