

Questions and Answers Regarding the Snowe Air Ambulance Amendment

Ensuring Consistent High Air Ambulance Standards for Medicare Beneficiaries

November 10, 2009

Senator Snowe filed an amendment, cosponsored by Senator Cantwell, during the Senate Finance Committee deliberations on the health reform legislation to establish an accreditation process for air ambulances serving Medicare beneficiaries. The amendment remains under consideration and is continuing to evolve. The amendment addresses the NTSB's findings that Medicare reimbursement should incentivize consistent high standards and require better integration of the air medical system within the larger EMS system. Given confusion and misinformation around the amendment, it is essential to know what the amendment does, doesn't do and why its enactment is essential for Medicare patients.

What the Does the Amendment Do?

The amendment directs the Secretary of Health and Human Services (HHS) to establish a process for the accreditation of air ambulances for programs to be eligible to participate in Medicare (to bill Medicare for patient services). The Secretary must take into consideration the needs of rural and government multi-mission providers, including a reasonable transition period to assure continuing access to the air medical system.

What Doesn't the Amendment Do?

Despite assertions to the contrary, portions of the fleet will not be shut down and existing medical helicopters will continue serving patients, including in rural areas. The amendment, as it is undergoing changes and refinement, does not contain the specificity of previously floated drafts. It does not affect air ambulance programs that do not bill Medicare. HHS will allow for air medical industry input throughout the regulatory process.

Why Should the Amendment be Supported?

- Medicare Conditions of Participation or Accreditation Apply to Most Providers EXCEPT Air Ambulances. HHS requires most other medical providers to meet conditions of participation and/or accreditation to serve Medicare beneficiaries. Air ambulances are not currently subject to such requirements. There is no reason air medical programs transporting the most critically ill and injured patients should be exempted from having to meet standards and be accredited just as other providers must do.
- The Amendment Requires Quality and Consistency Among All Providers. Currently, Medicare pays all air medical providers a flat fee adjusted for rural pick up regardless of the medical services or aircraft capabilities. Medicare establishment of accreditation requires all programs transporting Medicare patients to meet the same high standards.
- Air Medical Programs Should Embrace High Standards. The amendment provides a federal assurance that Medicare beneficiaries receive the highest quality and safety in air medical services. Both states and the federal government should promote the best interest of patients. While States oversee the licensing and credentials of nurses, paramedics, and doctors under their boards of licensing, and will continue to do so under the amendment, states are currently prohibited by the Airline Deregulation Act (ADA) from regulating air medical services. Medicare has a strong interest in ensuring the services for which it pays are of the highest caliber. Current Medicare reimbursement provides an incentive not to invest in quality or safety because the lower the costs,

the higher the profits. Since the fee schedule changed in 2002, Medicare spending has gone up 434%. In the world of realigning health care delivery toward quality and value, not volume, the air medical industry must justify its current fee schedule. The amendment gives the air medical community the opportunity to make its case for fair reimbursement by ensuring higher and better services.

- *The Amendment Specifies a Transition Period for Rural and Government Providers.* As it is evolving, the amendment clearly articulates a requirement on CMS to provide rural and government multi-mission providers that bill Medicare a reasonable transition period to meet accreditation standards.
- *The Amendment Complements S. 848/H.R. 978.* The GAO, the Flight Safety Foundation and the Institute of Medicine (IOM) have all raised concerns about the lack of clarity surrounding state and federal government regulation. The amendment does not amend the Airline Deregulation Act (ADA), nor does it replace the need to enact S. 848/H.R. 978 to enable appropriate state regulation of air medical services. It simply requires medical helicopters to be accredited as a condition of Medicare participation, just as hospitals and other providers are similarly accredited. Despite assertions to the contrary, the ability of states to regulate "medical" is not perfectly clear because the ADA prohibits state regulation of air medical **services** including 24/7 availability, dispatch, medical quality assurance, and geographic coverage. Accordingly, states are extremely limited in their ability to regulate air ambulances as they do ground ambulances, control growth and placement, and incorporate them into their EMS system. States report a chilling effect on regulation of even the medical **care** inside the helicopter due to ADA challenges. The amendment creates uniform standards for all programs choosing to participate in Medicare to ensure consistent high standards for Medicare beneficiaries and is complementary to the enactment of S.848/H.R.978.
- *The Amendment and GAO Study Are Not Mutually Exclusive.* Currently, Congressional action on H.R. 978 and S. 848 have resulted in the commencement of a GAO study related to the Airline Deregulation Act and state regulation of the air medical industry. There is no need to wait for the GAO study on the ADA for HHS to implement Medicare accreditation requirements for air medical services provided to Medicare beneficiaries. Regardless of the ADA and state regulation, the Medicare program has its own vested interest in maximizing value for taxpayers and ensuring consistent high standards for Medicare beneficiaries utilizing air ambulance services, just as it does for most other health care providers through conditions of participation and accreditation.
- *The Amendment Fulfills the Public Trust.* The air medical industry must shift *from* a race to the bottom *to* a path toward achieving high standards. The public expects that Medicare, as purchased by taxpayers, require the same high standards for air medical services and integration into EMS – Medicare beneficiaries deserve no less. Air ambulances providing services to Medicare beneficiaries can and will achieve those standards, but only if the standards are first established, and then attained over a reasonable period of time.

Who Supports the Amendment?

The amendment is endorsed by the Patient First Air-Ambulance Alliance (PFAA) representing more than 70 air medical programs and other organizations, and the National Association of State Emergency Medical Services Officials (NASEMSO).