CAA Siren
Fall 2022
A PUBLICATION OF THE CALIFORNIA AMBULANCE ASSOCIATION

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CAA Vision

To champion the leadership, advocacy, education, and tools that empower California's private ambulance and mobile healthcare services to provide people-centered EMS systems and standards. The CAAs overarching role is to provide support for those who care for their communities.

CAA Mission

Be a recognized voice, advocate, and authority of best practices for ambulance providers throughout California.

CAA Leadership

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Circulation among California's private ambulance providers, elected officials and EMSA administrators.

President's Message

James Pierson
President
California Ambulance Association

This holiday season, we are reminded of the importance of family, friends and our wonderful Association. This would be a great time to reflect on our Associations' successes and future resolutions. Our annual convention held in September was well attended and was a huge success. Congratulations to Donna Hankins, recipient of the Chairman's Award of Excellence and to Stryker Medical as the recipient of the Commercial Member of the Year award. I also want to thank, Rob Lawrence Our Executive Director, Kim Oreno and the entire CAMS Team for their job in administrating the essential and day to day functions of the CAA.

As a member of the Association I ask that you make a New Year's Resolution. I ask that you make a commitment to be involved. Attend at least one meeting, donate to CAAPAC and ask questions. Make your dues work for you. If we do not join together to represent the interest of our industry, others will make decisions that impact our business for us! Now is the time to get involved! I would like to thank all the members of the Board of Directors, Committee Chairs, and Committee Members It is my pleasure and honor to work with you all. We have succeeded in increasing our membership.

More ambulance companies are seeing the value of joining forces to support our industry. I welcome our new members and invite other private ambulance companies to join us. This is a very important year, no doubt about it.

Over these last several months, we have been working to finalize a new Legislative Advocate, and we selected Prime Strategies. I am excited to welcome them to our CAA family at such an important time legislatively for our profession. PRIME brings an experienced and driven team who will be lead our legislative agenda and advocacy. CAA has increased our advocacy efforts with government and private payers to address payer issues that plague us all. There is no way to put it lightly, but this will be one of the most important legislative years in our association's history. Medi-Cal reimbursement, balance billing, and our service area protections will be all be legislated this year in Sacramento. WE NEED YOU.

I look forward to seeing you all at our Legislative Summit and Stars of Life event. ✱

Executive Director's Report

Rob Lawrence
Executive Director
California Ambulance Association

Welcome to this edition of the Siren! As another year comes to a close, it's time to reflect on a year in the life of the CAA. We have enjoyed time together this year, at both our annual conference as well as our Stars of Life and also an amazing show of unity earlier in the year as we travelled to Sacramento to launch our legislative campaign with leadership, our hard-working team members and our union and labor partners.

In 2022, we enjoyed the brand-new Anaheim Westin Resort for the 74th Annual Convention, which received fantastic reviews for both meeting space, accommodation and facilities and we look forward to returning there in 2024. We also welcomed our amazing Stars of Life for a memorable event in Sacramento with guest speakers, curated leadership sessions and a gala dinner. The images, memories, learning and celebration was uplifting and I can't wait for Stars 2023.

Our committees continue to be very well attended and productive in passing on information and keeping attendees informed on every facet of service delivery. The presence of our consultants has continued to inform and guide our business. I would also like to welcome Pedro Carrillo and the team from Prime Strategies, who are our new Government Affairs consultant. Following a competitive RFP process, Prime emerged as a very clear selectee and all that have come into contact with them are delighted with their appointment.

As we move into 2023, we will begin with a Cost Collection Workshop in San Francisco (at the South San Francisco Conference Center), which, in conjunction with our partners at the American Ambulance Association will offer a full day of education in this essential survey. Now that CMS has issued their years 1 to 4 lists of selectees, pretty much every member of the CAA is involved. The January 12th event will be one of the few cost collection events to take place on the West coast and I thoroughly encourage all to send representation to it. Looking forward to the next 12 months there is, as always, much to do. With our partners and consultants we continue to lobby for Medi-Cal increases as well as draw attention to the remarkable work of Ambulance services in California. I know that the strength and involvement of our members will contribute to the good and benefit of EMS in the state. Thank you all, here's to a great 2023. ✱


EMPLOYMENT
LAW

Employment Law Corner

Amber S. Healy, Esq. & Bronte A. Mehdian, Esq.
Atkinson, Andelson, Loya, Ruud & Romo APC

The New Year Brings New Employment Laws

As we get ready to ring in the New Year, it is important to acknowledge and understand the new laws impacting employers in 2023 and beyond. Employers are encouraged to review and revisit their employment policies to ensure compliance come the start of the year. Below is a summary of the new employment laws that will impact California businesses in 2023. Unless otherwise noted, these laws become effective on January 1, 2023.

Minimum Wage Increase

As of January 1, 2023, the minimum wage in California will increase to $15.50 per hour for all employers regardless of size. In addition, many cities and local governments in California have enacted minimum wage ordinances exceeding the state minimum wage.

Employers must be mindful that minimum wage increases impact both hourly non-exempt and salaried exempt employees. Under Section 515(a) of the California Labor Code, exempt employees must be paid "a monthly salary equivalent to no less than two times the state minimum wage for full-time employment."

California Privacy Rights and Enforcement Act

The California Privacy Rights and Enforcement Act ("CPRA"), which amends the prior California Consumer Privacy Act ("CCPA"), takes effect on January 1, 2023. The CPRA eliminates employer exemptions in the CCPA applicable to employee and applicant data. The CPRA also expands several areas of the CCPA, creating new

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privacy-related obligations for employers, including notifying applicants, employees and contractors of the following:

1. the right to know the types of personal information that has been collected;
2. the right to request deletion of personal information (subject to certain exceptions—for example, a business does not need to delete personal information needed to comply with a legal obligation);
3. the right to opt out of automated decision-making technology (which includes profiling employees based on automated technology);
4. the right to correct inaccurate personal information; and
5. the right to limit the sharing or selling of sensitive personal information

The CPRA also establishes a new agency, the California Privacy Protection Agency, which is responsible for implementing and enforcing the law, including issuing potential fines of $2,500 per violation and $7,500 per intentional violation. Although the CPRA takes effect January 1, 2023, any personal information about employees collected by employers dating back to January 1, 2022 will be subject to compliance with the CPRA.

The CCPA/CPRA applies to businesses that (1) conduct business in California for the profit or financial benefit of their shareholders or owners, (2) collect consumers' (i.e., California residents) personal information, and (3) meet any of the following three thresholds:

1. has annual gross revenues in excess of $25 million; or
2. annually buys, receives, sells, or shares for commercial purposes the personal information of 50,000 (or 100,000 after January 1, 2023) or more consumers, households, or devices; or
3. derives 50% or more of its annual revenues from selling or sharing consumers' personal information.

If the criteria above are satisfied, the covered business must have a privacy notice for California residents that complies with the CCPA and CPRA. Any employer covered by the CCPA should carefully assess its employee privacy policies, practices, and agreements to ensure compliance with the CCPA and CPRA.

AB 152 – COVID-19 Relief: Supplemental Paid Sick Leave

Effective September 29, 2022, AB 152 extended California's existing 2022 COVID-19 supplemental paid sick leave ("SPSL") through December 31, 2022. However, AB 152 does not provide additional leave time for employees who previously exhausted available COVID-19 SPSL. Under the 2022 SPSL law, covered employers were required to provide (1) up to 40 hours of SPSL to eligible full-time employees who are unable to work or telework due to certain COVID-19-related reasons, as well as (2) a second allotment of up to 40 more SPSL hours if the employee or a family member for whom they are caring tests positive for COVID-19. Employers may choose to require documentation of a positive COVID-19 test result and that the employee retest after 5 days have passed from the initial positive test, before paying the "testing positive" allotment of SPSL to an employee.

AB 152 expands prior law by allowing employers to require an employee that has

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tested positive for COVID-19 to submit to a 3rd diagnostic test within no less than 24 hours of their 2nd positive test. However, all such testing must be at no cost to the employee. The law also provides for a grant program to assist qualified small businesses (those employing between 25 and 49 employees) that incur costs associated with providing mandatory SPSL to eligible employees.

AB 551 – COVID-19 Related Disability Retirement

AB 551 extends the effective date of AB 845, which provides that if a member of certain firefighter, public safety and health care job classifications tests positive for COVID-19 and retires for disability on the basis of a COVID-19 related illness, it is presumed that the disability arose out of, or in the course of, the member's employment, unless rebutted. AB 845 would have become inoperative in January of 2023, and this bill provides an extension through January 1, 2024.

AB 1041 – CFRA and Paid Sick Leave For Designated Person

Under the California Family Rights Act ("CFRA"), an employer with five or more employees must provide eligible employees who meet specified requirements to take up to a total of 12 workweeks in any 12-month period for family care and medical leave as defined by the CFRA.

AB 1041 expands the individuals for whom an employee may take CFRA leave to include a "designated person." For purposes of the CFRA, "designated person" means any individual related by blood or whose association with the employee is the equivalent of a family relationship. The designated person may be identified by the employee at the time the employee requests the leave. An employer may limit an employee to one designated person per 12-month period for family care and medical leave.

The law also expands the use of paid sick leave under the Healthy Workplaces, Healthy Families Act of 2014, to be used for such a designated person. For purposes of sick leave, a designated person is one who is identified by the employee at the time the employee requests paid sick leave. An employer may limit an employee to one designated person per 12-month period for paid sick leave.

AB 1751 – COVID-19: Workers' Compensation & Critical Workers

Under existing law, an "injury" for Workers' Compensation purposes includes illness or death resulting from COVID-19 under certain circumstances. Existing law also creates a rebuttable presumption that certain employees contracted COVID-19 at work. Specifically, Labor Code section 3212.86 applies to COVID-19 illnesses contracted before July 5, 2020 if the employee tested positive for, or was diagnosed, with COVID-19 within 14 days after performing work for the employer; Labor Code section 3212.87 applies to specified police officers and firefighters; and Labor Code section 3212.88 applies during a COVID-19 "outbreak" (as defined in the statute) at an employer's place of employment (for employers with five or more employees).

AB 1751 extends the expiration date of Labor Code sections 3212.86, 3212.87, and 3212.88 to 2024. It also amends section 3212.87 to include active firefighting members of a fire department at the State Department of State Hospitals, the State Department of Developmental Services, the Military Department, and the Department of Veterans Affairs and to officers of a state hospital under the jurisdiction of the State Department of State Hospitals and the State Department of Developmental Services.

AB 1949 – Bereavement Leave

AB 1949 gives employees up to five days of bereavement leave under CFRA. Covered employees (those who have been employed for at least 30 days) may take the leave for the death of a spouse, child, parent, sibling, grandparent, grandchild, domestic partner, or parent-in-law. While the leave is unpaid, the covered employee must be allowed to use other time off, such as vacation, personal leave, or sick leave. Under AB 1949, covered employers (i.e., those that employ 6 or more employees) may request documentation from the employee within 30 days. This may be in the form of a death certificate, published obituary, or other written verification.

The bereavement leave must be taken within 3 months of the date of the covered family member's death. Employers must maintain employee confidentiality relating to the bereavement leave.

AB 1949 does not apply to an employee who is covered by a valid collective bargaining agreement that provides for bereavement leave with rights equivalent to AB 1949 and other specified working conditions.

AB 2188 – Discrimination in Employment: Off Duty Use of Cannabis

Effective January 1, 2024, AB 2188 amends the California Fair Employment and Housing Act ("FEHA") to make it unlawful for an employer to discriminate on the basis of a person's use of cannabis off the job and away from the workplace or based on an employer-required drug test that found non-psychoactive cannabis metabolites in the person's hair, blood, urine, or other bodily fluids.

AB 2188 does not permit employees to possess or use marijuana on the job or otherwise interfere with the rights of an employer to maintain a drug-free and alcohol-free workplace. An employer can still refuse to hire an applicant based on a scientifically valid pre-employment drug screening conducted through methods that do not screen for non-psychoactive cannabis metabolites, including via impairment tests and tests that identify the presence of tetrahydrocannabinol ("THC") in an individual's bodily fluids.

AB 2188 does not apply to applicants or employees hired for positions that require a federal background investigation or security clearance. The law also does not

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preempt state or federal laws that require applicants or employees to be tested for controlled substances as a condition of employment, to receive federal funding or federal licensing-related benefits, or to enter into a federal contract.

AB 2243 – Occupational Safety and Health Standards: Heat Illness and Wildfire Smoke

Existing law requires employers to comply with certain safety and health standards, including a heat illness standard for the prevention of heat-related illness of employees in an outdoor place of employment. There is also an existing standard for workplace protection from wildfire smoke.

AB 2243 requires the Division of Occupational Safety and Health (Cal/OSHA) to submit to the standards board a rulemaking proposal to consider revising the heat illness standard and wildfire smoke standard based on criteria enumerated in the bill before December 1, 2025.

This bill also requires the Cal/OSHA standards board to review proposed changes and consider adopting revised standards on or before December 31, 2025. This bill also requires Cal/OSHA to consider developing regulations, or revising existing regulations, relating to protections related to acclimatization to higher temperatures, especially following an absence of a week or more from working in ultrahigh heat settings, including after an illness.

AB 2693 – COVID Exposure Notice Requirements

AB 2693 extends certain COVID-19 workplace safety-related provisions that previously were set to expire on January 1, 2023, through and until January 1, 2024. AB 2693 revises existing Labor Code provisions which required employers to take specified actions within 1 business day of their notice of a potential COVID-19 exposure, including providing written notice to all employees at the worksite that they may have been exposed to COVID-19. Under the new law, an employer can satisfy the notification requirements by prominently displaying a notice in all places where notices to employees concerning workplace rules or regulations are customarily posted, which includes:

1. the dates on which an employee or contractor with a confirmed case of COVID-19 was on the worksite premises within the infectious period;
2. the location of the exposure (without identifying the infected worker);
3. contact information for employees to receive information regarding available COVID-19 benefits to which the employee may be entitled; and
4. contact information for employees to receive the employer's cleaning and disinfection plan.

AB 2693 requires this notice to be posted within one business day of the employer's notice of the exposure and it must remain posted for 15 days. It must also be posted on the employer's existing employee portal (if any), and must be in English and the language understood by a majority of employees. Further, the employer must keep a log of all the dates on which the notice was posted, and allow the Labor Commissioner to access those records.

If the employer prefers, they may still provide written notice to all employees and contractors who were at the same worksite as the COVID-19 case during the infectious period, by means of the employer's normal method to communicate employment-related information (including personal service, email, or text messages, if reasonably anticipated to be received by the employee within 1 business day). Note that employers must also still provide specified written notice to the exclusive representative (if any) of confirmed COVID-19 cases and of employees who had a close contact, within 1 business day.

AB 2693 repeals Labor Code requirements for an employer, if they are notified of the number of cases that meets the definition of a COVID-19 outbreak, to notify the local public health department within 48 hours, with some exceptions. However, employers should keep in mind that the California Department of Public Health or local departments of public health may impose requirements on employers to report worksite outbreaks, and should monitor and comply with any such requirements.

SB 523 – Reproductive Health Decisionmaking

SB 523 revises the FEHA to include protection for "reproductive health decisionmaking" (defined to include, without limitation, a decision to use or access a particular drug, device, product, or medical service for reproductive health), with respect to the opportunity to seek, obtain, and hold employment without discrimination. The new law prohibits discrimination and harassment based on reproductive health decisionmaking, by employers, labor organizations, and apprenticeships and training programs. In addition, SB 523 makes it unlawful for an employer to require, as a condition of employment, continued employment, or a benefit of employment, the disclosure of information relating to an applicant's or employee's reproductive health decisionmaking.

SB 1044 – Emergency Conditions and Retaliation

SB 1044 prohibits employers, in the event of an "emergency condition" (i.e., conditions posing danger to the safety of people or property at the workplace due to natural forces or a criminal act; or an order to evacuate a workplace, a worker's home, or the worker's child's school due to natural disaster or a criminal act; but not including a health pandemic) from taking or threatening adverse action against any employee for refusing to report to, or leaving, a workplace within the affected area because the employee has a reasonable belief that the workplace is unsafe. There are numerous exceptions to this prohibition, based upon the employee's role, including if the employee is, for example, a first responder or a health care worker who provides direct patient care.

SB 1044 also prohibits employers from preventing any employee from accessing

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their cell phone or other communications device in order to seek emergency assistance, assess the safety of the situation, or communicate with another person to confirm their safety during an emergency condition (except for employees of depository institutions or correctional facilities, or those operating heavy equipment). The new law requires employees, when feasible, to notify the employer of the emergency condition requiring the employee to leave or refuse to report to the workplace prior to leaving or refusing to report. When prior notice is not feasible, the employee must notify the employer as soon as possible.

SB 1044 clarifies that its provisions are not intended to apply once emergency conditions that pose an imminent and ongoing risk of harm to the workplace, the employee, or the employee's home have ceased. Lastly, SB 1044 specifies that in any action by a current or former employee that could be brought pursuant to the Labor Code Private Attorneys General Act of 2004 ("PAGA") for violations of SB 1044, the employer shall have the right to cure alleged violations as set forth in Labor Code 2699.3.

Notably, SB 1044 specifically excludes health pandemics from the definition of an "emergency condition." The law also excludes a variety of different types of works from its coverage. Below is a non-exhaustive list of some of the types of employees that are specifically excluded from the coverage of the law:

- First responders that are employed by the state or a local public agency that provides emergency response services;
- An employee of a private entity that contracts with the state or any city, county, or political subdivision of the state, including a special district, for purposes of providing or aiding in emergency services;
- An employee required by law to render aid or remain on the premises in case of an emergency;
- An employee of a private entity that contracts with the state or any city, county, or political subdivision of the state, including a special district, for purposes of providing or aiding in emergency services;
- An employee or contractor of a health care facility who provides direct patient care, provides services supporting patient care operations during an emergency, or is required by law or policy to participate in emergency response or evacuation;
- An employee of a licensed residential care facility; and
- An employee whose primary duties include assisting members of the public to evacuate in case of an emergency.

SB 1162 – Pay Transparency: Salaries and Wages

SB 1162 requires employers with 15 or more employees to disclose pay scales for a position in any job posting and requires employers to maintain records of job titles and wage rate history for each employee for the duration of employment plus three years.

SB 1162 also requires private employers with 100 or more employees to submit a pay data report to the California Civil Rights Department (previously known as the Department of Fair Employment & Housing) on or before the second Wednesday of May 2023, and annually thereafter. Pay data reports required by the law must include the median and mean hourly rate for each combination of race, ethnicity, and sex within each job category. A civil penalty is available for an employer's failure to file the required report, with penalties deposited in the Civil Rights Enforcement and Litigation Fund.

In addition, SB 1162 requires an employer, upon an employee's request, to provide the pay scale for the employee's current position. Furthermore, employers with 15 or more employees must maintain records of employees' job titles and wage rate histories for a minimum of three years after termination and these are subject to inspection by the Labor Commissioner.

There is a rebuttable presumption in favor of an employee's claim for an employer's failure to keep records as required by the law. Civil penalties of no less than $100 per employee and no more than $10,000 per violation (with the amount to be determined by the Labor Commissioner), as well as injunctive and other appropriate relief, are available for alleged violations of the law.

Concluding Remarks

All employers with California operations need to be aware of these new laws and understand how these laws will impact operations. Employers are encouraged consult with counsel to address any compliance questions, including whether employment policies should be updated or new employment policies should be created.

The summary above does not address all new California laws that may impact employers or employees; rather, it is a summary of the new California laws that we believe to be the most significant in terms of scope and impact to employers with business operations in California. ✱

ABOUT THE AUTHORS

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From Your Medicare Consultants

Doug Wolfberg, Esq.
Page, Wolfberg & Wirth

New Medicare Rules for 2023

Season's Greetings from all of us at PWW to all CAA members everywhere! May your Holidays be filled with the best of health and happiness. It continues to be our privilege to serve as the CAA Medicare Consultants and help CAA members understand the Medicare laws, rules and policies so critical to their companies' success.

As 2022 draws to a close, and 2023 dawns, CAA members should be aware of several important updates on the Medicare horizon.

2023 Medicare Payment Amounts

First, starting with dates of service on January 1, 2023 and after, your Medicare Ambulance Fee Schedule rates will be adjusted by the 2023 Ambulance Inflation Factor (AIF), which is 8.7%. This adjustment should be reflected in your base rates as well as mileage amounts.

Keep in mind that although the annual Medicare AIF applies to payments under Medicare Part B (the Medicare fee-for-service program), the increase should also be reflected in your payments from non-contracted Medicare Advantage plans under Medicare Part C. Because Medicare Advantage plans are required to pay non-contracted providers the same amount as the rates under the Medicare Ambulance Fee Schedule for covered services, your rates for beneficiaries from those Part C plans should also be adjusted accordingly. Remember, however, that patient cost-sharing amounts may differ from plan to plan under the Medicare Advantage program.

Finally, remember that if your company has a contract with a Medicare Advantage plan, your rates are determined by the agreement, and not by the Medicare Fee Schedule amounts. So, be sure to check your agreement when it comes to annual increases if you are a contracted provider with one or more Medicare Advantage plans.

New Final Rules

Two new Medicare rules take effect on January 1, 2023. Those rules deal with medical necessity and PCS forms for scheduled/repetitive non-emergency transports and Rural Emergency Hospitals.

Medical Necessity Rule

A new CMS Final Rule will make changes regarding medical necessity and documentation standards for repetitive/scheduled non-emergency transports. This new rule contains the following provisions:

- A reaffirmation that having a signed Physician Certification Statement (PCS) does not alone demonstrate that ambulance transport was medically necessary.
- A new provision that expressly permits "additional documentation from the beneficiary's medical record" to be used to support medical necessity for an ambulance transport. CMS has said that this was always its policy, but this now means that ambulance services will be able to utilize records from physicians, facilities and others to support their ambulance claims. It is not necessary to submit these documents with the claim, but they can be used to help support a claim and retained in the ambulance supplier's files. Of course, having complete and accurate documentation in the ambulance PCR is still of paramount importance.
- A new provision states that "the PCS and additional documentation must provide detailed explanations" that explain the need for an ambulance. We interpret the phrase "detailed

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explanations" to mean that the records in the ambulance service's files, including the PCS and records from other providers, should contain narrative explanations of how the patient's condition meets medical necessity for ambulance transport.

- A new statement that medical necessity can be met if the patient needs "observation" or other services rendered by ambulance personnel. CMS says it has always been its policy that "observation" can meet medical necessity, and that some have interpreted its rules too narrowly in the past. CMS intends for this new regulatory language to resolve this issue.

It is important to note that these new rules are included in the section of CMS regulations that deal with scheduled/repetitive non-emergency ambulance transports. Although these new rules are directed to those types of transports, we think the language CMS used in its preamble to these new rules might be helpful for ambulance services in appealing or challenging denials based on medical necessity for all non-emergency ambulance transports.

Rural Emergency Hospital Rule

Medicare has created a new provider type – the Rural Emergency Hospital (REH). Starting January 1, CMS has added REHs to the list of ambulance origins and destinations in the Medicare regulations. Under this new language, ambulance transports will be covered "from any point of origin to the nearest hospital, CAH, *rural emergency hospital (REH)*, or SNF that is capable of furnishing the required level and type of care for the beneficiary's illness or injury" and "from a hospital, CAH, REH, or SNF to the beneficiary's home."

We are awaiting some additional modifier guidance on REHs, but until otherwise notified, it is our presumption that the "H" modifier will apply to these new facility types. It is also important to remember that all coverage requirements, such as medical necessity, reasonableness, closest appropriate facility and others, must be met for all transports.

Under the new REH rules, Medicare is also expressly permitting REHs to enroll as ambulance providers and directing that REH-owned ambulance services be paid under the Ambulance Fee Schedule like other ambulance providers and suppliers.

Other Reimbursement News

There are a few other miscellaneous issues on the Federal payment and reimbursement horizon that CAA members should be aware of. First, if your company received Provider Relief Funds under the CARES Act (a HRSA-funded pandemic relief program) in excess of $10,000, you have reporting obligations regarding the use of those funds. If you received funds in the fourth "tranche" or later, those reporting periods will start in January 2023. More specifically, the reporting deadline for funds received in period 4 will be March 31, 2023.

Also, be sure to keep on top of your obligations under the Medicare Ground Ambulance Cost Data Collection program. Other CAA articles comment on this, but it is important to remember that Medicare can cut your reimbursement by 10% if your agency fails to submit its required cost data to CMS before the applicable deadline.

To balance out the good news about your Medicare inflation adjustment, please note that the provisions of a Federal law called the Pay As You Go Act (called "PAYGO") may result in cuts to Medicare payment amounts in 2023. If PAYGO goes into effect as currently scheduled, this cut may be around 4%. And finally, remember that the temporary Medicare fee schedule add-on bonuses, which are 2% for ambulance services originating in urban areas, 3% in rural areas, and 22.6% in super-rural areas, are scheduled to expire at the end of 2022. Please be sure to let your members of Congress know that the extension of these temporary payments is crucial to ambulance services.

Until next time, if any CAA members have any Medicare questions, please feel free to e-mail them to the CAA Payer Issues listserv, or attend the next Payer Issues Committee. We are always here to answer your questions! ✱

Important CMS Ambulance Cost Data Collection Steps for 2023

Scott Moore
Moore EMS Consulting

Ambulance providers are most likely working on cost reporting or preparing to collect their data. Fifty percent (50%) of the EMS organizations have been collecting their ground ambulance cost data over the course of 2022 for reporting by May 2023. The other half of the EMS organizations are reviewing the newly released "Year 3" and "Year 4" lists to begin cost data collection in January 2023 for reporting by May 2024. This task is to comply with the new CMS Ground Ambulance Data Collection System. For the last several years, the AAA and the ACE faculty have been performing workshops and webinars about these new cost collection requirements because the data collected will be used to reform the Medicare Fee Schedule and the way EMS organizations are reimbursed for years to come.

We want to highlight the steps EMS organizations should be taking today to facilitate the collection of accurate cost related data. Due to the way the Ambulance Cost Data Collection Instrument asks for certain information, you and your team must capture some data at the beginning of the collection period. It will be difficult, if not impossible, for organizations to retroactively capture this data.

1. Subscribe to AMBER

Knowing that there are significant differences amongst EMS organizations when it comes to the various processes and software platforms where cost data might be housed, the AAA decided to create a software platform specifically designed for the new Medicare Ground Ambulance Cost Data Collection System. AMBER is a web-based software built to model the CMS Cost Collection Tool and follows the same skip-logic. EMS organizations can start and stop, go back, and adjust data; the tool includes an error checker that makes it easy to identify mistakes, or possible mistakes during data validation.

AAA members already have access to Amber as part of their membership, but Amber is available to all EMS services regardless of AAA membership or service type. To log in or request free access, visit *https://emsamber.com/*.

2. Verify the Information in PECOS and with your MAC

PECOS is the Provider Enrollment and Chain of Ownership System utilized by Medicare for provider enrollment and revalidation. It is important that the organization verifies all the data about their organization in PECOS, specifically the ownership, contact address, and managing employee information. You want to ensure CMS has the correct contact information in case they need to notify your organization relative to your cost data collection process. If your organization was selected but you have not been notified by your Medicare Administrative Contractor (MAC), it could

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be because your information is not up to date.

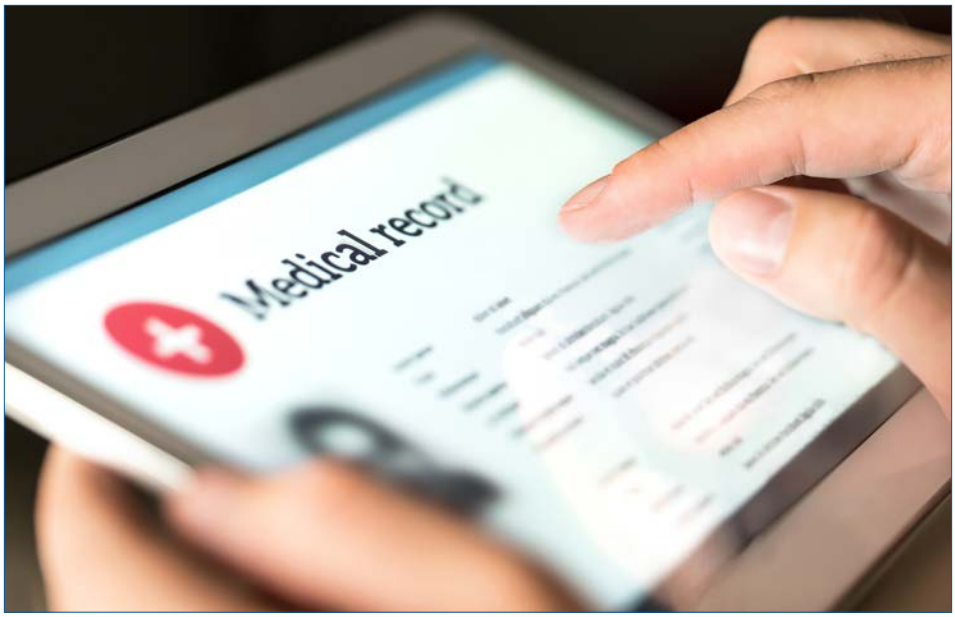
If you were selected for data collection in 2022, you should have already received a notification from your MAC. This notification includes that your organization was selected and that you need to notify the MAC whether your organization will report on a calendar or fiscal year. Whether you have received this notification or not, you should contact your MAC to confirm this information and ensure that they have noted your collection year in their system. If you do not, the default designation is reporting on a calendar year. You will create additional work if this is not how your organization currently accounts for your financial data.

If you have not been selected for data collection in 2022, you will be selected to collect your data in 2023. The year 3 and 4 lists were published by CMS on November 7, 2022. However, you should know that any EMS agency that billed Medicare for transports will be reporting their data this year or next year.

3. Create a Personnel Snapshot

Section 7 of the Medicare Ground Ambulance Cost Data Collection Instrument seeks information about the labor costs at your EMS organization. Organizations will be providing the total compensation and hours for their employees by employee category.

The Instrument asks organizations to report individuals based upon the position they held at the start of the data collection period. If an employee progresses from an EMT to Paramedic during the course of the year, the instrument requires that the new paramedic's hours and compensation be in the EMT category.



There are a few possible ways that organizations can ensure that they report their labor costs consistent with the Instrument's instructions. The easiest is to take a snapshot of the personnel roster at the beginning of the data collection year. This ensures that any employee who changes position during the year is tagged and reported appropriately. Many of the scheduling software platforms have an existing "other" identifier field in the administration set up for employees. Also, most payroll software platforms have canned reports in their reporting suite that identify employees with status changes during a particular period. Lastly, you can simply keep a list of any employee who, for reporting purposes, you need to go back and adjust your compensation and hour reporting to ensure you have accounted for their costs consistent with the Cost Collection Instrument.

4. Track Volunteer Time/Hours

Also in Section 7 of the Instrument, organizations who utilize volunteer labor are required to report the number of hours their volunteers worked during the data collection period. Many EMS organizations who utilize volunteer labor do not currently track their volunteer's time. The organization must establish a process for ensuring that they have a method for tracking the working hours of their volunteer employees during the reporting period. This can be done utilizing various software or manual processes. Whichever way your organization decides to track this information, it will be easier to start the data collection period with an established process.

5. Update/Modify Your Dispatch System & Processes

The Cost Data Collection Instrument requires that the organization report their average trip time (in minutes) across all service levels (BLS, ALS, etc.) in your primary service area. This is calculated from the time the ambulance leaves the station to when that ambulance is available to take another call.

To ensure that you are capturing the data consistent with the Instrument's definition

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of "average trip time," organizations can either make adjustments to their dispatch software or simply ensure that your dispatchers/communications personnel are accounting for the time it takes your ambulance to return to their service area where the ambulance is "available to take another call." For many services transporting long distances to destinations outside their service area, the ambulance is not "available to respond to another call" when they clear the receiving facility. Failing to account for this time is truly not providing CMS with an accurate picture of the costs of providing ambulance services.

6. Snapshot of Vehicle Mileage

Section 9 of the Cost Collection Instrument seeks the total number of miles the organization's vehicles traveled over the course of the data collection period. The easiest way to get this information is to take a snapshot of the starting mileage on all vehicles (ambulance and non-ambulance) at the start of the data collection year. The agency can take another snapshot at the end of the data collection year. This will ensure that the total agency mileage can be captured for all vehicles for the data collection period.

7. Check Payor Categories

Section 13 of the Instrument asks the EMS organization to report all revenues received by the organization, including those not related to the provision of ground ambulance services. The instrument requires that the organization report revenues in the following payor categories:

- Medicare
- Medicare Managed Care
- Medicaid
- Medicaid Managed Care
- Tricare
- Veterans Administration (VA)
- Commercial Insurance
- Worker's Compensation
- Patient Self-Pay

Many billing software platforms do not distinguish between a standard commercial payor and a worker's compensation payor. It is important that organizations make modifications to the payor set-up in their billing platform to ensure that they can easily sort revenue information according to the required payor categories.

Conclusion

These seven steps are a few that we believe are critical to ensure that your organization can more easily and accurately collect and report your ground ambulance cost data. We believe that cost collection is an important step in our profession's evolution. Cost Reporting will frame the reimbursement structure for years to come.

Additionally, failing to report your data to CMS will result in a 10% penalty on all reimbursement from Medicare for a full calendar year.

The AAA has created numerous resources and tools to assist you and your team when preparing and completing the Cost Collection Instrument. These can be found by visiting the Cost Collection section of the AAA website. Contact hello@ambulance.org if you have any questions or need assistance. ✱

Congrats to our 2022 *Award Winners*

Myron Smith accepts a 50 Year Membership award on behalf of Hall Ambulance.

2022 CAASE Award Winners

Harvey L. Hall President's Award of Excellence

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