



## **United New York Ambulance Network (UNYAN)**

### **Testimony submitted to the New York State Joint Legislative Budget Hearing on Health**

#### **Executive Budget Proposal 2017-18**

The United New York Ambulance Network (UNYAN) is a statewide trade organization comprised of over 35 commercial ambulance services whose mission is to promote the delivery of high-quality and timely emergency medical care in a cost-effective manner whenever and wherever our members are called upon to provide Emergency Medical Services (EMS). Commercial ambulance services in New York answer 40% of emergency calls and 78% of all non-emergency calls according to DOH data. Twenty-one of the State's largest 25 cities are utilizing commercial ambulance services to provide 911 emergency services to their residents

While the commercial services are not the sole provider of EMS services in New York State, they as a group provide the majority of services, yet receive the least amount of government funding in the provision of that care. Unlike their counterparts incorporated under the fire services or municipally operated ambulance services, the majority of the revenues that commercial services receive to fund their operations comes from a fee-for-service model. When municipalities contract with commercial ambulance providers under this model, the majority of municipalities pay little or no yearly appropriation for EMS. The commercial ambulance service will only invoice the patients or their insurers that actually use this service. It is overwhelmingly the most cost effective manner for a municipality to ensure the provision of high-quality emergency medical care for their citizens. Not having to divert municipal funds for EMS has enabled a large number of our cities to stretch their resources among their other critical needs.

The commercial ambulance sector is also critical to many rural communities as our members reach out and support rural operations by providing Advanced Paramedic Care to smaller rural services. This increased level of emergency medical care is unaffordable to many rural communities on their own and wouldn't exist without a strong commercial ambulance sector.

The commercial providers assume almost all of the financial risk in this delivery system. When lawsuits arise, as they often do in our litigious society, commercial ambulance providers insulate municipalities from risk of liability in providing emergency care in their communities.

Depending on your region, EMS protocols mandate that critically ill patients be transported to the appropriate Trauma, Stroke and Cardiac hospitals. Many of these transports take a longer time for EMS vehicles and crews. There are some EMS agencies who have very few emergency medical personnel to cover calls and will turn over most their requests for service. This can cause a substantial delay in patient care that can adversely affect the outcome of these seriously ill patients. The commercial ambulance industry has a long history of providing Basic Life Support (BLS) ambulances for mutual aid requests and Advance Life Support (ALS) resources for intercepts with our EMS colleagues.

**We are mandated responders.** When we commit to providing emergency 911 EMS services, we are never allowed to ask about the ability of a patient to pay for the emergency care their condition requires. To do so would be unethical and could be construed to prejudice the care provided to a patient based on their financial means. We have a duty to act when called, we must respond, provide the medical care required, and must transport the patient to a local hospital. We would never seek to change this basic principle, but in any other type of service industry it would be tantamount to extending credit to everyone who walked in your door asking for your service without any commitment on their part to eventually pay for that service. Not many businesses would agree to those terms. Unlike other medical or dental practices that have had the ability of deciding whether they will agree or decline to provide services to patients based on insurance coverage, we simply cannot.

There is a growing and potentially disastrous financial frustration within the ambulance industry because we are so heavily reliant on the capped and below cost reimbursements of Medicaid and Medicare as well as HMOs and high annual deductible health plans acquired through the Affordable Care Act. There are also no funds associated with indigent care available to the ambulance industry.

In 2016 alone, 22 volunteer ambulance corps succumbed to the financial pressures of reduced funds and the difficult task of retaining ambulance personnel. Thus far in 2017, two volunteer agencies are slated to close. The commercial ambulance industry has also had their share of financial troubles. Several years back, the largest commercial provider, nationwide and with a substantial New York presence, declared bankruptcy. Thankfully they were able to reorganize and come out of that bankruptcy. Just within the last year, the largest private ambulance provider in Westchester and NYC was not so fortunate. TransCare suffered from severe financial distress and with very little notice to the communities and patients they served, closed in February of 2016.

Our members have seen only sharply rising costs associated with personnel, healthcare benefits, pharmaceutical and medical equipment stock, fuel and insurance expenses for operating their businesses as well as from collection costs associated with out-of-network insurance carriers who pay the patients instead of paying ambulance providers directly. Providers are owed millions of dollars from unscrupulous patients who keep the insurance checks rather than paying the ambulance providers. Direct payment to ambulance providers (S2527 Seward/ A343 Magnarelli) would alleviate the collections concerns and immediately direct payments to ambulance companies for the life-saving service they provide.

All of these financial constraints lead to a weakening emergency medical service system.

#### **Medicaid Transportation Rate Adequacy:**

There are currently 6.1 million New Yorkers enrolled in the Medicaid program. Medicaid ambulance transports are also increasing 2%- 4% each year. UNYAN member companies in Rochester report that 45% of their calls are to Medicaid recipients, in Buffalo it is 33% and Albany is at 32% Medicaid call volume.

Emergency medical service Medicaid rates vary county-by-county, with each county having their own rate structure. Not one of the counties has ever employed a methodology to calculate their ambulance service rates that is based on the ambulance provider's cost of providing that service. Compounding the dilemma is that there has been no meaningful readjustment of those rates in many counties in decades. Although the Medicaid rate varies by county, the impact on the commercial services is the same: **The reimbursement does not cover our costs to provide that service.**

The 2016-17 State Budget required the Department of Health to undertake a study of Medicaid Transportation Rate Adequacy. DOH was statutorily required to report on Medicaid Transportation Rate Adequacy on 12/31/16. The report is still not available, as of February 15, 2017, nor have we been given to the recommendations of that report.

To study rate adequacy, DOH devised a survey for ambulance providers and released it via email. We expressed to DOH the numerous concerns we had with the survey, including poor instructions and roll out, incomplete questions which did not attempt to capture many of the costs associated with providing service and did not take into consideration the various record keeping models associated with the various types business organizations. Most concerning to some providers was that the financial information submitted to DOH for the survey would be subject to Freedom of Information Act. Some commercial providers view this financial information as proprietary. We do know that the response rate of the DOH study was low.

The commercial ambulance industry in an effort to furnish DOH with safe, accurate and complete data regarding Medicaid Rate Adequacy hired The Moran Company to survey and report for us. This is a nationally recognized firm with experience in studying ambulance costs.

The Moran Company worked with the American Ambulance Association to study costs on the national level, a study which took two years to complete. Each legislator will receive the executive summaries of these studies via courier to their Albany offices. We will happily provide the full study reports upon request.

Eleven upstate and twelve downstate commercial ambulance providers worked with The Moran Company to study Medicaid Rate Adequacy and service costs. The upstate study found the average operating cost to provide ambulance service in urban areas is \$304, in rural areas it is \$543. The Medicaid reimbursements rates range from \$105 to \$190 depending on county. The downstate report showed the average cost per transport to be \$281-\$308 with Medicaid reimbursing only \$155 for BLS and \$200 for ALS calls. The results are clear, **Medicaid rates do not come close to covering the cost of providing ambulance service.**

The Moran Company reports also factored in the impending rise of minimum wage to \$15 downstate and to \$12.50 upstate. While we value the service provided by our entry level employees, this wage increase will add millions of dollars to our labor costs. Given that most of our employees currently make more than minimum wage, we are having to increase not just our lowest wage employees but also must fairly compensate all other employees with a commensurate wage increase. The wage increases are expected to raise total operating costs by 5%-9%, without accounting for increased payroll taxes and benefits.

#### **Supplemental Medicaid Payments for Ambulance Providers:**

In the State budgets 2005 through 2009 and again in 2014 through today funds were appropriated for a supplemental Medicaid payment to ambulance services, with payments based upon each respective ambulance services percentage of Medicaid billing. This was viewed as an immediate relief measure to assist all ambulance services who bill Medicaid: commercial, municipal and volunteer services.

The Executive has proposed sweeping the \$6 million supplemental payment funds and reprogramming those funds according the recommendations of the Medicaid Transportation Rate Adequacy report. *Part F of S2007/A3007 HMH Article VII Budget Bill*

This proposal is unacceptable given that:

- The Medicaid Transportation Rate Adequacy Report is not yet complete and has not been made public, as of February 15, 2017.
- There has been no indication as to what exactly the Medicaid ambulance transportation recommendations are.
- We have proven that Medicaid ambulance transportation rates are inadequate and do not cover the cost of providing service.

- The reprogramming of the \$6 million supplemental payment fund is not enough to adequately increase ambulance provider rates. New funds must also be included in meaningful Medicaid ambulance rate reform.

In the 2017-18 budget we are respectively seeking to restore and increase funds to the supplemental Medicaid payments for ambulances at the level of a \$25 million State share. These supplemental payments help to immediately fill with gap between the extremely low Medicaid reimbursement rates and the ever rising cost of providing patient care. The supplemental payment program is in place and operating successfully with matching federal funds.

We are concerned that whatever recommendations DOH proposes in the forthcoming Medicaid Ambulance Rate Adequacy Report will not go far enough to fill the gap between the actual cost of providing ambulance service and the antiquated Medicaid ambulance rates. UNYAN is also concerned that there could be a substantial lag in the timing of the supplemental funds being reprogrammed before any meaningful Medicaid rate changes could occur, further exacerbating the financial woes of the industry. We would recommend that the supplement fund be reinstated at a \$25 million level for SFY 2017-18 and that any Medicaid rate reprogramming occur with an effective date after that.

If the supplemental Medicaid payments are viewed a “Band-Aid” to help ease the Medicaid reimbursement discrepancies, the permanent solution we propose is to have the State use the Medicare Ambulance Fee Schedule as the reimbursement methodology for Medicaid reimbursements as outlined in S2528 Seward/A3978 Gottfried. The hallmarks of this methodology are that the Medicare fee schedule has a rational cost based structure with adjustments for inflation. It should be noted that the Medicare fee schedule reimbursements are still below the actual cost of providing ambulance service but they are an increase over current Medicaid rates. The bill calls for a graduated implementation schedule thus easing the increased \$125 million fiscal impact to the State. We propose a five year graduated phase-in with SFY 2017-18 being the first \$25 million

The use of a simpler Medicare ambulance fee schedule may prove easier to implement and manage. While the permanent proposal would increase the funding level now appropriated, we believe that a robust EMS system can aid in cost savings to the healthcare system. We are the gateway to the healthcare system. Actions taken in the field and in the ambulance have shown to better patient outcomes down the road, thus saving healthcare costs. As many healthcare providers in the Medicaid system embark in DSRIP, actions taken by ambulance providers become even more critical to maintain costs in the healthcare continuum. We would welcome the opportunity to further discuss how we can better the healthcare system.

We work closely with the New York State Volunteer Ambulance and Rescue Association (NYSVARA). The volunteer ambulance corps, which are so vital to a strong emergency medical system, are also greatly benefited by supplemental Medicaid funds.

UNYAN members are grateful for increased funding and for the recognition of the importance of the service we provide to communities coupled with the difficulties faced with below cost Medicaid reimbursements.

### **Health Care Regulation Modernization Team:**

#### *Part L of S2007/A3007 HMH Article VII Budget Bill*

The Executive proposes the creation of a twenty-five member team to evaluate and provide recommendations to the Governor on modernizing health care regulations. This team would be responsible for not only evaluating changes to EMS regulations but also policy and statute as well. Most concerning to UNYAN is that ambulance service providers would not specifically be included as a team member. If this team is to be created, we would advocate for ambulance service providers to specifically be included as a voting member of the team.

UNYAN members believe there are beneficial aspects to modernizing regulations, policy and statute to better the EMS industry and the patients we serve. One such proposal is to allow for community paramedicine. This is the utilization of emergency medical technicians and paramedics in a non-emergency environment or a non-ambulance setting. Nationwide community paramedicine or mobile integrated health care programs are expanding. These programs are integrated into a health care delivery system that is attempting to use a number of different medical disciplines to improve the overall health of a patient or targeted group of patients. Working in concert with other health care providers, these programs can be targeted to reduce hospital readmissions, reduce unnecessary emergency department visits, targeted disease or injury prevention initiatives, or referral of patients to more appropriate clinical settings. Statutory and regulatory changes (A2733 Gottfried) would be necessary for fully operational community paramedicine programs in New York State.

The proposed team would also be tasked with evaluating changes for the certificate of need (CON) process. The CON process was designed to evaluate the actual need for a new service or facility, and that decisions made would not negatively affect the system as a whole. EMS has had some contested municipal CON situations in recent years. The municipal CON is a provision where any municipality can start an ambulance service simply by meeting minimum staffing, training and equipment needs. Then after two years of operation must go through the CON process and prove there is a public need for their service. All other types of ambulance providers (commercial, not-for-profit, volunteer, hospital-based) must obtain a CON and prove public need before beginning to provide service. UNYAN maintains that in situations where a perceived public health emergency exists and a municipality is without EMS coverage through no fault of their own an Emergency Ambulance Operating permit should be granted without any requirement of a formal CON process or the current two year retrospective need determination as found in the municipal CON regulations. However absent a public health emergency we strongly believe that all ambulance service providers, commercial, not-for-profit and municipal alike,

should be required to undergo a mandatory CON review and approval process based on a public need as currently defined.

**Summary:**

It is hoped that you have a better appreciation for the magnitude of the role that commercial ambulance services have in EMS throughout New York State, and how many residents depend on them every day. They are an indispensable part of our emergency services and the gateway to the medical system. They allow many municipalities to have access to EMS that they otherwise would either not be able to afford it, or would have to spend millions of dollars to replace each year. They have stepped up and invested in our cities and communities, and millions of our residents have benefited from their commitment. Without the attention and assistance identified herein there is a real threat to the continuation of EMS coverage that New Yorkers have become accustomed to, not because of an unwillingness to serve, but because of the fiscal practices of the State of New York and its various divisions. The solution that will fix this situation is complicated, but implementing the improvements in Medicaid reimbursements will go a long way towards correcting this inequity and avoiding a more costly eventual fix.

We urge you to consider including these measures into the current proposed budget. We pledge to always put our patients first by providing the latest technology and highly trained para professionals to every patient every time we respond to their need for our services. We are proud to serve this great State, but cannot do it without your continued help and support.

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