

2017 Spring National Meeting

**Workers' Compensation
Task Force
Meeting**

Supplemental Materials

**April 10, 2017
Denver, Colorado**

Opt Out Update – 2017

- There has been little legislative activity regarding opt out in 2017.
- The Oklahoma legislature introduced a bill (HB 1462) which included provisions addressing opt out. However, the bill was recently amended and those provisions were deleted.
- Arkansas introduced legislation (SB 653) to establish an optional alternative system to finance and administer employee benefits compensation regarding health, disability and death benefits, but it has not advanced at this time. Arkansas is scheduled to adjourn by April 7.
- A bill was proposed in Florida to create a system similar to the Texas system where workers compensation insurance coverage is not mandatory. However, that bill has not been formally introduced.
- In 2015, South Carolina and Tennessee introduced legislation which would have allowed certain employers to opt out of the workers compensation system, but those bills did not advance in 2015 and were not considered in 2016. At this time, neither South Carolina nor Tennessee has introduced opt out legislation this session.



The National Association of Insurance Commissioners (NAIC) has requested detailed information from NCCI on air ambulance costs.

Request – Provide countrywide information on payments, charges and transactions/units for the air ambulance codes for the last five service years.

Response – The breakdown for air ambulance codes for service years 2011-2015 countrywide are displayed in the following tables.

For air ambulance codes A0430 and A0431; payments, billed charges and transactions are provided.

For air ambulance codes A0435, A0436 and T2007; payments, billed charges and units have been provided.

Total billed is the sum of the charges reported.

For codes A0435 and A0436 units represent miles. For code T2007 each unit represents one-half hour increment.

A description of the procedure codes included are listed below.

Procedure Code	Description
A0430	Ambulance Service, conventional air services, transport, one way (fixed wing)
A0431	Ambulance Service, conventional air services, transport, one way (rotary wing)
A0435	Fixed wing air mileage, per statute mile
A0436	Rotary wing air mileage, per statute mile
T2007	Transportation waiting time, air ambulance and non-emergency vehicle, one-half hour increments

NCCI Proprietary Information

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Countrywide

Procedure Code	Total Billed					Total Paid					Total Transactions				
	2011	2012	2013	2014	2015	2011	2012	2013	2014	2015	2011	2012	2013	2014	2015
A0430	\$ 2,908,292	\$ 2,930,075	\$ 3,260,386	\$ 3,825,416	\$ 3,893,449	\$ 2,541,667	\$ 2,434,039	\$ 2,507,007	\$ 2,858,075	\$ 2,603,749	259	272	306	270	254
A0431	\$ 20,117,771	\$ 24,608,216	\$ 27,115,708	\$ 32,462,484	\$ 32,902,966	\$ 15,357,216	\$ 16,527,596	\$ 17,416,054	\$ 20,138,000	\$ 19,016,379	1,550	1,650	1,652	1,700	1,534

Procedure Code	Average Billed per Transaction					Average Paid per Transaction				
	2011	2012	2013	2014	2015	2011	2012	2013	2014	2015
A0430	\$ 11,229	\$ 10,772	\$ 10,655	\$ 14,168	\$ 15,329	\$ 9,813	\$ 8,949	\$ 8,193	\$ 10,585	\$ 10,251
A0431	\$ 12,979	\$ 14,914	\$ 16,414	\$ 19,096	\$ 21,449	\$ 9,908	\$ 10,017	\$ 10,542	\$ 11,846	\$ 12,397

Procedure Code	Total Billed					Total Paid					Total Units				
	2011	2012	2013	2014	2015	2011	2012	2013	2014	2015	2011	2012	2013	2014	2015
A0435	\$ 3,478,506	\$ 4,460,764	\$ 4,244,041	\$ 6,059,913	\$ 6,222,170	\$ 2,835,795	\$ 3,510,188	\$ 2,990,305	\$ 4,104,858	\$ 3,623,582	60,788	93,540	81,743	75,176	59,959
A0436	\$ 12,346,054	\$ 15,305,502	\$ 17,615,357	\$ 21,630,977	\$ 20,907,090	\$ 8,944,936	\$ 9,753,681	\$ 10,416,293	\$ 11,878,924	\$ 10,989,492	98,595	151,053	96,627	106,457	92,388
T2007	\$ 924,585	\$ 868,232	\$ 1,961,636	\$ 1,767,184	\$ 1,114,980	\$ 843,918	\$ 721,782	\$ 832,067	\$ 959,602	\$ 939,032	44,775	43,564	47,169	71,788	59,686

Procedure Code	Average Billed per Unit					Average Paid per Unit				
	2011	2012	2013	2014	2015	2011	2012	2013	2014	2015
A0435	\$ 57	\$ 48	\$ 52	\$ 81	\$ 104	\$ 47	\$ 38	\$ 37	\$ 55	\$ 60
A0436	\$ 125	\$ 101	\$ 182	\$ 203	\$ 226	\$ 91	\$ 65	\$ 108	\$ 112	\$ 119
T2007	\$ 21	\$ 20	\$ 42	\$ 25	\$ 19	\$ 19	\$ 17	\$ 18	\$ 13	\$ 16

Source: NCCI Medical Data Call, Service Year 2011 - 2015. Countrywide includes data for the following states: AK, AL, AR, AZ, CO, CT, DC, FL, GA, HI, IA, ID, IL, KS, KY, LA, MD, ME, MO, MS, MT, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, UT, VA, VT, and WV.

Average paid per unit (transaction) is the total paid divided by the total number of units (transactions).
 Average billed per unit (transaction) is the total billed divided by the total number of units (transactions).
 All averages are rounded to 2 decimal places. Paid dollars, billed amounts and averages are displayed with 0 decimal places.
 This analysis only includes transactions where both paid and billed amounts are >\$.01.

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Air Ambulances and Workers Compensation Summary

The issue of air ambulances and their associated costs is under discussion in numerous states and the U.S. Congress. Some states have fee schedules regulating workers compensation reimbursement rates for air ambulances. However, the federal Airline Deregulation Act of 1978 (ADA) expressly preempts all state law or regulation related to rates, routes or services of any air carrier.

The question of which law governs air ambulance rates in the workers compensation context- state workers compensation laws or the federal ADA law- has become a friction point in recent years. This has led to several ADA “pre-emption” challenges to state reimbursement rates coming before the courts in various jurisdictions, with the most recent cases being heard in Texas state and federal courts. In some cases, the ADA has been found to preempt state workers compensation laws regulating air ambulance reimbursement rates.

Several state legislatures have been considering air ambulance issues. Montana is debating legislation that would aim to regulate air ambulance services and billing without federal preemption (SB 44 and HB 73). New Mexico introduced similar legislation this session (HB 402), but the legislature adjourned without advancing the bill. In addition, West Virginia introduced legislation (SB 276) regarding the collection of air ambulance fees for emergency treatment. On the federal side, on February 28, 2017, U.S. Senator Jon Tester (D-MT) introduced S. 471, which is intended to preserve state authority to regulate air carriers providing air ambulance services, including network participation, reimbursement and balance billing.

NCCI collects air ambulance information through its medical data call. The attached chart provides countrywide air ambulance data for service years 2011 to 2015. The countrywide information includes all NCCI states with the exception of Texas.

The **Service year** indicates the calendar year in which a medical service was provided. The claim could be up to 30 years old, but NCCI captures the payments in the year they were paid.

Medical payments are paid based on a Healthcare Common Procedure Coding System (HCPCS) that describes the types of services provided. Level I codes are referred to as Current Procedural Terminology (CPT) codes and are for physician services and non-physician services (RN, APN, PA). These codes are maintained by the American Medical Association (AMA).

HCPCS Level II codes, commonly referred to as HCPCS codes, include dental, other supplies and non-physician services not included in the CPT codes. Air ambulance codes are a part of the HCPCS Level II codes:

A0430: Ambulance service, conventional air services, transport, one way (fixed wing) (Fixed wing is basically an airplane or seaplane)

A0431: Ambulance service, conventional air services, transport, one way, (rotary wing) (Rotary wing is basically a helicopter)

A0435: Fixed wing air mileage, per statute mile

A0436: Rotary wing air mileage, per statute mile

T2007: Transportation waiting time, **air ambulance and non-emergency vehicle**, one-half hour increments. Please note this includes non-emergency vehicles which could be a wheelchair van taking someone from a nursing home to the doctor. We have no way of knowing whether the payments are for air ambulance wait time or for non-emergency vehicle wait time.

A typical bill will have 2 codes listed: one for the one-way transport and the other for the air mileage. If there is waiting time, code T2007 might also be included.