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STATE OF MINNESOTA

OFFICE OF THE COMMISSIONER

DEPARTMENT OF COMMERCE

133 EAST 7th STREET
ST. PAUL, MN 55101
612/296-4026
FAX: 612/296-4328

February 24, 1993

Ms. Zona DeWitt
Legislative Reference Library
6th Floor, State Office Building
100 Constitution Avenue
St. Paul, MN 55155

Dear Ms. DeWitt:

In accordance with Laws of Minnesota 1992, chapter 549, article 5, section 20, I am pleased to forward the study of ambulance subscription plans. The Commissioner of Health and I completed this study in conjunction with the Attorney General. Their cover letters are included.

Please contact my researchers Chuck Nettell and Mel Boynton or me if we may provide added information.

Respectfully submitted,

Bert J. McKasy
Commissioner of Commerce

BJM/MRB/enl

Enclosure

Pursuant to 1992 Laws, Chapter 549,
— Article 5, Section 20 —



Minnesota Department of Health

717 Delaware Street Southeast
P.O. Box 9441
Minneapolis, MN 55440-9441
(612) 623-5000

February 26, 1993

Ms. Zona DeWitt
Legislative Reference Library
6th Floor, State Office Building
100 Constitution Avenue
St. Paul, Minnesota 55155

Dear Ms. DeWitt:

In accordance with Laws of Minnesota 1992, chapter 549, article 5, section 20, I am pleased to forward the study of ambulance subscription plans. The Commissioner of Commerce and I completed this study in conjunction with the Attorney General. Their cover letters are included.

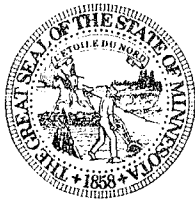
Please contact my staff members Chari Konerza (623-5282) and Kent Peterson (623-5454) or me if we may provide additional information.

Sincerely,

Marlene E. Marschall
Commissioner

MEM:LRC

Enclosure



STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

HUBERT H. HUMPHREY III
ATTORNEY GENERAL

102 STATE CAPITOL
ST. PAUL, MN 55155
TELEPHONE: (612) 296-6196
FACSIMILE: (612) 297-4100

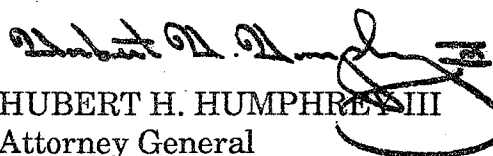
February 26, 1993

Ms. Zona DeWitt
Legislative Reference Library
Sixth Floor, State Office Building
100 Constitution Avenue
St. Paul, MN 55155

Dear Ms. DeWitt:

Enclosed please find a report on a study of prepaid ambulance service plans. The study was undertaken by the Departments of Health and Commerce in conjunction with this office as required by 1992 Laws of Minnesota, Chapter 549, Article V, section 20.

Respectfully submitted,


HUBERT H. HUMPHREY III
Attorney General

Enclosure

STUDY OF AMBULANCE SUBSCRIPTION PLANS
Under Chapter 549, Article 5, Section 20

As requested, the Commissioner of Commerce and the Commissioner of Health, in conjunction with the Attorney General, have studied prepaid ambulance service plans that allow a person to prepay for ambulance services on a yearly basis.

EXECUTIVE SUMMARY The question has been raised regarding authority to offer prepaid ground ambulance service plans without regulation as insurance companies or health maintenance organizations (HMOs). To date, the departments of commerce and health have reviewed only one prepaid plan in Minnesota. A survey of other states indicates prepaid plans are not common, but when offered they are treated differently from insurance or HMOs. Among the states where such plans are offered there is a consistency in their minimal regulation, if any.

This study raises several issues of concern that would directly affect the feasibility of prepaid ambulance plans and should be seriously considered. Prepaid ambulance plans would need to comply with consumer protection laws as well as federal Medicare laws, and would need to be evaluated for duplication of services offered as part of the MinnesotaCare legislation. Benefits to the consumers should be clearly identified as part of the prepaid plan development.

CONTEXT According to the Minnesota Department of Health and the Minnesota Ambulance Association, we have 308 ambulance services operating 661 vehicles. There are two levels of ambulance care: Advanced Life Support (ALS) and Basic Life Support (BLS). ALS are staffed by at least one paramedic and BLS crews are generally Emergency Medical Technicians (EMTs). Paramedics receive over one thousand hours of training and EMT Basics receive about 120. In one year, over 250,000 emergency runs are made with one-half being ALS and the other half being BLS.

The amount paid for ambulance services is a small percentage of overall spending on medical services. For example, in one year ambulance claims represent .8% of total dollars paid by BlueCross BlueShield of Minnesota. In 1991, approximately \$4.5 million were reimbursed for Medical Assistance/General Assistance Medical Care (MA/GAMC) ambulance services. MA/GAMC and Medicare reimbursements are approximately 60 to 70 percent of all ambulance services.

NATURE OF PREPAID AMBULANCE SERVICE PLANS Prepaid ambulance plans, sometimes referred to as "membership plans," involve the payment of a modest fee to an ambulance service with the plan members being

entitled to medically necessary ground ambulance services from the company for the following 12 months with no out-of-pocket expense. Since ambulance services in Minnesota serve exclusive geographic areas of operation (called Primary Service Areas), there is no competition between ambulance services in their area. In most cases, the prepaid plan would pay any remaining patient costs after the patient's deductible was satisfied and after their health plan has paid ambulance benefits. Since prepaid plans may involve receipt of services exceeding the value of the fee paid, companies desiring to offer prepaid ambulance service plans need to be sure prepaid plans are not construed to be insurance policies or HMO contracts. Both the department of commerce and department of health have determined that the one prepaid plan they have reviewed was not insurance or an HMO contract (Exhibit A, letters to the Minnesota Ambulance Association).

Persons needing information regarding the evaluation of prepaid ambulance plans should contact:

Department Counsel
Department of Commerce
133 E. 7th St.
St. Paul, Minnesota 55101
(612) 297-1118

or

HMO Section
Department of Health
717 S.E. Street
Minneapolis, MN 55440
(612) 623-5365

HOW PREPAID AMBULANCE SERVICE PLANS RELATE TO HEALTH PLANS Typical major medical health plans (including most major medical insurance policies, HMO contracts, most self-funded employer health benefit plans, Medicare, and Medical Assistance) pay for ambulance services in part or completely. HMO contracts cover medically necessary emergency services, which may or may not cover all ambulance service claims. Medicare, many health plans, and BlueCross BlueShield of Minnesota include a 20 percent co-payment and an annual deductible. Medical Assistance and some health plans including HMOs pay a predetermined medically necessary ambulance reimbursement with no additional expense to the patient. Thus, for persons covered by most public or private health plans, the liability for out-of-pocket ambulance expense and the corresponding value of a prepaid ambulance service plan is small. People who do not have medical coverage would not be eligible to participate in a prepaid ambulance service if a prepaid plan was designed to cover only amounts not paid by existing coverage.

OTHER STATE EXPERIENCE Prepaid ambulance service plans have not been a major policy issue in most states. A survey sent to all 50 states resulted in 27 responses. Seventeen respondents stated that prepaid ambulance services are **not offered** in their state. The remaining 10 cited some form of prepaid ambulance plans, and none of these 10 regulate such plans as rigorously as typical insurance policies or HMO contracts. In fact, Oregon reported numerous compliance problems in attempting to regulate prepaid ambulance service plans as insurance; resulting in a 1991 repeal of its

requirement. In contrast to insurance companies and HMOs, most ambulance services offer a single service and operate at a much lower volume. Clearly, insurance and HMO regulation does not cleanly fit ambulance services or prepaid plans here or in other states. Exhibit B contains our questionnaire and summary of responses. Although prepaid ambulance services have been offered in the past, there are currently none offered in Minnesota.

POLICY ISSUES

COST CONTAINMENT

Prepaid ambulance plans do not appear to be consistent with the cost containment provisions suggested to the Legislature and the Governor by the Minnesota Health Care Commission (MHCC) on January 25, 1993. In its report, Containing Costs in Minnesota's Health Care System, the MHCC recommends the formation of Integrated Service Networks (ISNs) which will be "accountable for the costs and outcomes associated with delivering a full continuum of health care services to a defined population". Medically necessary ambulance services may become a part of that "full continuum of health care services". In that event there would be no need for separately financed prepaid ambulance service plans for persons covered by an ISN.

The incentive for consumers to purchase a prepaid ambulance plan is to eliminate copayments for the covered services. Both the Minnesota HMO rules and federal Medicare policy suggest that reasonable co-payments provide a disincentive for the over-utilization of health care services. Prepaid ambulance plans could increase the overall cost of medical transportation by eliminating any disincentive to call for an ambulance when there is no need for emergency transportation. Under federal Medicare regulation, co-payments waivers may only be provided on a case-by-case basis, not as part of a plan.

NON-COMPETITIVE MARKETS

The ambulance industry points out that uncontrolled increases in funding needs that affect the financial stability of emergency care services can affect the access of the public to emergency care.

Several factors have contributed to an increase in funding needs within the emergency medical services system over the past several years. Increases in insurance costs, tax increases, both state and federal, and increases in the cost of equipment and personnel have had a substantial impact on funding needs for ambulance providers. Additionally, a variety of state and federal mandates have expanded funding needs. At the same time, reimbursement from MA/GAMC have not kept up with increased operating costs. However, at this time no studies have been made as to the profitability of prepaid ambulance plans in Minnesota.

Prepaid ambulance service plans are one way the ambulance industry hopes to increase collections from individual payers to cover their increases in costs. However, because ambulance services operate within primary service areas (giving them exclusive service rights to a geographic area), ambulance costs and pricing must be viewed in the context of a non-competitive market. Ambulance service pricing is beyond the current scope and authority of the ambulance licensing law. A review of ambulance costs and pricing would likely be quite complex, involving the ambulance industry and others with experience regulating industries in non-competitive markets.

CONSUMER PROTECTION

A concern regarding the sale of prepaid ambulance plans is the potential for victimization of seniors. Two areas for potential abuse were identified. First, is the potential for misunderstanding the purpose of and operation of a plan. An individual could misunderstand that the purchase of a prepaid ambulance plan would assure them greater or faster ambulance service than they would otherwise be entitled to. In addition, there is potential for misunderstanding that a prepaid plan would entitle the purchaser to use an ambulance for medical transportation needs that are not "medically necessary" under their insurance plans.

The second area of concern involves the sale of prepaid ambulance plans to individuals who already have full coverage for ambulance services through public or private insurance. The focus of marketing efforts on paying the costs not already covered may result in individuals believing they do not already have full coverage when they actually may.

RECOMMENDATIONS

Given the current situation in Minnesota where there are no prepaid ambulance plans being offered, and the experience of other states in this area, there does not appear to be a current need for developing a regulatory scheme for prepaid ambulance services. It is recommended that the Departments of Health and Commerce continue to review proposed plans for the sale of such prepaid services, on a case-by-case basis, to make certain they do not contain terms that would make them subject to existing insurance or HMO laws. This approach would be consistent with the current non-regulation of other types of prepaid plans (for example prepaid legal and dental plans) which also do not fall under the definitions of insurance or HMOs under Minnesota law. If a need for regulation emerges in the future these agencies could make appropriate recommendations to legislature.



OFFICE OF THE COMMISSIONER

STATE OF MINNESOTA

DEPARTMENT OF COMMERCE

Exhibit A

133 EAST 7th STREET
ST. PAUL, MN 55101
612/296-4026
FAX: 612/296-4328

March 23, 1992

Jennifer Deschaine
President
Minnesota Ambulance Association
618 W. Broadway
St. Peter, MN 56082

RE: Ambulance Subscription Agreements

Dear Ms. Deschaine:

This letter will address the issues we discussed in our telephone conference on March 19, 1992, and which were raised in a letter to the Attorney General from O.J. Doyle dated December 12, 1991. Mr. Doyle's letter was recently forwarded to us by the Attorney General's Office.

Mr. Doyle is correct that this Department does not have statutory authority to render formal legal opinions concerning Minnesota insurance laws. We are willing, however, to provide the following comments on an informal basis.

We have reviewed the marketing brochure and membership agreement for the St. Peter Area Ambulance Service Subscription Program. Copies of these documents were submitted to us with Mr. Doyle's letter. Based on the statements in these documents, it appears that the ambulance services under the subscription agreement are provided by ambulances owned by the St. Peter Ambulance Service (the entity that collects the subscription fees.) As such, the subscription membership would constitute a pricing arrangement and not an insurance policy.

This should be compared with the situation where the entity collecting the subscription fee contracts with third parties (i.e., local paramedics or fire departments) to provide ambulance services for a fee. In this case, the entity collecting the fee assumes risk in a manner similar to that of an insurance company. Thus, Minnesota insurance laws would be at issue.

Ms. Jennifer Deschaine
March 23, 1992
Page Two

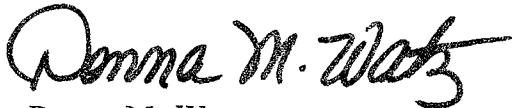
With respect to the provision that your ambulance service agrees not to bill a member any co-pay that might apply under the applicable health insurance plan, we are not aware of any insurance law in Minnesota that would prohibit you from doing this. However, insurance companies and Medicare may challenge this practice.

If you have any questions about the information in this letter, feel free to contact me.

Sincerely,

BERT J. McKASY
Commissioner of Commerce

By:



Donna M. Watz
Staff Attorney

DMW:pjk

cc: O.J. Doyle
Richard G. Gomsrud, Department Counsel



Minnesota Department of Health

717 Delaware Street Southeast
P.O. Box 9441
Minneapolis, MN 55440-9441
(612) 623-5000

March 20, 1992

O.J. Doyle, EMS Consultant
Doyle Consulting
12893 Floral Avenue
Apple Valley, Minnesota 55124

Re: Ambulance Subscription Plan

Dear Mr. Doyle:

I am writing in response to your letter to the Attorney General dated 12 December 1991.

The Minnesota Department of Health is authorized under Minn. Stat. § 62D.01, Subd. 2(b) to regulate health maintenance organizations (HMOs). Minn. Stat. § 62D.02, Subd. 4 defines a health maintenance organization as "a nonprofit corporation organized under chapter 317A, or a local governmental unit as defined in subdivision 11, controlled and operated as provided in sections 62D.01 to 62D.30, which provides, either directly or through arrangements with providers or other persons, comprehensive health maintenance services, or arranges for the provision of these services, to enrollees on the basis of a fixed prepaid sum without regard to the frequency or extent of services furnished to any particular enrollee." Comprehensive health maintenance services are defined, under Minn. Stat. § 62D.02, Subd. 7, as "a set of comprehensive health services which the enrollees might reasonably require to be maintained in good health including as a minimum, but not limited to, emergency care, inpatient hospital and physician care, outpatient health services and preventive health services."

It is our understanding from the descriptive material you provided that the ambulance subscription plan provides coverage for ambulance services only. Since St. Peter Community Hospital is not certified as an HMO and is not offering comprehensive health maintenance services through this ambulance subscription plan, it would not be considered an HMO product. As such, the Minnesota Department of Health has no regulatory authority over an ambulance subscription plan.

In addition, please be advised that under Minn. Rule 4685.0700, Subp. 3(E), HMOs are permitted to limit or exclude ambulance transportation from the required comprehensive health maintenance services.

O.J. Doyle, EMS Consultant

Page 2

March 20, 1992

I hope this information is helpful. If you have any questions, please contact me at 623-5365.

Sincerely,



Kent E. Peterson, Director
Alternative Delivery Systems

KEP:JWR

From: MNO01 --NAICKC02
To: States

Date and time 09/08/92 16:14:35

From: Chuck Nettell, Assistant Commissioner
Subject: PREPAID AMBULANCE SERVICE PLANS

We are studying the merits of prepaid ambulance service plans which would allow a person to prepay ambulance service on a yearly basis. The following information would be appreciated:

1. State: _____ Date: _____
2. Is prepaid ambulance service offered in your state? Yes ___ No ___
3. If yes, please describe.
4. Contact name: _____
Phone: _____

Please return by September 20, via PROFS, Fax (612) 296-4328 or mail to Assistant Commissioner Chuck Nettell, Minnesota Department of Commerce, 133 E. 7th Street, St. Paul, Minnesota 55101, Phone (612) 297-7037.

cc: MNO01 --NAICKC02 Minnesota

SUMMARY OF COMMENTS

1. Alaska-A prepaid ambulance plan was contemplated at one time however respondent was unsure if it was actually implemented. Chapter 65 of Alaska Statutes were amended to allow such plans. It appears that only municipalities, nonprofit medical service corporations or nonprofit associations can offer such a plan. The Alaska statute permitting such plans does not apply to insurance companies or fraternal benefit societies.

2. Florida-Prepaid ambulance plans are regulated pursuant to Chapter 638 of Florida Statutes. A company providing such service must have minimum surplus of \$50,000 at date of licensure and \$25,000 thereafter. They are also required to maintain a deposit of \$20,000 with the Florida Insurance Department.

3. Indiana-An ambulance service provider is not required to obtain a certificate if the plan is approved by an ordinance of the city or county in which it operates. Plan membership is limited to no more than one year.

4. Kansas-Does not specifically address prepaid ambulance plans, however any such plan would be evaluated to determine if it would be considered insurance and therefore require compliance with Kansas insurance statutes.

5. Maryland-Some insurers offer this benefit in their major medical contracts, however it is not a mandated benefit.

6. North Carolina-Each county is responsible for providing ambulance services to its residents. Each county government makes provisions to provide those services which may include ambulance subscription services.

7. North Dakota-Prepaid ambulance plans are offered in North Dakota however it is not considered insurance since no third party is involved and individuals contract directly with ambulance company.

8. Oklahoma-Prepaid ambulance plans are regulated by the Oklahoma Department of Health. Plans cost \$30 per year.

9. Information can be obtained from the Ohio Department of Education, Division of Vocational and Career Education, Public Safety.

10. Oregon-Prepaid ambulance plans used to be regulated as insurance, however this requirement was repealed in 1991 because of the cost of regulation to both the state and the ambulance companies.

RESULTS OF PREPAID AMBULANCE SURVEY

A short survey was sent to all 50 states (see attached) regarding the availability of prepaid ambulance plans. The following is a summary of responses to the question "Is prepaid ambulance service offered in your state?" and additional clarification to responses if needed.

		<u>YES</u>	<u>NO</u>	<u>OTHER</u>
1.	Alaska			X
2.	Arizona		X	
3.	Colorado		X	
4.	Connecticut		X	
5.	Florida	X		
6.	Georgia		X	
7.	Indiana		X	
8.	Kansas			X
9.	Kentucky		X	
10.	Maine		X	
11.	Maryland	X		
12.	Michigan		X	
13.	Missouri		X	
14.	Montana		X	
15.	Nebraska	X		
16.	New Hampshire		X	
17.	North Carolina	X		
18.	North Dakota			X
19.	Oklahoma	X		
20.	Ohio			X
21.	Oregon	X		
22.	Pennsylvania		X	
23.	Rhode Island		X	
24.	South Carolina		X	
25.	South Dakota		X	
26.	Utah		X	
27.	Washington		X	