

**GROUND AMBULANCE SERVICES
WORKGROUP MEETING NOTES**
December 9, 2020 and January 13, 2021

Regular text = paraphrased discussion

Italics=Department's response

Bold, italics and indented=rule change, with change underlined and highlighted

Opening Remarks

The Department welcomed those attending. The purpose of the Workgroup Meetings was stated as being to discuss the December Draft Rules for Article 9, for Ground Ambulance Certificates of Necessity. At the first meeting on December 9, 2020, the Workgroup discussed R9-25-901(1) through (25). During the January 13, 2021, meeting, there was some discussion again about these definitions, but the bulk of the discussion concerned the definitions in R9-25-901(26) through (53) and the beginning of R9-25-902(A).

Review of R9-25-901

R9-25-901(2) ALS base rate

A concern was expressed about the use of the term “billed for” since the AHCCCS billing rate is different from what the approved “ALS base rate” would be.

Response: The Department followed up with a representative from AHCCCS. It appears that ground ambulance services bill for the full amount of the Department-set rate, but AHCCCS pays the discounted rate. This and other “rate” definitions will be discussed further during the review of the rules in Article 11. At this time, the Department does not plan to change the rule based on this comment.

R9-25-901(#) Arrival time

A question was asked about whether the term should be “interfacility arrival time” since it only applies to interfacility transports. Concerns were expressed about the time ending when the ambulance attendant enters the building. A suggestion was made that the time should end when the ambulance attendants are at the patient’s bedside, since this is a data element already being collected through AZPIERS. Another suggestion was that the time should end when the ambulance wheels stop rolling. Discussion ensued about the time it may take to enter the building and negotiate through floors and corridors to get to the patient.

Response: The Department verified that there is a data element currently used in AZPIERS that would accommodate the time the ambulance attendants arrive at the patient’s bedside, which is distinct from the time the ambulance stops moving – a data element also collected. According to data submissions in the past few months, there is good compliance with this data element being completed by those submitting data. Since the time given to a health care institution would be derived through discussion between both the health care institution and the ground ambulance service, the time from wheels stopped and the patient’s bedside could be factored into the time given. Based on the discussion, the Department plans to change the rule as follows:

*#. **“Arrival time” means the hour and minute that an ambulance attendant enters is at a patient’s side in a health care institution to initiate the interfacility transport of a the patient.***

R9-25-901(#) Arrival-time variance

A suggestion was made that the term “scheduled arrival time” be defined. A comment was made that this would not work for rural areas, without explanations being give.

Response: The term “scheduled arrival time” uses the dictionary definitions of the words included in the term. The rule defines “arrival time” as when an ambulance attendant is supposed to be there, and “scheduled” means that the time was agreed to beforehand. While the Department agrees that rural areas may have fewer resources and that ground ambulance services in these areas may be at the mercy of circumstances beyond their control, the same could be said for urban or suburban ground ambulance services. That is why the Department believes that back-up agreements to cover for such circumstances are so important to protect the health and safety of patients and the integrity of the entire EMS system in the state. At this time, the Department does not plan to change the rule based on this suggestion or comment.

R9-25-901(5) Back-up agreement

A concern was expressed about the use of “automatic aid through dispatch.” A question was asked about whether there is a change in the Department’s policy on their use. Another comment was made about using the term “all the services” versus “ambulance services”.

Response: In developing this definition, the Department was trying to be more comprehensive and encompassing by including the different names for agreements under which a certificate holder could allow a neighboring certificate holder to provide services in the certificate holder’s service area, on a temporary basis, when circumstances do not allow the certificate holder to provide the services. It was not meant to reflect a change in the Department’s policies about a certificate holder needing to have the resources to provide these services on a usual basis. Nor was it meant to circumvent the certificate of necessity process by allowing service area encroachment or providing a mechanism for de facto expanding the neighboring certificate holder’s service area. Part of the confusion with the use of “automatic aid through dispatch” may arise from the comingling of fire service terms with ambulance service terms. As used in these rules, and as included in the definition, this term does not mean that anyone that can respond to a call should do so, but, rather, that under the circumstances specified in the agreement, one certificate holder allows the neighboring certificate holder (that is a party to the agreement), to respond because the certificate holder has a temporary inability to respond to the call. As mentioned during the Workgroup Meeting, the rules cannot use “ambulance services” to describe activities performed because the statutory definition of “ambulance service” in A.R.S. § 36-2201 defines the term as the “person who owns and operates one or more ambulances.” However, the Department may clarify the term “all the services” as follows (with text struck in the December Draft rules removed):

5. **“Back-up agreement” means a written arrangement, which may include one of the following, between a certificate holder and a neighboring certificate holder to allow one of the certificate holders to provide EMS or transport within the other certificate holder’s service area on a temporary basis when the certificate holder is not able to provide all the service needed services in the certificate holder’s service area:**
 - a. **A mutual aid agreement,**
 - b. **Automatic aid through dispatch, or**
 - c. **A Memorandum of Understanding.**

R9-25-901(6) BLS base rate

A concern was again expressed about the use of the term “billed for” since the AHCCCS billing rate is different from what the approved “BLS base rate” would be.

Response: As stated above, the Department followed up with a representative from AHCCCS. It appears that ground ambulance services bill for the full amount of the Department-set rate, but AHCCCS pays the discounted rate. This and other “rate” definitions will be discussed further during the review of the rules in Article 11. At this time, the Department does not plan to change the rule based on this comment.

R9-25-901(#) Controlling person

A concern was expressed about subsection (d), stating that not every manager should be considered a controlling person.

Response: The Department agrees and plans to change the rule as follows:

- #. **“Controlling person” means an individual who:**
 - a. **Owns at least a 20% interest in the business organization that operates or is applying to operate as a ground ambulance service;**
 - b. **If an applicant or certificate holder is a partnership, is a general partner or is a limited partner who holds at least 20% of the voting rights of the partnership;**
 - c. **If an applicant or certificate holder is a corporation, association, or limited liability company, is the president, chief executive officer, or incorporator, or an individual who owns or controls at least 20% of the voting securities; or**
 - d. **Is responsible for the overall day-to-day management and operation of the ground ambulance service.**

R9-25-901(#) Convalescent transport

Several concerns were expressed about subsection (a) and that a non-transport event is being defined as a transport.

Response: The Department agrees and plans to change the rule as follows:

- #. **“Convalescent transport” means a ground ambulance service’s response to a request for EMS or transport that is one of the following:**
 - a. **A scheduled follow-up assessment of a patient to whom the ground ambulance service had previously provided EMS and transport for the same illness or injury; or Not an interfacility transport, and**
 - b. **A transport, other than an interfacility transport, that is pre-arranged Pre-arranged to occur at a specific time.**

R9-25-901(#) Critical care rate

As described previously, a concern was again expressed about the use of the term “billed for.” A question was asked about the level of training needed to perform critical care services. Another comment was made that the rate should not necessarily have to match the Medicare reimbursement rate.

Response: As stated above, the Department followed up with a representative from AHCCCS. It appears that ground ambulance services bill for the full amount of the Department-set rate, but AHCCCS pays the discounted rate. This and other “rate” definitions will be discussed further during the review of the rules in Article 11. Substantive requirements related to who can perform critical care services should be included in the body of the rules, presumably in R9-25-910, not in a definition. The Department agrees that this rate does not necessarily have to match the Medicare reimbursement rate and plans to change the rule as follows:

- #. **“Critical care rate” means the monetary amount that is:**
 - a. **Billed for a patient for critical care services; and**
 - b. **Equivalent to at least the amount for specialty care transport, as used in federal Medicare guidelines.**

R9-25-901(#) Critical care services

A comment was made that this definition should specify the level of personnel who can provide the services. Another comment was made that the phrase “life-threatening” should be removed from the definition. A suggestion was made that the definition should be consistent with the Medicare billing definition.

Response: As mentioned above, the requirements for who can provide critical care services is substantive and does not belong in a definition. This subject will be reviewed as part of the discussion of R9-25-910 related to staffing. At that time, the Department will rely on stakeholder input to ensure that requirements put into rule are not in conflict with Medicare requirements. The Department also plans to ask the Medical Direction Commission for input as to the content of the definition. At this time, the Department does not plan to change the rule based on the comments/suggestion.

R9-25-901(13) Dispatch

A suggestion was made that the term be removed from the rules. A question was asked about what it is called when a certificate holder notifies an ambulance to respond.

Response: The Department believes that the term needs to be defined in the rules to provide for consistent interpretation. The current definition includes that the direction is to “a ground ambulance service or vehicle.” There are many ways that a certificate holder may learn of a call to 9-1-1, depending on whether the public safety answering point (PSAP) is part of the certificate holder’s organization or not, and different ways that a ground ambulance vehicle may be requested to respond. Depending on the route the request for services travels, there may be a large difference in the time between when a PSAP receives a call and when a certificate holder versus ambulance vehicle receives direction to respond. This discrepancy has been the source of many comments expressing concern received by the Department in the past. Since response times by definition begin when a certificate holder receives a dispatch, the current definition might also cause confusion as to when the calculation of response time should start. Therefore, the Department is revising the definition to eliminate the confusion. There are existing data points that may be used to capture both the time a certificate holder receives a dispatch (direction to respond) and the time an ambulance vehicle is directed

to respond, so there should not be an issue for data reporting. At this time, the Department does not plan to change the rule based on the suggestion/question.

R9-25-901(17) General public rate

A concern was expressed about the use of the term “billed for.” A suggestion was made to include wording in A.R.S. § 36-2239 related to “services requested by a medical authority or a patient.”

Response: As stated above, there does not appear to be a problem related to billing AHCCCS. This and other “rate” definitions will be discussed further during the review of the rules in Article 11. At this time, the Department does not plan to change the rule based on this comment/suggestion.

R9-25-901(19) Goodwill, (24) Indirect costs, (41) Settlement, and (42) Standby waiting rate

Questions were asked about why the definitions are being removed.

Response: The first two terms are only used in R9-25-1106(B) and the last in R9-25-1107 and R9-25-1108, and will be described where used. “Settlement” is mainly used in the ARCR and will be described when the forms are put into words in the new R9-25-911. The Department does not plan to change the rule based on these questions.

R9-25-901(20) Gross revenue

A comment was made about the change in the definition. Another comment was made that “ground ambulance services” should be in the definition.

Response: As stated above, “ground ambulance service” is defined to relate to the company, not the services provided through the company, so it is inappropriate to use here. The current definition does not define what the term means, only how to calculate it. Therefore, the definition is being changed. The Department does not plan to change the rule based on these comments.

R9-25-901(22) Ground ambulance service contract

A comment was made that “ground ambulance services” should be in the definition. Another comment was made that the draft definition would require that the Department “approve contracts for EMS at special events.”

Response: As stated above, “ground ambulance service” is defined to relate to the company, not the services provided through the company, so it is inappropriate to use here. The change in the definition does not change whether the Department could or would review special event contracts. At this time, the Department does not plan to change the policy about the review of these contracts. Nor does the Department plan to change the rule based on these comments.

R9-25-901(25) Interfacility transport and (39) Scheduled transport

A comment was made that the definition be changed to be “the transfer of a patient between 2 healthcare institutions for the purposes of specialized or higher level or that is prearranged by a healthcare institution.” Another comment was made that the definition of “health care institution” is not defined in Article 9. Another noted that an urgent interfacility transfer would not be prescheduled. A comment was made that the definition of “scheduled transport” should be kept.

Response: The definition of “health care institution” is in R9-25-101, which contains definitions applicable to the entire Chapter. As stated in a comment in the draft rules, transports for the purpose of specialized or higher-level care are required by health care institution licensing rules to be coordinated between the sending and receiving health care institutions, so these are also considered to be prescheduled, even if the scheduling is to transport as soon as possible. The definition of “scheduled transport” does not appear to be necessary, given the revised definition of “interfacility transport,” which would include the urgent transport of a patient with a time-sensitive condition. The Department does not plan to change the rule based on these comments.

R9-25-901(26) Level of service

A suggestion was made that the definition be changed to include “based on the certification or licensure of the ambulance attendants, medical equipment and supplies on the ambulance, and” the services provided by the ground ambulance service.

Response: The wording used in the draft definition is consistent with the wording used in other rules in the Chapter related to staffing. The Department would need more explanation as to why the change is needed before making the suggested change. At this time, the Department does not plan to change the rule based on this suggestion.

R9-25-901(28) Mileage rate

A suggestion was made that the word transport be added to the definition.

Response: The Department agrees and, in addition to reviewing the definition as part of the review of Article 11, plans to change the rule as follows:

28. "Mileage rate" means the monetary amount ~~assessed to~~ billed for transport of a patient for each mile traveled from the point of patient pick-up to the patient's destination point.

R9-25-901(#) Priority

Several comments were made about the use of this term and the definition. Suggestions were made to change the term to "mode of response," "method of response," or "type of response." A question was asked about why the term "priority" was chosen. A suggestion was made to review the term during the review of the Table and where ever else it is used.

Response: The term "priority" was used because it is used in the current definition of "response code," which is being removed from the rules. The Department did not want to use "Code 2" or "Code 3" because the terms may mean different things to different persons. The Department agrees that the term should be reviewed again as part of the discussion of the places in the rules in which it is used. At this time, the Department does not plan to change the rule based on the comments/suggestion.

R9-25-901(#) Response only

Several comments were made about this definition. A question was asked about whether a certificate holder could bill for just responding, whether dispatched or not. Another question was asked about whether it could be used for a documented refusal, or for when a call is cancelled prior to an ambulance's arrival. A concern was expressed about potential reimbursement issues, especially with respect to Medicare.

Response: This term, and a corresponding "response-only rate" term that needs to be added, were included in the rule based on stakeholder requests to be able to bill a patient at a lower rate than the BLS service rate under circumstances where the ambulance showed up but treatment was not provided. As such, it would only be used based on a dispatch and when the ambulance did arrive at the scene. The Department plans to discuss this with Medicare to determine if there could be an issue. At this time, the Department does not plan to change the rule based on the comments/questions, but does plan to add a definition for "response-only rate" as follows"

#. "Response-only rate" means the monetary amount billed for a patient based on response only.

R9-25-901(35) Response time

A comment was made that the phrase "or a certificate holder's dispatch center" be added to the definition. Another comment was made that there is no need to include "or similar system" dispatch because 9-1-1 covers the entire state. A question was asked about whether the time starts "when a CAD 2 CAD link is performed and the transport agencies computer has the information." Another question was asked about why the last sentence in the current definition is being removed. A concern was expressed that "There is a potential "loophole" of extended CON Response times not counted for compliance if they are cancelled enroute or cancelled on scene. There should also be a process in place in investigation extended response time for improvement/tracking purposes."

Response: The Department has the authority to regulate certificate holders, not necessarily a "dispatch center." Therefore, the Department wants to include as part of the definition only that time over which a certificate holder has some control. If a certificate holder does not receive a dispatch soon after a 9-1-1 call is made, the certificate holder should not be penalized for the time, but this time would include the time the certificate holder spends identifying the resources the certificate holder plans to use in responding to the dispatch. The Department believes that 9-1-1 is not operational over some tribal lands but will confirm this with DPS. At this time, the Department does not plan to change the rule based on the comments/questions.

R9-25-901(37) Rural area, (47) Suburban area, (52) Urban area, and (53) Wilderness area; (38) Scene locality

A comment was made that the Department should use definitions consistent with NEMSIS, the U.S. Department of Agriculture, or CAS. A question was asked about who determines scene locality and response times, and whether a single certificate of necessity can have multiple scene locality designations.

Response: The Department is currently using census block groups as the basis for determining scene locality. A single service area may have several scene localities, based on the current definitions of rural area, suburban area, urban area, and wilderness area, which are the terms used in A.R.S. § 36-2232(A)(2). The only place these terms are used in the current rules is in the definition of scene locality. In the draft rules, they are also used in Table 9.1. The Department will review the definitions when discussing the Table. At this time, the Department does not plan to change any of these definitions based on the comment/question.

R9-25-901(46) Substandard performance

A comment was made that the definition should be kept because the new use does not comply with A.R.S. § 36-2245.

Response: The Department disagrees. The Department may use enforcement methods other than suspension or revocation to ensure the health and safety of patients and the integrity of Arizona’s EMS system. These can include the option for submission of a corrective action plan in lieu of suspension/revocation. The Department does not plan to change the rule based on this comment.

R9-25-901(#) Tiered response

A comment was made that the term is used in a different context by many stakeholders and may be confusing. A suggestion was made to change the term to “multiple-provider response.”

Response: The Department agrees that the term may be confusing. The term is used only in Table 9.1. Rather than making a change at this point, the Department plans to review the use of the term during the discussion of the Table and may revise or remove the definition at that time. At this time, the Department does not plan to change the rule based on the comment/suggestion.

R9-25-901(#) Time-sensitive condition

A comment was made that “irreversible” should be removed from the definition as being too high a standard. A comment expressed confusion that this definition appeared to be in conflict with the scheduled nature of an interfacility transport.

*Response: Because the definition includes that a delay “**may** result in irreversible harm,” not **would** result in irreversible harm, the Department believes its inclusion is critical to prevent a transport for the convenience of a hospital from being termed time-sensitive. As stated above, there does not appear to be a conflict between this definition and the scheduled nature of an interfacility transport because even a trauma or STEMI transfer has to be prearranged between the sending and receiving facilities. The Department does not plan to change the rule based on the comments.*

R9-25-901(50) Transport

A comment was made that the word “initial” should be removed from the definition because that would prevent a “wait-and-return” run.

Response: The Department believes that there does not appear to be a conflict between the definition and a “wait-and-return” scenario because the wait/return would be part of the run, with the point the patient is initially picked up and the final destination being the same location, and with any facility at which the ambulance is waiting being part of the run. At this time, the Department does not plan to change the rule based on this comment.

Review of R9-25-902

R9-25-902(A)(1)(b) and (d)

Comments were made expressing confusion as to what each of the two subsections are asking for and how they differ. Multiple suggestions were made as to how to make their requirements clearer.

Response: The Department plans to review the subsections again at the next Workgroup Meeting and does not plan to change the rule based on the comments/suggestions at this time.

Closing Comments

Participants were told of the Department's plan to proceed with developing a Notice of Proposed Rulemaking for the rules in Articles 7 and 8 for Air Ambulance Services after the end of January. Stakeholders were asked to provide any comments about these rules by the end of the month.

Participants were also reminded of the opportunity to provide comments about the Article 9 Draft Rules through the online survey and that all comments received would be brought to a subsequent Workgroup Meeting for discussion.

Participants were again thanked for their participation. The Department will prepare notes of the Meetings, including a summary of comments and the Department's responses, and post them on the Department's webpage for the rulemaking.

Next Workgroup Meeting

February 17, 2021 via teleconference