

GROUND AMBULANCE SERVICES WORKGROUP MEETING NOTES

February 17, 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 two meetings on December 9, 2020, and January 13, 2021, the Workgroup discussed R9-25-901 and the beginning of R9-25-902(A). At this meeting, the Meeting Notes from those meetings, which are posted on the Department's webpage for the rulemaking, would be discussed before beginning, again with R9-25-902. Participants were told that the responses to many concerns/comments/questions described in the Meeting Notes contain the notation, "At this time," to denote that the comments received so far do not provide a reason for a change to the draft, but that the Department is open to a change if more rationale for the change is provided during subsequent discussion about the places in the body of the rules in which the defined term is used. Only those definitions about which there was additional discussion will be included in the Meeting Notes for this meeting, which will also include any comments received through the online survey.

Review of Meeting Notes

R9-25-901(#) Arrival time

A comment was made that the time when the ambulance attendants are at the patient's bedside would be a manually input value and not subject to verification.

Response: The Department believes that ambulance attendants manually input quite a bit of data and would be capable of accurately recording the time they arrived at a patient's bedside for an interfacility transport. According to the Department's records, this data element, which is currently used in AZPIERS with good compliance, would be able to document performance during interfacility transports, and addresses many comments the Department received from stakeholders. Based on the discussion, the Department does not plan to change the rule at this time.

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

A question was asked about the phrase "on a temporary basis," stating that the nearest ambulance is routinely dispatched to a time-sensitive scene, such as a drowning, even if it is in a neighboring certificate holder's service area. Not doing so would not "pass the headline test" because it would delay treatment and transport. There was discussion about a backup agreement being a prearranged agreement and that contractual issues could also be involved. Other instances in which an ambulance may provide transport in a different certificate holder's service area and still be within the bounds of the current rules were described, including the content of R9-25-910(F) (on page 42 of the December Draft Rules), which was moved from R9-25-907 and 908 of the current rules and includes the content of SP-057.

Response: While the Department is sensitive to the concerns expressed about wanting to provide services as quickly as possible in these situations, there are currently provisions to accommodate these situations. A back-up agreement is only one mechanism to address the provision of services in a neighboring certificate holder's service area, on a temporary basis, when circumstances do not allow the certificate holder to provide the services. As mentioned, 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. At this time, the Department does not plan to change the rule based on the question and discussion.

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

A question was asked about why “EMS” is in the definition, stating that these rules do not regulate those who are not certificate holders.

Response: The Department agrees that these rules do not regulate those entities that are not certificate holders or applying to become a certificate holder, nor is the change intended to imply that they do. As stated before, “ground ambulance service” is defined to relate to the company, not the services provided through the company, so the Department substituted “EMS or transport” for the term when used as the services provided by the company. The phrase is used in R9-25-907 in the current rules with the same meaning. As defined, “EMS” means services provided, not the entities providing these services. The Department does not plan to change the rule based on the question.

R9-25-901(26) Level of service

A comment was made that the change to the definition may affect how a run may be billed. Another comment was made that a run should be billed based on the services provided.

Response: In the current rules, the term is only used in R9-25-1003, although variations of the term are found in the definition of “substandard performance,” R9-25-902, R9-25-905, R9-25-911, and R9-25-1006. The term is used in the draft rules for Article 9 in R9-25-902, R9-25-905(B)(3) and (5), and R9-25-910(C)(1), (D)(1)(b), (E)(1)(c), and (I)(1)(e)(1) and (2)(c). In the draft of Article 10, the term is used in Table 10.2. In none of these locations is the term used in specific relation to billing. When the rules in Article 11 are discussed, the Department can consider whether there may be changes needed, but, at this time, the Department does not plan to change the rule based on this comment.

R9-25-901(28) Mileage rate

During the review of the Meeting Notes, the suggestion was made that the definition could be further revised.

Response: The Department believes that addition of the phrase “for transport” in the definition makes the end of the definition duplicative of the definition of “transport” and 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 during the transport.

R9-25-901(#) Response only

Several comments were made about the definition and the Department’s response. One referred to A.R.S. § 36-2239(G) and asked how “response only” was consistent with the statute. In response to the statement about the Department planning to contact Medicare about potential reimbursement issues, another comment was made about the Medicare ET3 Program perhaps being relevant.

Response: The Department has still not been able to contact Medicare about the issue, but wonders if it would even be an issue. This would be an optional rate that could be billed if a certificate holder believed that the services provided to a patient, if any, did not warrant billing the patient the BLS rate. Such a situation could occur when the run would not be considered medically necessary by Medicare and the patient would be responsible for the bill. As stated during the Workgroup Meeting, the Department also has authority under A.R.S. § 36-2232(A)(7) to regulate ambulance services “in all matters affecting services to the public...”. While the Department plans to continue to try to discuss this with Medicare to determine if there could be an issue, the Department does not plan, at this time, to change the rule based on the comment.

R9-25-901(35) Response time

In response to the Department’s statement that the Department has not yet been able to confirm whether 9-1-1 is active throughout the entire state, a question was asked about whether the phrase “or similar system” dispatch would be removed from the rules if it were determined that 9-1-1 covers the entire state.

Response: The Department has heard back from the 9-1-1 administrator related to coverage. It appears that tribal areas in the northeast corner of the state do not have 9-1-1 coverage, so the Department does not plan to change the rule based on the question.

R9-25-901(42) Standby waiting rate

During the Workgroup Meeting, the Department noted that the term “standby waiting rate” is used in the definition of “general public rate” as well as in Article 11 and would consider keeping the definition in R9-25-901.

Response: The Department plans to add the definition back into the draft rules and change the definition as follows, consistent with the changes to other “rate” definitions:

- 42. “Standby waiting rate” means the monetary amount ~~assessed to~~ billed for a patient by a certificate holder when a ground ambulance vehicle is required to wait in excess of 15 minutes to load or unload the patient, unless the excess delay is caused by the ground ambulance vehicle or the ambulance attendants on the ground ambulance vehicle.**

Review of R9-25-902

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

Based on comments received at the end of the January Workgroup Meeting and online, the Department stated an intention of removing subsection (A)(1)(b) but keeping subsection (A)(1)(d), with a change suggested in a comment. There was no further discussion.

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

- d. A list of all business organizations or governmental entities affiliated with the applicant, if applicable, including for each:**

i. The legal name;

ii. The type of business organization, if applicable; and

iii. Whether the relationship to the applicant is as a:

(1) Parent organization,

(2) Subordinate organization,

(3) Subsidiary organization,

(4) Member organization, or

(5) Business organization related to an ambulance service, EMS, or transport for which a controlling person of the applicant is also a controlling person of the business organization;

R9-25-902(A)(1)(g)

A question was asked about the definition of “suboperation station.”

Response: The definition of “suboperation station” is in A.R.S. § 36-2201. The Department does not plan to change the rule based on the question.

R9-25-902(A)(1)(h)

A question was asked about whether a plan for participating in a political subdivision’s emergency preparedness plan should be mandatory.

Response: The rules need to be applicable throughout the state. Many small political subdivisions may not have an emergency preparedness plan, so requiring a plan for participation would not be appropriate. The Department does not plan to change the rule based on the question.

R9-25-902(A)(1)(i)

A question was asked about why the Department would want to require a list of EMS providers with which an applicant has a back-up agreement or letter of support.

Response: The Department uses this information as a method of determining whether an applicant has reached out to potentially affected entities. The information helps the Department determine whether the application will likely go to hearing or may receive a waiver due to a decreased likelihood of contention or interveners. The Department does not plan to change the rule based on the question.

R9-25-902(A)(1)(r)

A question was asked about why the Department is asking an applicant to waive a right.

Response: The Department is not requiring an applicant to waive a right. An applicant may state that the applicant does not agree to allow supplemental requests for information. This subsection is a standard part of all Department applications and allows the Department to obtain this information upfront, rather than asking during a review of an application. This reduces the burden on both the Department and potentially the applicant. The Department does not plan to change the rule based on the question.

R9-25-902(A)(2)(d) and (e)

A question was asked about what sources of information should be used to satisfy these requirements.

Response: The Department is not specifying what information an applicant may use, because the source is likely to differ by location. Census information is available online, and many jurisdictions have their own information available. The Department does not plan to change the rule based on the question.

R9-25-902(A)(2)(o)

A comment was made about issues with Table 9.1, which is referenced in the subsection. A comment was made that arrival times are not consistent with A.R.S. § 36-2232(A)(2).

Response: As discussed at length during the discussions of the definitions, the Department believes that it has the authority under A.R.S. § 36-2232(A)(2) to establish standards for response times in the different geographic areas that may comprise a service area. There are provisions in the draft rules for an applicant to provide information to the Department to justify response times faster or longer than the standard. The Department also believes it has the authority under A.R.S. § 36-2232(A)(7) to establish other metrics, such as “arrival time variances,” upon which to judge the efficiency and fitness of a certificate holder to operate in a service area. These topics will be discussed further during the discussion of Table 9.1. At this time, the Department does not plan to change the rule based on the comments.

R9-25-902(A)(11)

A question was asked about why different levels of supervision are being requested to satisfy this requirement.

Response: The Department is trying to obtain information about who is making the strategic and tactical decisions that may affect the operation of a ground ambulance service, as well as how the organizational structure may relate to the information provided in the ARCR. The two different levels are believed to provide the information necessary without being unduly burdensome. The Department does not plan to change the rule based on the question.

R9-25-902(A)(13)

A question was asked about what “rationale” means and whether a better description could be included of what information is being sought.

Response: The Department agrees that the requirement could be clearer and plans to change the rule as follows:

- 13. A description of the rationale for written explanation of why the applicant believes there is a public need for the applicant to receive requesting an initial certificate of necessity, including:**

R9-25-902(A)(29)

A question was asked about whether participation in a health information exchange would be equivalent to the content of subsection (A)(29)(b). Another question was asked about what national guidelines might be relevant to subsection (A)(29)(c). A comment was made that attending the state meetings in subsection (A)(29)(e) does not make sense for someone until a certificate of necessity were approved.

Response: Participation in a health information exchange may certainly satisfy the requirement in R9-25-910(J)(2)(a)(i). However, this comment alerted the Department to an incorrect cross-reference in subsection (A)(29)(b), which should refer to R9-25-910(J)(2)(a)(ii) related to the submission to the Department of the information required in R9-25-910(I)(1). What subsection (A)(29)(b) was meant to include as potential supporting documents is a plan for submitting AZPIERS data. With respect to subsection (A)(29)(c), relevant national guidelines may include, for example, stroke/STEMI guidelines from the American Heart Association or trauma guidelines from the American College of Surgeons. The Department believes that participation in state meetings, as mentioned in subsection (A)(29)(e), shows a willingness to learn how the emergency

medical system in Arizona works and to collaborate with others who are part of the system. However, the Department understands that an applicant from outside Arizona may not have had an opportunity for such participation. Subsection (A)(29) provides notice that an applicant can submit documents that the applicant believes may support the application but that are not required elsewhere. The documents listed are just examples of what an applicant may have or may provide guidance about other documents that an applicant may have and want to submit. For an applicant from outside Arizona, documentation of participation in similar statewide meetings in another state, for instance, may be available and potentially be submitted. The Department does not plan to change the rule based on the questions/comment.

Announcements/Closing Comments

Participants were advised that the date of a March Workgroup Meeting has not yet been set, and that Workgroup members would be notified of the date and teleconferencing information. Meeting Noted of the February Workgroup Meeting would again be posted and would be discussed during the March meeting. 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.

Next Workgroup Meeting

March 17, 2021 via teleconference