

**Can Ambulance Billing Stimulate the Struggling Budget
In the City of Kirtland?**

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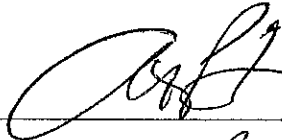
October 3, 2005

CERTIFICATION STATEMENT

I hereby certify that the following statements are true:

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ANTHONY P. HUTTON

ABSTRACT

In an effort to stimulate the struggling budget in the City of Kirtland, ambulance billing was thoroughly researched as an alternative funding source.

The purpose of the study was to provide city leaders with both the positive and negative issues relating to the subject.

Research data were collected using literature, and through evaluative research. A survey containing sixteen questions was distributed to 33 fire chiefs in Lake and Geauga counties. The data was then evaluated and used to answer the following research questions:

- 1) What is "soft billing" and what makes it legal?
- 2) How do communities in Lake and Geauga County utilize the revenue?
- 3) Based on the call volume of the Kirtland Fire Department, what is the anticipated annual revenue from ambulance billing?
- 4) What are the negative implications of ambulance billing?

The results of the research indicated that ambulance billing is a legal and acceptable alternative to provide additional revenue without raising taxes. Based on year 2003 run totals, the Kirtland Fire Department could generate more than \$150,000 in additional revenue from ambulance billing.

Although there are negative implications involved with ambulance billing, the positives far outweigh the negatives, therefore, ambulance billing is recommended as an alternative funding source.

TABLE OF CONTENTS

CERTIFICATION STATEMENT.....	2
ABSTRACT.....	3
TABLE OF CONTENTS.....	4
INTRODUCTION.....	5
STATEMENT OF PROBLEM.....	6
PURPOSE OF STUDY.....	6
RESEARCH QUESTIONS.....	6
BACKGROUND AND SIGNIFICANCE.....	7
LITERATURE REVIEW.....	10
PROCEDURES.....	15
RESULTS.....	16
DISCUSSION.....	25
RECOMMENDATIONS.....	27
REFERENCES.....	29
APPENDIX 1 - AMBULANCE BILLING QUESTIONNAIRE.....	31
APPENDIX 2 -OIG ADVISORY OPINION 04-02.....	33
APPENDIX 3 - LETTER TO EDITOR, NEW HERALD.....	39
APPENDIX 4 - LETTER FROM WILLIAM DUGAN.....	40
APPENDIX 5 - OHIO REVISED CODE §505.84 - CHARGES FOR EMS.....	43
APPENDIX 6 - OHIO REVISED CODE §737.112 - DISPOSITION OF FUNDS.....	44
APPENDIX 7 - KIRTLAND CHARTER, ARTICLE IX, §20.....	45
APPENDIX 8 - 2004 MEDICARE INDIVIDUAL REPORT.....	47
APPENDIX 9 - EMS BILLING; HOW DOES IT REALLY WORK, ANNE F. JEWEL.....	48
APPENDIX 10 - KIRTLAND FIRE DEPARTMENT, ANNUAL BUDGET, 2004.....	52
APPENDIX 11 - WILLOUGHBY HILLS ORDINANCE 2002-108.....	54

INTRODUCTION

Since September 11, 2001, the economy has had its ups and downs. Many city governments have suffered from lower revenues and budget shortfalls. The City of Kirtland is no exception.

The City of Kirtland is primarily a residential area with a population of 6,700, consisting of very little industry or commercial property. The city is home to several parks and churches, including the historic Mormon District, which accounts for thousands of visitors to the city each year. All of these institutions place added demands on the Kirtland Fire Department, but do to their tax-exempt status; they do not directly contribute financially to the Kirtland Fire Department. The primary revenue source for the city's \$6 million budget is provided through income tax.

In 2001, the Kirtland residents passed an income tax increase designated for the city services, but even this has produced less than what was anticipated.

During the past three years, several expenses such as wages, healthcare benefits, fuel, and utilities have increased significantly, while city revenues have remained flat. The \$750,000 budget surplus to begin year 2004 was reduced to \$250,000 to begin year 2005, this along with the potential reduction of the local government fund, has left the city in need of an additional funding source.

City Council has been reluctant to place a tax levy on the ballot, due to promises made in year 2001 during the income tax levy stating no additional taxes. Two school issues were defeated in year 2004 and the local school system will have other issues placed on the ballot for

the November 2005 election. The thought of opposing school and city issues on the ballot at the same time could result in a negative effect for both parties, thus, adding to council's opposition.

Due to increasing operating expenses and flat city revenues, the city of Kirtland is in need of an alternate funding source which will not increase taxes or require a vote of the people.

The problem this study investigated is "How can the City of Kirtland increase city revenues without raising taxes?" The purpose of this study was to investigate ambulance billing as an alternate funding source, and make city leaders aware of the positive and negative issues pertaining to ambulance billing.

The specific research questions this research will answer are as follows:

- 1) What is "soft billing" and what makes it legal?**
- 2) How do communities in the Lake and Geauga county utilize the revenue?**
- 3) Based on the call volume of the Kirtland Fire Department what might be the anticipated annual revenue from ambulance billing?**
- 4) What are the negative implications of ambulance billing?**

BACKGROUND & SIGNIFIGANCE

The Kirtland Fire Department is a combination department made up of 10 career and 32 part-time firefighters operating out of two stations. The department provides fire protection, EMS and rescue services to the City of Kirtland and the Village of Kirtland Hills. The primary response area of 31 square miles is mostly residential and has a population of 7,200. The Kirtland Fire Department is staffed 24/7 and has a minimum manning of five personnel on each shift, consisting of four firefighter/paramedics and one lieutenant.

Kirtland is the home to Lakeland Community College, which has a daytime population of more than 10,000 students and staff. There are three elementary schools, one middle school, and one high school in the city.

Kirtland has three Metro Parks, the Holden Arboretum, and the Kirtland Temple. The Kirtland Temple is a historical building that is part of the Church of Jesus Christ of Latter-day Saints, and has more than 200,000 visitors a year.

All of these institutions place added demands on the Kirtland Fire Department, but due to their tax- exempt status, they do not directly contribute financially to the fire department.

Located 30 miles east of Cleveland, the City of Kirtland has experienced some growth and development, but unfortunately, the low- density housing growth that is occurring does not provide a significant increase in tax revenues, but it does place additional demands on the fire department.

During the past three years, Ohioans have been hit hard by the loss of jobs. This has caused several cities to cut costs and look for alternative sources of revenues.

The problem that the City of Kirtland faces is that there is little industry or tax base to build upon. The city is currently looking into a sewer system that would open up a world of

economic possibilities, but the plan is years away. The City of Kirtland is a bedroom community and is highly dependant on income- tax revenue. In 2001 the residents passed an income tax increase designated for city services, but even this has produced significantly less than what was anticipated. The income tax revenue has not increased over the last two years; however, rising health insurance and personnel costs are the main cause of the city's budget shortfalls.

The Kirtland Fire Department is also funded by three separate fire levies, the last being passed in 1992. These three levies generate \$530,000 of the \$1,008,000 operating budget. The remainder of the budget is funded by the city's General Fund. The local school system, which is one of the best in Ohio based on proficiency ratings, had two levies pass in the last few years, and it is unlikely that voters would support any additional tax increases for any reason. The Kirtland City Council is not in favor of any plan that would increase taxes.

The Kirtland Fire Department's operating budget has remained flat during the past three years, and several large capital items, including an ambulance and staffing increases, have been delayed. Personnel costs, which account for 85% of our budget, were increased by 3%, but our overall budget decreased by 2%, meaning all operating and capital expenses were reduced significantly, therefore, increasing revenues to the city has become top priority. Although there has been no discussion of layoffs, without additional funding the fire department manning will continue to remain stagnant. The fire department call volume has increased from 400 in 1993 to 1081 in 2003, yet the staffing level has remained the same.

The City of Kirtland operates on a \$6,000,000 budget. This budget covers the police department, fire department, public works, recreation, and several smaller programs. City leaders have always subscribed to the "pie" theory when addressing the General Fund. The "pie" theory means that there is only a certain amount of money available and only so many "pieces of

the pie” to go around. Each year at budget hearings each department must show why their needs must take priority over other departments needs, and justify their “piece of the pie”.

During the past five years ambulance billing has become a topic of debate in Lake County. Several fire departments have begun to bill for ambulance services, while several have chosen not to do so.

Some local communities that have begun to charge for ambulance services have done so for one reason-to help increase their revenues. The departments that have not, question the legal and political ramifications.

LITERATURE REVIEW

During the last several years, ambulance billing has become an alternative funding source for several fire departments. The article "To Bill or Not to Bill, That Is the Question" by Tom Scott, states that there are 18,000 to 20,000 ambulance providers in the United States. However, less than 50% of the providers charged for service.

There are two types of ambulance billing, "hard billing" and "soft billing". "Hard billing" means that patients are billed and full payment is required regardless of insurance status.

Soft billing takes a slightly different approach. William Dugan, President, North Coast Physicians Billing Service, (January, 2004), states that soft billing is an accepted billing practice where the patient's insurance company is billed directly, but only to the extent of the insurance coverage. Additional care is taken to avoid billing the patient directly, and in most cases, the patient will not receive a bill or incur any out-of-pocket expense. There are some areas of concern with this type of billing practice. For example, patients may receive an explanation of benefits statement and may mistake this as a bill, or when a payment is sent directly to the patient from the insurance company, this would be the only case of the patient receiving a bill.

Mr. Dugan stated that soft billing of residents is an accepted practice, but what makes this so? During review of several local ordinances on EMS billing, this common denominator stood out:

This example was taken from the City of Willoughby Hills, Ohio. (Ordinance no. 2002-108).

"Whereas the U.S. Department of Health and Human Services by and through its office of the Inspector General has issued private advisory letters that grant their approval for this billing procedure and also the Office of the Inspector General has issued a general letter indicating this is an

an acceptable practice.”

Although this paragraph appeared in several of the ordinances that were reviewed, no city was able to provide the advisory letter to back it up. Through contact of the Office of the Inspector General (O.I.G.), the author was directed to the Medicare/Medicaid website where the document was located.

On March 1, 2004, Lewis Morris, Chief Counsel (O.I.G.) issued an opinion in the advisory letter on the soft billing practice. In summary, the O.I.G. advisory opinion 04-02 states the following: The practice of soft billing in the private sector could be construed as a type of kickback or illegal activity. However, there is a special rule or “out clause” for EMS providers that are owned and operated by a state, political subdivision, or in Kirtland’s case, a municipal fire department.

The Centers for Medicare and Medicaid Services, Medicare Benefits Policy Manual, Chapter 16, Section 50.3 states the following:

“A local government which reduces or waives its charges for patients unable to pay, or charges patients only to the extent of their Medicare or other health insurance coverage is not viewed as furnishing free service and may therefore receive program payment.”

The O.I.G. also states in advisory letter 04-02 that the soft billing practice only pertains to residents of the cities involved and does not pertain to non-residents.

In reference to non-residents, a good faith effort must be made to collect the balance or co-payment. In soft billing of residents, the co-payment is considered to be the tax revenues collected. The remaining balance is not pursued and is “written off”.

The question, “how do communities utilize the revenue?” has been an area of debate in many organizations. After speaking with several area Fire Chiefs, they stated that all funds collected for EMS billing shall go directly back to the fire department, or EMS divisions to be exact. Although this may be a sound concept, again, no department was able to provide any documentation to back up the claim.

The Ohio Revised Code is broken down into several different sections pertaining to different forms of government, such as Townships, Villages, Charter Cities, etc.

Ambulance billing revenue is addressed in Section 505.84, Paragraph 3, states the following:

Charges collected under this section shall be kept in a separate fund designated as “The ambulance and emergency medical services fund”, and shall be appropriated and administered by the board. Such funds shall be used for the payment of the costs of the management, maintenance and operation of ambulance and emergency medical services in the Township.

This section is very specific, however, it only relates to Township forms of government. Charter cities or municipal forms of government fall under a different category and ambulance billing is not specifically addressed in any section.

Section 737.112 of the Ohio Revised Code does address funds and states the following:

737.112. Disposition of Funds Received by the Fire Department

All fines imposed as discipline or punishment upon members of the fire department of a municipal corporation by the authority having charge or control thereof, the proceeds of all suits for penalties for the violation of state statues and municipal ordinances with the execution of which such department is charged, license fees or other fees payable thereunder, and fees received by such municipal corporation for any services performed or inspections made by the fire department, except fees charged and received by the municipal corporation from other subdivisions for fire protection or fire fighting therein shall be credited to the general fund of the municipal corporation.

This section of the Ohio Revised code mandates all funds collected in municipal corporations shall be credited to the general fund. Municipal corporations do however have the ability to create ordinances or resolutions and can then supercede the Ohio Revised Code. The City of Kirtland being a charter city has taken these steps.

The Charter of the City of Kirtland Article IX, City Powers, Section 1, states the following:

Granting of Powers

It is hereby established that the City of Kirtland shall have all powers that now are, or hereafter may be granted to municipalities by the Constitution or laws of Ohio; and all such powers whether expressed or implied, shall be exercised and enforced in the manner prescribed by this Charter, or when not prescribed herein, in such manner that shall be provided by ordinance or resolution of the City Council. In the absence of such provision as to any power, such power shall be exercised in the manner now or hereafter prescribed by the general laws of the State applicable to municipalities.

In summary, township fire departments and municipal fire departments fall into different categories when receiving of ambulance billing funds. Township departments must create a separate EMS fund, while municipal departments must put funds in the general fund, unless an ordinance or resolution has been passed by Council, and only then can the funds be placed elsewhere.

The question, "What is the percentage of revenue collected versus billed out in the Lake and Geauga County areas?" can be addressed through literature. The Centers for Medicare and Medicaid Services have established usual customary rates (UCR). These rates represent the maximum amount that Medicare and Medicaid will pay for a given transport.

The following are the UCR charges for the service provided in the Greater Cleveland area:

Ground Mileage	\$ 2.09
ALS, Emergency, Level 1	\$ 399.22
ALS Non-Emergency, Level 1	\$ 334.67
BLS, Emergency	\$ 87.99
BLS, Non-Emergency	\$ 76.62

In summary, Medicare and Medicaid will only pay a percentage for the services provided. Medicare will generally pay 80% of the total charge; however, they will not exceed the allowed UCR charge. Medicaid will pay only 40% of the UCR charge.

PROCEDURES

Through the first phase of the research project the question, “What is Soft Billing and what makes it legal?” was answered through literature review. The remaining research questions were touched on through literature review.

To thoroughly answer the remaining research questions, a survey (Appendix A) was distributed to 33 fire departments in Lake and Geauga Counties. Lake and Geauga County were chosen due to geographic location, similar size, population, and fire department type.

The survey consisted of sixteen questions and was distributed to every Fire Chief in Lake and Geauga Counties via e-mail. The survey was sent out in early October 2004, and was to be returned by November 1, 2004. The completed survey could either be e-mailed or faxed back. The survey questions either related directly to the research questions, or provided valuable background information.

Several of the returned surveys were incomplete or difficult to read. In these cases a follow-up phone interview was conducted with the person completing the survey to clarify the information. This was also the case with question #16, relating to “negative public backlash.” Fire chiefs and other city leaders were questioned about specific complaints regarding ambulance billing. The data collected during the survey process was thoroughly evaluated, and the numbers were averaged to provide a baseline for calculations. All of the facts and figures provided from this survey are based on assumptions that the numbers provided by the responders of the survey are accurate.

RESULTS

A survey questionnaire was distributed to all fire departments in the Lake and Geauga county areas. A total of 33 surveys were sent out and 23 or 70% of the survey were returned.

The survey contained 16 questions; each question provided valuable background information or direct information pertaining to the research question to be studied.

The results of the "Ambulance Billing Questionnaire" are as follows:

#2. Does your department charge for EMS transports?

Yes - 13 (57%) No - 10 (43%)

In Lake and Geauga County only 57% of the departments surveyed charge for service. The majority of departments that do not bill, stated they are looking into billing for service within the next year. Only two departments that do not bill and have no desire to bill, feel resident's taxes are sufficient, and ambulance billing could have a negative impact on future levies.

#3. How long has your department been charging?

Billing is somewhat new to the area, and only five departments have been billing longer than five years.

#4. Does your department use the "Soft Billing" process?

All thirteen departments reported using the "soft billing" process; however, several different approaches were noted:

The majority of the departments surveyed, 54%, reported soft billing only their residents and pursuing full payment or hard-billing non-residents. Thirty percent of the departments soft bill all transports, however, they make a good faith effort to collect the balance and will send three bills to non-residents and if no payment is made the balance is written off. This is also the

case with the remaining two departments who only soft bill non-residents and do not bill residents at all.

#6. Does your department charge when transporting mutual aid?

Sixty-one percent of departments do not charge when responding on mutual aid calls. This is due to so many departments in our area that do not bill, and long standing mutual aid agreements, stating no charges will occur.

#7. If your department billed in 2003, how many transports were completed?

This question was only answered by two departments and was removed from the survey.

#8. What was the total of funds billed out in 2003?

All thirteen departments reported a combined total of \$2,693,366 billed out.

#9. What was the total amount of funds collected in 2003?

The total of the funds collected was \$1,645,981 for a 61% collection rate.

Billed vs. Collected

Billed \$2,692,366

Collected \$1,645,981

#10. What are the rates that you are currently charging for EMS transports?

The following are the average rates for the departments surveyed:

ALS - \$502 BLS - \$379

#11. How is billing handled in your community?

All departments reported using a billing agency with a fee between 6-10% of funds collected.

#13. Do the funds collected go directly to the fire department budget?

The majority of departments (85%) reported that funds go directly back to the fire department. Only two departments reported funds going back to the General Fund.

#14. Has ambulance billing had a positive financial impact on your department?

The majority of departments (85%) reported a positive financial impact. The only two that reported no positive financial impacts were departments that placed revenue into the city's general fund.

#15. How was the announcement regarding ambulance billing communicated to your community?

Table I

<i>Notification Method</i>	N
Newspaper	6
Letters/Flyers	3
Word of mouth	3
No announcement	6

The community educational programs to notify residents varied between departments. The survey results indicated that all four areas were utilized; newspaper, letters/flyers, word of mouth, and no announcement were made in six communities. On a follow-up phone interview, the majority of departments that made no announcement received the majority of complaints. This was due to a lack of understanding of the process and reasons behind ambulance billing. As stated earlier, confusion between explanation of benefits and bills were the most common problems.

#16. Was there any negative public backlash upon implementation?

Forty-six percent of the departments surveyed reported negative feedback

In summary, based on the results of the literature review, survey, and follow-up phone interviews this author has concluded the following in regard to the four research questions:

1. What is “soft billing” and what makes it legal?

There are two types of EMS billing, “hard billing,” and “soft billing”. “Hard billing” means the patients are billed and full payment is required regardless of insurance status. “Soft billing” or insurance billing means the patients insurance company is billed directly and in most cases the patients never receive a bill. No out-of-pocket expense would accrue to the patient. In this case, any remaining balance or co-payment is written-off and no further collection is pursued. Several cities that use the soft billing process do not send bills to the patients without insurance and, these cases are written off immediately, thereby, reducing the negative publicity and complaints about the soft billing program.

Two different types of billing systems are used in Lake and Geauga Counties. Electronic and paper hard copies of the EMS reports are forwarded to the billing companies. The City of Willoughby Hills uses a unique system. They send in the hard copies along with patient demographic information to the billing company twice a month. They send resident reports in on the first of the month and non-residents in on the 15th. Each packet and report is stamped “Resident” or “Non-Resident”. Using this system the residents and non-residents reports are kept separate, thereby reducing complaints from residents being billed as non-residents.

The question, What makes this legal?. can be answered by the following:

On March 1, 2004, Lewis Morris, Chief Counsel (O.I.G.) issued an opinion in the advisory letter on the soft billing practice. In summary, the O.I.G. advisory opinion 04-02 states the following: The practice of soft billing in the private sector could be construed as a type of kickback or illegal activity. However, there is a special rule or “out clause” for EMS providers

that are owned and operated by a state, political subdivision, or in Kirtland's case, a municipal fire department.

The Centers for Medicare and Medicaid Services, Medicare Benefits Policy Manual, Chapter 16, Section 50.3 states the following:

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In reference to non-residents, a good faith effort must be made to collect the balance or co-payment. In soft billing of residents, the co-payment is considered to be the tax revenues collected. The remaining balance is not pursued and is “written off”.

2. How do communities in Lake and Geauga County utilize the revenue?

In Lake and Geauga County, several different approaches were noted in regard to the utilization of revenues.

The following are examples of how departments utilize the funds:

Table 2

Ambulance Fund Utilization

Training

Special Rescue Teams

EMS Salaries

EMS Equipment

Capital Equipment Fund (city as a whole)

Fire Department Capital Improvement Fund

General Fund (city as a whole)

Fire Department Operations

Rescue Squad Purchases

Part-Time Staffing

EMS Operations

Fire Station Bond Retirement

3. Based on the call volume for the Kirtland Fire Department, what is the anticipated annual revenue from ambulance billing?

Based on the call volume of the Kirtland Fire Department in year 2003, the following is a projection of potential revenue, using the survey result, 61% collection rate.

In year 2003, the Kirtland Fire Department completed 649 transports, 72% (467) were ALS, and 28% (187) were BLS.

Based on the department's current fee schedule of \$475.00 for ALS and \$375.00 for BLS, the Kirtland Fire Department should expect the following revenue:

Table 3

Kirtland Fire Department Projected Revenue

<u>Type</u>	<u>Transports</u>	<u>Rate</u>	<u>Total Billed</u>	<u>61% Collection</u>
ALS	467	\$475	\$221,825	\$135,313
BLS	187	\$375	\$ 70,125	\$ 42,776
TOTAL POTENTIAL COLLECTION				\$178,089

4. What are the negative implications of ambulance billing?

The majority of the problems were, the explanation of benefits being confused with the billing. This has been a common problem across the board. Other issues include complaints from non-residents after being sent to collection agencies, citizens writing letters to the editors of newspapers, and voicing their displeasure with the billing at council meetings. Several residents complained that they pay taxes and feel they are being double billed for service.

In follow-up phone interviews with local fire chiefs regarding negative issues:

The Painesville Fire Department reported a "Letter to the Editor" of the Lake County News-Herald. The letter was titled "Ripped Off", and was related to sky rocketing healthcare costs.

The following is an excerpt from this letter:

"We seniors wonder why healthcare costs have rocketed.

Part of the answer is we are getting ripped off. Not only by healthcare providers but also by public tax supported agencies."

The resident also went on to complain about the local fire department charging \$585.00 to transport his wife across the street to the hospital. He added that his wife was later transported by a private ambulance fourteen miles to another hospital and the cost was half of the city's charge.

The Willoughby Hills Fire Department received a complaint from a non-resident that was transported as a result of a fall. This person was billed \$350.00. He stated he was a councilman in his city of residence and they do not charge, therefore, he will not pay the bill. The Councilman understood the Willoughby Hills Fire Department soft-billed non-residents and he would receive three bills for the co-payment and then his account would be written off, therefore, he would not be personally responsible for the bill. This type of action could pose a threat to collection efforts, if non-residents become aware of the soft-billing procedures used in different communities and refuse to pay the co-payment, collections could suffer.

One other common problem that was reported is the case of a patient that does not want to be transported.

Examples, DUIs, mental patients or people that have to be talked into going to the hospital. When these persons receive a bill for service, they are reluctant to pay, because they did not personally request the service.

City leaders and fire chiefs have also received complaints from residents stating they will no longer support tax levies because they are now paying for city services that used to be provided by taxes. However, on November 2, 2004, five area fire departments that bill for ambulance service had fire levies on the ballot and only one levy failed.

In follow-up e-mail and telephone conversations with fire chiefs in Lake and Geauga Counties In October 2005, it was reiterated that complaints and problems have been minimal. In general, residents and non-residents have had questions about the billing process, which were easily explained by fire chiefs; however, no major problems or complaints were noted by any of the 33 fire chiefs contacted.

DISCUSSION

The problem this study investigated was how can the City of Kirtland increase city revenues without raising taxes? The purpose was to investigate ambulance billing as an alternate funding source. Several areas pertaining to ambulance billing were investigated using literature review, surveys, and follow-up phone interviews.

The literature review process provided valuable information regarding the legal issues pertaining to "soft billing". In fact, the OIG Advisory Opinion (02-04) issued by Lewis Morris, Chief Counsel on March 1, 2004, is the main document allowing for the soft billing process nationwide. Literature review also provided information on Medicare and Medicaid guidelines and charges, and acceptable methods to distribute funds collected in both cities and townships.

A survey consisting of 16 questions was distributed to all fire chiefs in Lake and Geauga County. The survey questions pertained directly to research questions or provided valuable background information.

Upon evaluation of the results, a few key facts stood out. Forty-three percent of responders in Lake and Geauga County do not bill for service. The majority of departments that do charge have been doing so for less than five years, so it is relatively new to the area.

A surprising fact was the collection rate in our area was only 61% of funds billed out, this is partially due to 2 departments beginning billing programs within the past year, and slower initial collection.

Forty-six percent of departments surveyed have reported complaints, however, based on the number of transports versus complaints; the complaints were minimal and did not impact the program.

The implications of the study on the city appear to be positive. With the City of Kirtland experiencing rising expenses and flat revenues, ambulance billing is a valid option for additional funding without raising taxes.

RECOMMENDATIONS

Due to budget shortfalls and difficult financial times, several city governments have had to look “outside the box” for alternate funding sources. The City of Kirtland has begun to look at several options in effort to improve city revenues without raising taxes.

The problem this study investigated was how can the City of Kirtland increase city revenues without raising taxes? The purpose of this study was to investigate ambulance billing as an alternate funding source, and make city leaders aware of the positive and negative issues pertaining to ambulance billing.

As a direct result of this research project, this author has determined that ambulance billing is a legal acceptable funding alternative for the City of Kirtland. All medical insurance companies include “ambulance service” as part of their emergency services program, and it is already included in most health plans. This funding source is not only available; it is relatively untapped in the area, with only 57% of departments charging for service.

The positive implications ambulance billing could have on the City of Kirtland is increased revenue, as much as \$178,000 based on 2003 run totals using the survey result 61% collection rate.

The increase in revenue would not increase taxes and only resident’s insurance companies who actually use the service would be soft billed. Another positive implication is no out-of-pocket expense would ever come to the residents of the City of Kirtland making this option more palatable to the community.

The revenue collected would be placed in the city coffers and open up more of the “pie” or General Fund to be distributed to all city departments, thereby increasing the city’s ability to provide better service to all departments of the community at relatively zero cost to the residents.

There are negative issues that must be addressed: the public perception of the fire department is that of a tax supported non-profit entity and by charging for service, the fire department may be viewed as for-profit. This perception could impact future fire levies and fund-raising activities. The key to successful implementation is an educational program. The public must be informed why the additional funding is needed and why ambulance billing is a viable option. The community must understand that they will not be responsible for payment of any kind and this option will not create any type of out-of-pocket expense or tax increase.

During the process of this research project, the City of Kirtland did implement an ambulance billing program based on this research and recommendation. Obviously, ambulance billing may not solve all of the city's financial shortfalls; however, this program could generate greater than \$178,000 in additional revenue, providing a much needed boost to the city's struggling budget.

Although it is too early to assess the financial and political impact ambulance billing will have on the City of Kirtland, based on the trends in the area it all points toward a successful outcome.

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§ 737.112.

Ohio Revised Code. (1988). *Charges for Ambulance or Emergency Medical Service.*

§ 505.84.

Scott, Tom (2001). To bill or not to bill, that is the question?

Merginet, 1-3.

Survey for Ohio Fire Executive Research Project
"Ambulance Billing Questionnaire"

APPENDIX I

Please complete the survey below and return by November 1, 2004. Upon completion of the survey, please return in the self-addressed stamped envelope provided.

1) Department name: _____

County: _____

2) Do you charge for EMS transports?

(circle one) YES or NO

If no, briefly explain why _____

3) If yes, how long has your department been charging? (circle one)

- a. Less than 5 years
- b. 5-10 years
- c. Greater than 10 years

4) Does your department use the "Soft Billing" process?

(circle one) YES or NO

5) If yes, to whom does this apply? (circle one)

- a. Residents
- b. Non-Residents
- c. All Transports
- d. Mutual Aid

6) If your department billed in 2003, how many transports were completed?

a. Residents: _____

b. Non-Residents: _____

7) What was the total amount of funds **billed** out in 2003?

8) What was the total amount of funds **collected** in 2003?

9) What are the rates that you are currently charging for EMS transports?

a. ALS: _____

b. BLS: _____

10) How is billing handled in your community? (circle one)

- a. Local government
- b. Billing agency
- c. Other

11) If your community uses a billing agency, what is their fee? (circle one)

- a. 5% or less
- b. 6 to 10%
- c. Greater than 10%

12) Do the funds collected for EMS transports go directly to the fire department budget?
(circle one) YES or NO

13) Briefly describe how the funds are utilized in your community below:

14) Has ambulance billing had a positive financial impact in your community?
(circle one) YES or NO

15) How was the announcement regarding ambulance billing communicated to your community?
(circle all that apply)

- a. Newspaper(s)
- b. Letters/Flyers
- c. Word of mouth
- d. No announcement made

16) Was there any negative public backlash upon implementation?
(circle one) YES or NO



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General

Washington, D.C. 20201

[We redact certain identifying information and certain potentially privileged, confidential, or proprietary information associated with the individual or entity, unless otherwise approved by the requestor.]

Issued: March 1, 2004

Posted: March 8, 2004

[name and address redacted]

Re: OIG Advisory Opinion No. 04-02

Dear [name redacted]:

We are writing in response to your request for an advisory opinion about a political subdivision of a municipality that owns and operates an ambulance service and that proposes to treat revenue received from a special utility assessment as payment of otherwise applicable copayments and deductibles due from residents (the "Proposed Arrangement"). Specifically, you have asked whether the Proposed Arrangement would constitute grounds for the imposition of sanctions under the exclusion authority at section 1128(b)(7) of the Social Security Act (the "Act") or the civil monetary penalty provision at section 1128A(a)(7) of the Act, as those sections relate to the commission of acts described in section 1128B(b) of the Act, or under the civil monetary penalties provision for illegal remuneration to beneficiaries, section 1128A(a)(5) of the Act.

You have certified that all of the information you provided in your request is true and correct, and constitutes a complete description of the material facts regarding the Proposed Arrangement.

In issuing this opinion, we have relied solely on the facts and information presented to us. We have not undertaken an independent investigation of such information. This opinion is limited to the facts presented. If material facts have not been disclosed or have been misrepresented, this opinion is without force and effect.

Based on the facts certified in your request for an advisory opinion and supplemental information, we conclude that the Proposed Arrangement would not generate prohibited remuneration under the anti-kickback statute. Accordingly, the Office of Inspector General ("OIG") would not impose administrative sanctions on [name redacted] under sections 1128(b)(7) or 1128A(a)(7) of the Act (as those sections relate to the commission of acts described in section 1128B(b) of the Act) in connection with the Proposed Arrangement. In addition, the OIG would not impose administrative sanctions on [name redacted] under section 1128A(a)(5) of the Act in connection with the Proposed Arrangement. This opinion is limited to the Proposed Arrangement and, therefore, we express no opinion about any ancillary agreements or arrangements disclosed or referenced in your request letter.

This advisory opinion may not be relied on by any persons other than [name redacted], the requestor of this opinion, and is further qualified as set out in Part IV below and in 42 C.F.R. Part 1008.

I. FACTUAL BACKGROUND

[Name redacted] (the "Fire Department"), a political subdivision of [city redacted] (the "City"), is the exclusive provider of emergency medical services ("EMS") within the City limits and does not subcontract these services. The Fire Department provides emergency medical treatment and transport services 24 hours a day, seven days a week. The Fire Department does not provide routine transportation services.¹

The City adopted and implemented an EMS funding ordinance, authorizing it to begin billing for emergency medical services, so that the Fire Department's EMS would be funded through billing for services provided and a monthly utility fee placed on residents' water bills. The ordinance authorizes the billing of residents or their insurers, including Federal health care programs, only to the extent of their insurance coverage (i.e., no out-of-pocket costs) and treats the revenues received from the utility fee as payment of any otherwise applicable copayments and deductibles due from the residents (i.e., "insurance only" billing). While the Fire Department is billing for EMS services, it has deferred implementation of the insurance-only billing part of the ordinance pending receipt of an advisory opinion from the OIG.

¹The Fire Department has disclosed that it contracts with a medical director to oversee medical operations. No opinion has been sought, and we express no opinion, regarding the medical director agreement.

II. LEGAL ANALYSIS

A. Law

The anti-kickback statute makes it a criminal offense knowingly and willfully to offer, pay, solicit, or receive any remuneration to induce or reward referrals of items or services reimbursable by a Federal health care program. See section 1128B(b) of the Act. Where remuneration is paid purposefully to induce or reward referrals of items or services payable by a Federal health care program, the anti-kickback statute is violated. By its terms, the statute ascribes criminal liability to parties on both sides of an impermissible “kickback” transaction. For purposes of the anti-kickback statute, “remuneration” includes the transfer of anything of value, directly or indirectly, overtly or covertly, in cash or in kind. The statute has been interpreted to cover any arrangement where one purpose of the remuneration was to obtain money for the referral of services or to induce further referrals. United States v. Kats, 871 F.2d 105 (9th Cir. 1989); United States v. Greber, 760 F.2d 68 (3d Cir.), cert. denied, 474 U.S. 988 (1985). Violation of the statute constitutes a felony punishable by a maximum fine of \$25,000, imprisonment up to five years, or both. Conviction will also lead to automatic exclusion from Federal health care programs, including Medicare and Medicaid. Where a party commits an act described in section 1128B(b) of the Act, the OIG may initiate administrative proceedings to impose civil monetary penalties on such party under section 1128A(a)(7) of the Act. The OIG may also initiate administrative proceedings to exclude such party from the Federal health care programs under section 1128(b)(7) of the Act.

B. Analysis

The “insurance only” billing under the Proposed Arrangement may implicate the anti-kickback statute to the extent that it constitutes a limited waiver of Medicare or other Federal health care program cost-sharing amounts. Our concern about potentially abusive waivers of Medicare cost-sharing amounts under the anti-kickback statute is longstanding. For example, we have previously stated that providers who routinely waive Medicare copayments or deductibles for reasons unrelated to individualized, good faith assessments of financial hardship may be held liable under the anti-kickback statute. See, e.g., Special Fraud Alert, 59 Fed. Reg. 65374 (Dec. 19, 1994). Such waivers may constitute prohibited remuneration to induce referrals under the anti-kickback statute, as well as a violation of the civil monetary penalty prohibition on inducements to beneficiaries, section 1128A(a)(5) of the Act.

However, there is a special rule for providers and suppliers that are owned and operated by a state or a political subdivision of a state, such as a municipality or fire department. The Centers for Medicare & Medicaid Services (“CMS”) Medicare Benefit Policy Manual (“BPM”) Chap. 16, section 50.3 provides that:

a [state or local government] facility which reduces or waives its charges for patients unable to pay, or charges patients only to the extent of their Medicare and other health insurance coverage, is not viewed as furnishing free services and may therefore receive program payment.

BPM Chap. 16, section 50.3 (formerly Medicare Carrier Manual section 2309.4 and Medicare Intermediary Manual section 3153.3A). Notwithstanding the use of the term “facility,” CMS has confirmed that this provision would apply to a state or municipal ambulance company that is a Medicare Part B supplier.

Accordingly, since Medicare would not require the Fire Department (a municipal company) to collect cost-sharing amounts from residents, we would not impose sanctions under the anti-kickback statute where the cost-sharing waiver is implemented by the Fire Department categorically for *bona fide* residents of the City.² Nothing in this advisory opinion would apply to cost-sharing waivers based on criteria other than residency.

We note that this provision of the CMS manual applies only to situations in which the governmental unit is the ambulance supplier; it does not apply to contracts with outside ambulance suppliers. For example, where a municipality contracts with an outside ambulance supplier for the provision of services to residents of its service area, the municipality cannot require the ambulance supplier to waive out-of-pocket cost-sharing amounts unless the municipality pays the cost-sharing amounts owed or otherwise makes provisions for the payment of such coinsurance. See, e.g., OIG Advisory Opinion No. 01-12 (July 20, 2001). There is an important difference between a municipally owned ambulance company voluntarily waiving coinsurance for its own residents and a municipality requiring a private company to bill “insurance only” as a condition of getting the municipality’s EMS business, including Medicare business. Lump sum or periodic payments by the municipality, on behalf of residents or others, may be permitted if the payments are reasonably calculated to cover the expected uncollected coinsurance obligations.

²We note that for the same reasons we would not impose sanctions under section 1128A(a)(5) of the Act.

III. CONCLUSION

Based on the facts certified in your request for an advisory opinion and supplemental information, we conclude that the Proposed Arrangement would not generate prohibited remuneration under the anti-kickback statute. Accordingly, the OIG will not impose administrative sanctions on [name redacted] under sections 1128(b)(7) or 1128A(a)(7) of the Act (as those sections relate to the commission of acts described in section 1128B(b) of the Act) in connection with the Proposed Arrangement. In addition, the OIG would not impose administrative sanctions on [name redacted] under section 1128A(a)(5) of the Act in connection with the Proposed Arrangement. This opinion is limited to the Proposed Arrangement and, therefore, we express no opinion about any ancillary agreements or arrangements disclosed or referenced in your request letter.

IV. LIMITATIONS

The limitations applicable to this opinion include the following:

- This advisory opinion is issued only to [name redacted], the requestor of this opinion. This advisory opinion has no application to, and cannot be relied upon by, any other individual or entity.
- This advisory opinion may not be introduced into evidence in any matter involving an entity or individual that is not a requestor of this opinion.
- This advisory opinion is applicable only to the statutory provisions specifically noted above. No opinion is expressed or implied herein with respect to the application of any other federal, state, or local statute, rule, regulation, ordinance, or other law that may be applicable to the Proposed Arrangement, including without limitation, the physician self-referral law, section 1877 of the Act.
- This advisory opinion will not bind or obligate any agency other than the U.S. Department of Health and Human Services.
- This advisory opinion is limited in scope to the specific arrangement described in this letter and has no applicability to other arrangements, even those which appear similar in nature or scope.

- No opinion is expressed herein regarding the liability of any party under the False Claims Act or other legal authorities for any improper billing, claims submission, cost reporting, or related conduct.

This opinion is also subject to any additional limitations set forth at 42 C.F.R. Part 1008.

The OIG will not proceed against [name redacted] with respect to any action that is part of the Proposed Arrangement taken in good faith reliance upon this advisory opinion, as long as all of the material facts have been fully, completely, and accurately presented, and the Proposed Arrangement in practice comports with the information provided. The OIG reserves the right to reconsider the questions and issues raised in this advisory opinion and, where the public interest requires, to rescind, modify, or terminate this opinion. In the event that this advisory opinion is modified or terminated, the OIG will not proceed against [name redacted] with respect to any action taken in good faith reliance upon this advisory opinion, where all of the relevant facts were fully, completely, and accurately presented and where such action was promptly discontinued upon notification of the modification or termination of this advisory opinion. An advisory opinion may be rescinded only if the relevant and material facts have not been fully, completely, and accurately disclosed to the OIG.

Sincerely,

/s/

Lewis Morris
Chief Counsel to the Inspector General

In keeping with your stated desire to pursue a "soft billing" approach, it is likely that you would want us to eliminate the use of these statements, or use them only on an exception basis. If you should decide to totally eliminate their use, it is important to realize that there will be cases where insurance companies issue payment directly to the patients, rather than to our office. If we were to refrain from sending out statements when this occurs, the patients would never be alerted to the need to send in a payment, and the balances would, in most cases, end up being written off.

We have the flexibility to handle dunning statement usage or non-usage in whatever manner you feel is best for your particular circumstances.

Fee Schedule

Some clients who undertake both resident and non-resident billing have two fee schedules: one for residents and another for non-residents. Other clients use the same fee schedule for both categories of transports.

Community Announcement

In the event that you decide to perform resident billing, we would highly recommend that advance notification be made to your community through one or more avenues of communication, be it by newspaper, direct mailing, etc. This is important because, even when all attempts are made to deal exclusively with insurance companies, most insurers mail "Explanation of Benefits" copies to their subscribers whenever payment is issued on a medical bill. The receipt of a such a document might confuse a resident who was otherwise unaware of your new ambulance billing policy.

Separate Monthly Report Tracking of Resident Accounts

In the event that you decide to bill for resident transports, we will designate a new "Billing Area" in our system so that you can separately monitor your resident and non-resident billing and collection activity. The effect of this will be to produce for you a second set of monthly reports in the same format as that which you currently receive for your non-resident accounts.

Medicare Deductible and Coinsurance Amounts

A number of opinions have been issued by the Office of Inspector General that indicate it is allowable for a municipality, which owns and operates its own ambulance service, to waive the deductible and/or copayment amounts that would otherwise be owed by Medicare patients. As many, if not most, Medicare patients have supplemental insurance which pays some or all of the deductible and coinsurance portions, it is likely that most municipalities that use a "soft billing" approach would opt to waive only those balances that are not covered by such insurance.

We are not attorneys and, therefore, cannot advise you one way or the other on this; however, we would suggest that you visit various web sites that address this subject, a few of which include:

www.oig.hhs.gov/fraud/docs/advisoryopinions/2002/ao0215.pdf

www.cms.gov (Enter a search for "Carrier Manual section 2309.4")

www.pwvems.com/ACTIVE/Tips/TipsArchives/07.26.01.htm

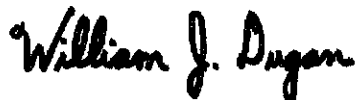
www.sidneyoh.com/PDF/Fire/EMSUserFee.pdf

In addition to the above, it would be a good idea to discuss this matter with your in-house counsel.

We can handle the billing of the Medicare deductible and coinsurance portions in whatever manner you wish.

I hope the above information will be helpful to you. As always, if you have any questions or concerns, please do not hesitate to call me at (216) 831-2300, ext. 272.

Sincerely,



William J. Dugan

WJD/pak:12251

§ 505.84. Charges for ambulance or emergency medical services.

As used in this section, "authorized medicare reimbursement rate" means such rate established for the locality under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

A board of township trustees may establish reasonable charges for the use of ambulance or emergency medical services. The board may establish different charges for township residents and nonresidents, and may at its discretion waive all or part of the charge for any resident. The charge for nonresidents shall be an amount not less than the authorized medicare reimbursement rate, except that if prior to the effective date of this amendment the board had different charges for residents and nonresidents and the charge for nonresidents was less than the authorized medicare reimbursement rate, the board may charge nonresidents less than the authorized medicare reimbursement rate.

Charges collected under this section shall be kept in a separate fund designated as "the ambulance and emergency medical services fund," and shall be appropriated and administered by the board. Such funds shall be used for the payment of the costs of the management, maintenance, and operation of ambulance and emergency medical services in the township. If the ambulance and emergency medical services are discontinued in the township, any balance remaining in the fund shall be paid into the general fund of the township. ?

HISTORY: 138 v S 82 (Eff 10-31-79); 142 v H 256. Eff 9-9-88.

[§ 737.11.2] § 737.112. Disposition of funds received by fire department.

All fines imposed as discipline or punishment upon members of the fire department of a municipal corporation by the authority having charge or control thereof, the proceeds of all suits for penalties for the violation of state statutes and municipal ordinances with the execution of which such department is charged, license fees or other fees payable thereunder, and fees received by such municipal corporation for any services performed or inspections made by the fire department, except fees charged and received by the municipal corporation from other subdivisions for fire protection or fire fighting therein shall be credited to the general fund of the municipal corporation.

HISTORY: RS Bates § 1536-596(c); 95 v 224, § 1(c); 97 v 243, § 1(c); GC § 4607; 118 v 283; Bureau of Code Revision, RC § 741.10, 10-1-53; 131 v 278 (Eff 11-5-65); RC § 737.11.2, 141 v H 201. Eff 7-1-85.

and propose for adoption any alterations, revisions or amendments which the Committee deems advisable. Council shall submit all such proposals to the electorate for adoption at the next general election. Each such Charter Review Committee shall cease to function on the day of the next general election following its appointment. The members of the Committee shall serve without compensation, but Council shall provide for the payment of its reasonable expenses.

ARTICLE VIII GENERAL PROVISIONS

Section 1. Effect of Partial Invalidity.

A determination that any part of this Charter is invalid shall not invalidate or impair the force or effect of any other part thereof, except to the extent that such other part is wholly dependent for its operation upon the part declared invalid.

Section 2. Interpretation.

The article and section headings herein have been inserted for convenience in reference and are not intended to define or limit the scope of, or otherwise affect, any provision of this Charter.

Whenever the Charter requires the affirmative vote of a stated fraction of the Council, the multiplicand shall be seven (7) reduced by the number of vacancies then existing in the Council.

The period of residence in the Municipality required by this Charter as a qualification for elective office shall include the period of residence in any territory which has been annexed to the Municipality.

Section 3. Effective Date.

This Charter shall become effective from the time of its approval by the electors on November 3, 1970.

Amendments to the Charter, which are approved by a majority of those voting in the election, shall become a part of the Charter of the City of Kirtland and shall take effect on the day the election results are certified to the City by the Board of Elections of Lake County, and any existing sections affected by such amendments shall be repealed from such effective date. (Amended 11-4-80; 11-6-90)

ARTICLE IX CITY POWERS

Section 1. Granting of Powers.

It is hereby established that the City of Kirtland shall have all powers that now are, or hereafter may be granted to municipalities by the Constitution or laws of Ohio; and all such powers whether expressed or implied, shall be exercised and enforced in the manner prescribed by this Charter, or when not prescribed herein, in such manner that shall be provided by ordinance or resolution of the City Council. In the absence of such provision as to any power, such power shall be exercised in the manner now or hereafter prescribed by the general laws of the State applicable to municipalities. (Amended 11-4-80)

Section 2. Powers Not Limited by Charter.

The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated herein, implied thereby or appropriate to the

exercise thereof the City shall have, and may exercise all other powers which under Constitution and laws of Ohio, it would be competent for this Charter specifically to enumerate.
(Amended 11-4-80)

Section 3. Applicability of State Law.

All general laws of the State applicable to municipal corporations, now or hereafter enacted, which are not in conflict with the provisions of this Charter, or with ordinances or resolutions hereafter enacted by the City Council, shall be applicable to this City; provided, however, that nothing contained in this Charter shall be construed as limiting the powers of the City Council to enact any ordinance or resolution not in conflict with the Constitution of the State or this Charter.
(Amended 11-4-80; 11-6-90)



January 20, 2004

Re: 2004 Medicare Individual Report

Dear Provider:

Enclosed is your 2004 Medicare Part B Individual Ambulance Report.

Sincerely,

Disclosure Unit
Medicare Part B Operations
Ohio and West Virginia

Enclosure

PALMETTO GBA
MEDICARE PART B OPERATIONS
P.O. BOX 182934 • COLUMBUS, OHIO 43218-2934
A CMS CONTRACTED INTERMEDIARY AND CARRIER

2004 Medicare Allowed Amounts: City of Kirtland

<u>Service</u>	<u>City of Kirtland Fee</u>	<u>2004 Medicare Allowed</u>
ALS	475.00	328.62
BLS	375.00	194.65

EMS Billing: How Does It Really Work?

Anne F. Jewel

Free Money? In the current climate of tight budgets, it may sound too good to be true, but it's there for cities and villages not currently pursuing insurance reimbursement to help pay the high cost of providing emergency services. Many communities across the country routinely request reimbursement from the federal and state governments, private insurance companies and individuals for the cost of emergency transportation to a hospital in municipally owned ambulances.

It sounds simple enough, but how does it really work? Do residents complain when municipalities bill for emergency medical services ("EMS") because they feel they are already paying taxes for these services? Does billing for EMS services affect mutual aid agreements with other jurisdictions? Do communities actually receive the amount of revenue promised in the projections provided by the billing companies? What additional administrative duties must municipal employees perform in order to bill for EMS services?

How Does It Work?

Fire Department EMS crews that bill for their services collect insurance billing information at the time they transport a patient to the hospital. Some crews are

equipped with hand-held computers allowing the insurance information to be sent electronically directly to a billing company hired by the municipality. The EMS crew determines whether the person transported is covered by Medicare, Medicaid or by private insurance and whether the person is a resident of the municipality. This information is provided to the billing company which generates a bill for the cost of the ambulance transport and sends it directly to the appropriate payer.

Policy Decisions

Before the billing company sends out the bills, municipal decision-makers must make some policy decisions regarding who will be billed. Although the focus of most EMS billing programs is to recover the cost of ambulance transport from governmental and insurance company payers, many questions regarding resident billing arise. Will residents not covered by private insurance, Medicaid or Medicare be billed? What if these residents cannot afford to pay? Will residents be billed for co-payments? How will non-residents be treated? Some municipalities have chosen to shoulder the entire cost of the EMS transport and never bill uninsured residents, while others have chosen to bill uninsured residents in

order to maximize income to the EMS program. And finally, decision-makers must provide direction to the billing company regarding how strenuously collection efforts against residents should be pursued.

Billing Private Insurance Companies

If the patient is covered by private insurance, the billing company will attempt to collect for the cost of the transport from the insurance company. Typically, managed care companies pay the full amount of the "billed charges" submitted by the municipality's billing company because they are required by law to protect their members from being directly billed by health care providers.

Indemnity insurance companies and municipalities, on the other hand, have had a difficult time agreeing on the level of reimbursement, if any, that private insurers will provide for transport of their insureds. Insurance companies argue that the 9-1-1 program, including the EMS transport, is supported by tax dollars and should be paid for from public funds. Municipalities counter that the cost of emergency ambulance coverage is already

See EMS Billing on page 11

EMS Billing from page 9

figured into the premium paid by insureds and therefore the insurance company should provide the benefit paid for by the insured. If the insurance company and the municipality have not agreed to contract, the insurer is within its rights to refuse to reimburse the municipality directly, instead sending the reimbursement check to the insured.

Even if the patient has agreed to "assign" the rights to insurance benefits directly to the municipality, insurance companies are not required by law to respect the assignment of the benefits. This practice of reimbursing the patient rather than the provider puts the municipality in the position of having to "chase" the patient for the private insurance reimbursement, which some municipalities may find difficult or distasteful. In order to avoid pursuing residents for insurance reimbursements, or forgoing the reimbursement altogether, the municipality may find it preferable to contract directly with the insurance company, even though the level of reimbursement offered by the insurance company may not be as high as the municipality would like.

Billing Medicare or Medicaid

If the person transported is covered by Medicare or Medicaid, the billing company will send Medicare or Medicaid a bill for the services rendered. Medicaid does not require any co-payments or deductibles from patients for services, but Medicare typically does. An advisory opinion issued in 2001 by The Office of the Inspector

General ("OIG") within the federal Department of Health & Human Services, clarified that although the Medicare program usually requires a provider to collect a co-payment, when the provider is a political subdivision

of a state, it is not required to collect co-payments or deductibles for services provided to its residents. The political subdivision may consider the operating revenue received from local taxes paid by residents as pay-

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ment for otherwise applicable co-payments or deductibles, and may, but is not required to, collect a co-payment from residents for EMS transport.

However, the OIG opinion makes a distinction between residents and non-residents. When a municipality provides ambulance service to a non-resident who happens to have an emer-

gency within the jurisdiction, the municipality may not waive the co-payment for the ambulance transport of the non-resident. However, in some situations, a non-resident who works in the jurisdiction can be considered a bona fide resident.

As a result of all of the different billing situations that may arise, it is important to carefully draft

the municipality's original ordinance authorizing billing for EMS services to ensure that the policy decisions regarding billing comply with the Medicare rules. For example, failure to collect the co-payment from a person considered to be a non-resident while collecting payment for the transport from Medicare can be a violation of the Medicare rules, subjecting the violator to fines or other penalties.

GOVERNMENTAL SYSTEMS

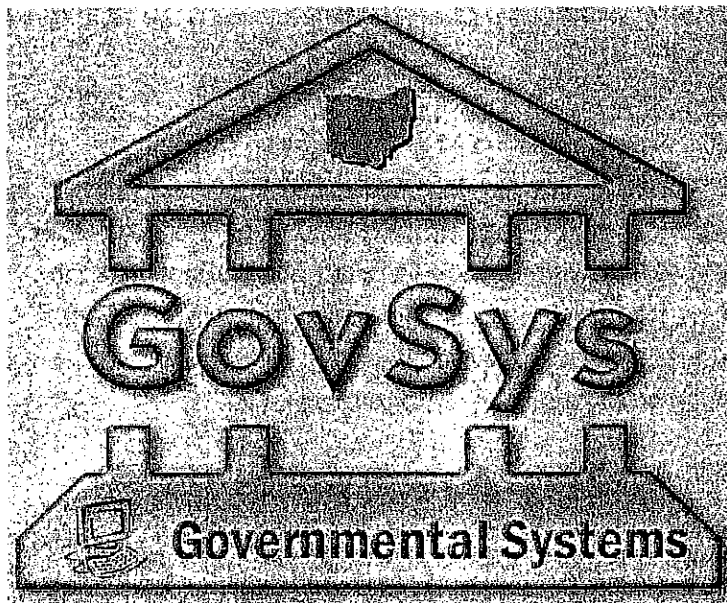
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Mutual Aid Agreements

When two jurisdictions have previously entered into a mutual aid agreement and one jurisdiction begins to bill for ambulance transport and the other jurisdiction does not, problems can arise. Washington Township has recently ended its mutual aid agreement for EMS transport with the City of Columbus over the issue of billing for EMS runs. The Washington Township Trustees decided not to bill their residents or Columbus residents for EMS services and objected to Columbus's plans to bill the residents of Washington Township. Washington Township Trustees and the City of Columbus were not able to come to an agreement regarding the billing of Township residents and so the Township Trustees elected to terminate the arrangement rather than use Township tax revenues to provide free services to Columbus residents for which Township residents would be required to pay if provided by Columbus EMS crews.

Revenue Projections

When deciding whether to initiate billing for EMS services,

municipal decision-makers should fully evaluate the revenue projections provided by the billing companies. The underlying assumptions upon which the billing company projections are based should also be carefully scrutinized. Some local communities that have initiated billing for ambulance transport have reported that actual revenue has fallen significantly short of projected revenue, while others have been pleased with the actual revenue received.

Additional Duties for Municipal Employees

Although the billing company handles the actual billing operations, there may be some additional responsibilities that fall to municipal employees. For example, residents will typically receive a notice from Medicare or from their private insurer indicating that benefits have been paid for the ambulance transport. Inevitably, some residents may interpret the benefit statement as a bill and send a duplicate payment to the municipality. The municipality will then be required to process the check and issue a refund to the resident. In addition, if the municipality receives any health information regarding the residents, such as copies of the Medicare Explanation of Benefits statement sent in by a resident with a duplicate payment, the municipi-

ality should consult counsel to determine if the HIPAA privacy and security rules require the municipality to take specific steps regarding the resident's personal health information.

Some municipalities are also undertaking educational campaigns to explain the EMS billing practices to their residents and even providing telephone numbers for residents to get further information specifically on EMS billing issues.

Do Residents Object?

According to one local EMS billing company, about forty-five percent of the funds generated by the typical EMS billing operation come from the Medicare program, about twenty-five percent from private insurance, about twenty percent from individuals without insurance, and a small amount of revenue is received from the Medicaid program. Jurisdictions that currently have EMS billing operations in place do not report significant issues regarding objections by residents without insurance, or even those with coverage. The policy decisions regarding who will be billed and how aggressively pursued which were discussed above can serve to soften the impact of billing on individuals and perhaps blunt any expected criticism of the policy. In addition, it is possible that

EMS billing operations are too new to have generated significant criticism or that most residents are only transported very infrequently to emergency rooms and that those in need do not object to paying for the transport if they are financially able to do so.

Conclusion

Cities and Townships that have begun EMS billing operations are, for the most part, quite pleased with the results. Not only is the additional revenue welcome, but the cost in terms of public objection so far seems minimal. Municipal decision-makers need to be educated initially on all aspects of the program so that appropriate policy decisions are made and the program implemented in a way that complies with legal requirements as well as the political desires of the municipality.

Anne F. Jewel is a Principal with Jewel & Bahnsen, LLC. Jewel & Bahnsen, LLC specializes in assisting health plans in the areas of regulation, compliance and product development. They also help employers, individuals and other types of businesses understand insurance coverage and contract issues. Anne Jewel and Deborah Bahnsen are both attorneys and former Assistant Directors of the Ohio Department of Insurance.

Mark Your Calendars

2004 OML ANNUAL CONFERENCE

September 29 - October 1, 2004
Crowne Plaza Hotel, Akron, Ohio

No.		2001 <u>Actual</u>	2002 <u>Actual</u>	2003 <u>Budget</u>	2003 <u>Actual</u>	Department <u>Request</u>	Mayor <u>Recomd.</u>
Public Safety (continued)							
FIRE							
300	Administration						
	Personal Service	66,399	80,205	79,000	79,706	85,750	85,750
	Service & Supplies	2,191	1,755	3,400	2,760	5,600	4,900
	Capital Outlay	-	-	-	-	-	-
	Total	68,590	81,960	82,400	82,466	91,350	90,650
305	Fire Prevention						
	Personal Service	25,830	26,555	29,000	27,216	28,792	28,800
	Service & Supplies	799	283	1,450	1,048	2,000	1,600
	Capital Outlay	-	-	-	-	2,000	2,000
	Total	26,629	26,838	30,450	28,264	32,792	32,400
310	Fire & Rescue						
	Personal Service	655,644	640,650	682,000	655,818	776,457	694,500
	Service & Supplies	25,973	21,359	32,300	26,448	35,800	27,300
	Capital Outlay	15,732	10,676	33,650	25,628	18,000	-
	Total	697,349	672,685	747,950	707,894	830,257	721,800
315	Communications						
	Personal Service	52,137	50,250	51,200	54,126	55,000	52,000
	Service & Supplies	10,896	7,330	9,500	6,789	16,000	9,500
	Capital Outlay	-	-	10,000	8,117	5,000	-
	Total	63,033	57,580	70,700	69,032	76,000	61,500
320	Fire Buildings						
	Personal Service	-	-	-	-	-	-
	Service & Supplies	35,921	31,798	35,000	31,513	41,200	35,000
	Capital Outlay	15,793	4,772	-	-	40,000	5,000
	Total	51,714	36,570	35,000	31,513	81,200	40,000
325	Equipment Maintenance						
	Personal Service	27,140	28,135	29,000	27,657	28,792	28,800
	Service & Supplies	23,578	20,392	20,700	23,776	26,450	20,700
	Capital Outlay	-	21,534	-	-	157,000	5,000
	Total	50,718	70,061	49,700	51,433	212,242	54,500
330	Training and Education						
	Personal Service	-	-	-	-	-	-
	Service & Supplies	5,551	3,725	6,000	4,051	10,700	5,600
	Capital Outlay	3,452	1,979	-	-	-	-
	Total	9,003	5,704	6,000	4,051	10,700	5,600

No.		2001 <u>Actual</u>	2002 <u>Actual</u>	2003 <u>Budget</u>	2003 <u>Actual</u>	Department <u>Request</u>	Mayor <u>Recomd.</u>
	Public Safety (continued)						
335	Public Education						
	Personal Service	-	-	-	-	-	-
	Service & Supplies	886	1,039	1,600	975	1,600	1,500
	Capital Outlay	-	-	-	-	-	-
	Total	886	1,039	1,600	975	1,600	1,500
340	Emergency Preparedness						
	Personal Service	-	-	-	-	-	-
	Service & Supplies	734	746	1,000	990	1,000	1,000
	Capital Outlay	-	-	-	-	-	-
	Total	734	746	1,000	990	1,000	1,000
	TOTAL FIRE						
	Personal Service	827,150	825,795	870,200	844,523	974,791	889,850
	Service & Supplies	106,529	88,427	110,950	98,350	140,350	107,100
	Capital Outlay	34,977	38,961	43,650	33,745	222,000	12,000
	Total	968,656	953,183	1,024,800	976,618	1,337,141	1,008,950
	TOTAL PUBLIC SAFETY						
	Personal Service	1,538,693	1,562,933	1,643,460	1,648,933	1,858,135	1,734,750
	Service & Supplies	258,676	243,499	285,300	256,169	336,055	270,050
	Capital Outlay	89,561	145,246	110,150	84,322	421,000	37,000
	Total	1,886,930	1,951,678	2,038,910	1,989,424	2,615,190	2,041,800

ORDINANCE NO. 2002-108

AN ORDINANCE ESTABLISHING FEES FOR ALL RESCUE CALLS BY THE WILLOUGHBY HILLS FIRE DEPARTMENT AND TO ALLOW THE OPERATING REVENUES RECEIVED FROM CONTRACT PAYMENTS AND LOCAL TAXES TO BE USED AS PAYMENT OF OTHERWISE APPLICABLE CO-PAYMENTS AND DEDUCTIBLES THAT WOULD OTHERWISE BE DUE FROM THE RESIDENTS OF THE CITY OF WILLOUGHBY HILLS AND RESIDENTS OF THE VILLAGE OF WAITE HILL, REPEALING ORDINANCE NO. 2002-70; AND DECLARING AN EMERGENCY.

WHEREAS, non-residents of the City of Willoughby Hills are currently billed for any co-pay and/or deductible charge that is not paid by the "person's" insurance company, including the Federal Health Care programs; and

WHEREAS, the Administration and Council believe that it is in the best interest of the City and the residents to institute a policy that would bill the residents of Willoughby Hills and their insurers, including the Federal Health Care Programs, Medicare and Medicaid, but only to the extent of their insurance coverage (i.e. no out of pocket costs to the residents) and to treat the revenue received from local taxes as payment of any otherwise applicable co-payments and deductibles due from the residents (i.e. "Insurance only" billing); and

WHEREAS, The U.S. Department of Health and Human Services by and through its Office of the Inspector General has issued private advisory letters that grant their approval for this billing procedure and also the Office of the Inspector General has issued a general letter indicating that this is an acceptable billing practice.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WILLOUGHBY HILLS, LAKE COUNTY, STATE OF OHIO:

SECTION 1. The following shall apply:

A. That the City will provide ambulance and emergency rescue squad services to residents and the City shall only bill residents of Willoughby Hills and Waite Hill and their insurers, including the Federal Health Care Programs of Medicare and Medicaid, for the services provided but only to the extent of their insurance coverage, i.e. there will be no out of pocket costs to the residents of the City or the residents of the Village of Waite Hill. The City shall treat the revenues received from Waite Hill contract payments and Willoughby Hills local taxes as payment of any otherwise applicable co-payments and deductibles that would otherwise be due from the residents of the City of Willoughby Hills and the Village of Waite Hill.

B. That the City will provide ambulance and emergency rescue squad services in exchange for the assignment of insurance company proceeds available to the non-resident user and the City will accept as full payment from the non-resident the usual and customary rates as allowed by the particular insurance companies for the services provided. The City will not charge or collect any amount of money in excess of the usual, customary and reasonable (UCR) payments, including any amounts received from Medicare and/or any Medicare Supplemental Insurance carriers and/or Medicaid.

C. That the following schedule of fees or as modified shall be applicable to individuals who use the following services:

Basic Life Support Transportation	\$	375.00
Advanced Life Support Transportation	\$	475.00

ORDINANCE NO. 2002-108

D. That the Mayor is authorized to enter into an agreement with a company that will provide electronic claims filing systems for the purpose of collecting insurance proceeds indicated in Subsection (c) hereof or as modified thereafter.

E. That the Mayor and the Finance Director are authorized to establish guidelines and procedures to assist the indigent and the financially needy that are unable to pay for the rescue squad services.

F. That all funds collected pursuant to this Section shall be disbursed as follows:

1. Such part thereof as is necessary to defray all expenses of collection shall be paid.
2. The balance remaining after such payments shall be deposited in the Fire Department Capital Improvement Fund in the following manner:
 - a. Non-resident ambulance fees shall be deposited into Department 001 of the Fire Department Capital Improvement Fund and shall be pledged to retire the bonds issued in November of 2001 to renovate the Fire Station.
 - b. Resident ambulance fees for residents of Willoughby Hills and the Village of Waite Hill shall be deposited into Fire Levy Fund No. 240.

SECTION 2. That Ordinance No. 2002-70 be and the same is hereby repealed.

SECTION 3. That the actions of this Council concerning and relating to the passage of this legislation were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements including Chapter 107 of the Codified Ordinances of the City of Willoughby Hills.

SECTION 4. That this Ordinance constitutes an emergency measure in that the same provides for the immediate preservation of the public peace, health, safety, and welfare of the inhabitants of the City of Willoughby Hills and further provides for the usual daily operation of a Municipal Department, in as far as the immediate collection of Ambulance Fees will assist the City in purchasing a badly needed ambulance for the Willoughby Hills Fire Department wherefore, this Ordinance shall be in full force and effect from and after its passage and approval by the Mayor.

PASSED: _____, 2002

Kenneth A. Lorenz
President of Council

Submitted to the Mayor for his approval
on this ____ day of _____, 2002

Approved by the Mayor

_____, 2002

ATTEST:

Victoria Ann Savage
Clerk of Council

Morton E. O’Ryan
Mayor