



## EMS Cost Recovery/Ambulance Billing FAQs July 2022

On April 9, 2022, Governor Kathy Hochul signed into law the 2022-2023 NYS Budget. Part KK of this legislation amended Section 209-b of the General Municipal Law to allow fire departments previously not permitted to bill for ambulance services to begin doing so for a four-year period, beginning July 8, 2022. Chiefs and authorities having jurisdiction should read the full text of the new law, attached as an Appendix to this FAQ document. These FAQs are provided in an effort to clarify fire department requirements and responsibilities.

1. Which fire departments are eligible to bill for ambulance services?

Any fire department, fire company, or fire district that holds a Certificate of Operating Authority from the New York State Department of Health issued prior to January 1, 2022, can bill for services provided on or after July 8, 2022.

2. Why was this legislation important?

New York is the only state that prohibited fire department billing for ambulance services. This enabled direct payment of \$750,000 each year by Medicare to ALS intercept services for rural ALS intercepts. The 465 fire departments prohibited from billing lost over \$100 million annually in health insurance reimbursements. Until now, taxpayers had to fund those losses. Tax caps and hard financial times have forced many fire department ambulances to cease operations, primarily in rural and suburban communities.

3. My fire department runs a BLS ambulance service. What does this law mean for us?

Fire Department BLS ambulance services that choose to bill **must** contract with an ALS service. The contract, at minimum, must establish fees for ALS services and detail how the ALS provider will be reimbursed. If the fire department chooses not to bill, and they are located in an area designated as a rural county or eligible census tracts in a metropolitan county (see [www.hhs.gov/guidance/document/defining-rural-population](http://www.hhs.gov/guidance/document/defining-rural-population)), they must pay any ambulance service providing ALS intercepts a rural ALS intercept fee at rates negotiated between the fire department and the ALS service.

4. If my fire department runs a BLS ambulance service and decides not to bill, are we still obligated to pay for ALS intercept charges?

Yes, if you are in a rural area (see [www.hhs.gov/guidance/document/defining-rural-population](http://www.hhs.gov/guidance/document/defining-rural-population)). Under the new law, these charges are owed by the fire department that requests the ALS intercept.

5. How easy is it to start billing for EMS service?

Billing is a complex process, usually exceeding the capabilities of a small fire department. Initially, it requires application for a national provider ID number as well as Medicare and Medicaid ID numbers. This takes some time (up to 3 months currently). There are several options available: use a billing service, have an ALS service do your billing for you, or, when ALS is provided by a County, have the County do your billing. If an ALS service or County does the billing for the Fire Department, they must bill under the Fire Department name, agency code, and provider number(s) for calls run by the Fire Department, and not under any agency code or number held by the ALS Service or County.

6. If our fire department chooses to bill, can we bill only ALS patients?

Selective billing may run afoul of federal laws and regulations. A fire department that chooses to bill should bill for all transports they do. A competent billing service will work with the fire department to establish hardship procedures for patients who are unable to afford their bills. Part of the new law (General Municipal Law § 209-b [4] [e]) prohibits fire departments from directly issuing a bill to any uninsured recipient of services. Case specific questions and decisions like this should be made by a competent billing agent in conjunction with your competent local legal counsel.

7. Are there any restrictions on the use of monies received from ambulance billing?

Yes. Monies received from billing must be used to offset the costs of providing ambulance services to the Authority Having Jurisdiction over the fire department or fire company. Often, they must offset other revenues, such as tax dollars.

8. Is a separate account required for EMS Billing funds, or can the funds be placed in the general operating accounts maintained by the fire department?

The new law does not require that a separate account be formed. However, doing so may assist your fire department in clearly tracking monies recovered through EMS billing for purposes of assisting you in accomplishing the offset of tax dollars for such service explained in No. 7, above. In any event, it is critical that your agency be able to readily identify the dollar amount raised through EMS revenue recovery.

9. Should an Authority Having Jurisdiction hold hearings on whether to begin billing?

While a specific hearing on whether to bill is not required, an Authority Having Jurisdiction has long been required to conduct a hearing on whether to authorize general ambulance service for a specific area if such service will be provided for the first time.

10. Will billing for EMS calls result in my volunteer department causing financial hardship for our citizens?

No, billing for EMS transports relieves financial hardship by recovering health insurance monies that citizens already pay for. Fire departments that choose not to bill may be leaving dollars on the table and asking citizens to make up the difference through fire taxes or donations. Departments who choose to bill have full control over how they define inability to pay, and can establish rules with their provider and competent local legal counsel covering those situations where billing may cause an undue financial hardship to citizens.

11. What are the immediate steps every fire department ambulance service should undertake?

- If you are a BLS transport service, you must contract with an ALS service provider.
- Decide how you will pay for ALS services (fire department EMS billing or from the department budget, if you choose not to bill).
- If you decide to bill for transport services, explore the best route to implement billing:
  - Third party EMS billing company
  - Contract with an ALS service to do your billing
  - If your County provides ALS intercept services, consider having them do your billing

This guidance document was developed by the NYS AFC EMS Section and the Firefighters Association of the State of New York (FASNY). Look for additional information including informational webinars in the near future. Please note that the information contained herein is not legal advice and does not establish an attorney-client relationship between the author and the reader. Matters addressed are for information purposes only, and the reader should seek advice from competent local counsel in regard to acting on any matters addressed herein.

## **General Municipal Law § 209-b**

### **§ 209-b. Emergency rescue and first aid squads [Effective July 8, 2022]**

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#### **1. Emergencies.**

**a.** The authorities having control of fire departments and fire companies may organize within such departments or companies emergency rescue and first aid squads composed of firefighters who are members of such departments or companies. Such squads, so organized, may render services in case of accidents, calamities or other emergencies in connection with which their services may be required, as well as in case of alarms of fire. Whether or not such squads have been organized, any firefighter may render service in case of accidents, calamities or other emergencies in connection with which the services of firefighters may be required, as well as in case of alarms of fire, unless he or she shall have been duly ordered not to render such service by the authorities having control of the fire department or company of which he or she is a member. If a request for emergency service is made by, or originates from a doctor or peace officer, acting pursuant to his or her special duties, or police officer, and there is any doubt as to whether an emergency exists, the judgment of the doctor or officer that there is, in fact, an emergency may be accepted as conclusive by such squad, or the firefighter responding, or who has responded to such call. The person designated to receive calls for such emergency services, for the purpose of dispatching such squads or firefighters, shall determine in the first instance from the information furnished to him or her whether an emergency exists and his or her decision, if in good faith, as to whether or not there is an emergency shall be final in relation to dispatching such squads or firefighters. Any such preliminary determination shall not be deemed to authorize the rendition of services if, upon arriving at the place to which dispatched, it is found that there is no emergency.

**b.** The governing board of any city, town, village or fire district which has a fire department but which has not authorized such fire department to render emergency ambulance service, may contract for the furnishing to it of emergency ambulance service with another city, town, village or fire district which has in its fire department an emergency rescue and first aid squad duly authorized to render emergency ambulance service. Before any contract to furnish emergency ambulance service is entered into, the consents of the fire department, the fire company and the emergency rescue and first aid squad to furnish such emergency ambulance service shall be obtained. Each consent shall be evidenced by a copy of a resolution certified respectively by the secretary of the fire department and fire company and by the officer then in command of the emergency rescue and first aid squad.

#### **2. General ambulance service.**

**a.** The governing board of any city, town which has a fire department, village or fire district which has in its fire department an emergency rescue and first aid squad composed mainly of volunteer firefighters, by resolution, may authorize any such squad to furnish general ambulance service for the purpose of (1) transporting any sick, injured or disabled resident or person found within the city, town, village or fire district to a hospital, clinic, sanatorium or other place for treatment and care and returning any such person therefrom if still sick, injured or disabled and (2) transporting any sick, injured or disabled resident of the city, town, village or fire district from a hospital, clinic, sanatorium or other place where such person has received treatment and care to any other place for treatment and care or to such person's home whether such hospital, clinic, sanatorium or other place where such person has received treatment and care is within or without the city, town, village or fire district or the territory listed on the ambulance service certificate or certificate of registration as the usual territory within which the ambulance service operates.

**b.** The town board of a town which does not have a fire department but in which there is a fire corporation located outside any village, fire district, fire alarm district or fire protection district, by resolution, may authorize the emergency rescue and first aid squad of such fire corporation to furnish general ambulance service for the purpose of (1) transporting any sick, injured or disabled resident or person found within the area described in the certificate of incorporation of the fire corporation to a hospital, clinic, sanatorium or other place for treatment and care and returning any such person therefrom if still sick, injured or disabled and (2) transporting any sick, injured or disabled resident of such described area from a hospital, clinic, sanatorium or other place where such person has received treatment and care to any other place for treatment and care or to such person's home whether such hospital, clinic, sanatorium or other place where such person has received treatment and care is within or without the area described in the certificate of incorporation of such fire corporation or the territory listed on the ambulance service certificate or certificate of registration as the usual territory within which the ambulance service operates.

**c.** The governing board of a city, village or fire district which by law is authorized to contract to have fire protection furnished for any district or area thereof by the fire department or fire company of another city, town, village or fire district, or a town board on behalf of a fire protection district or fire alarm district, may include in any fire protection contract a provision for the furnishing of general ambulance service by the emergency rescue and first aid squad of the fire department or fire company which furnishes such fire protection. Such general ambulance service shall be for the purpose of (1) transporting any sick, injured or disabled resident or person found within the contract district or area to a hospital, clinic, sanatorium or other place for treatment and care and returning any such person therefrom if still sick, injured or disabled and (2) transporting any sick, injured or disabled resident of such contract district or area from a hospital, clinic, sanatorium or other place where such person has received treatment

and care to any other place for treatment and care or to such person's home whether such hospital, clinic, sanatorium or other place where such person has received treatment and care is within or without the contract district or area or the territory listed on the ambulance service certificate or certificate of registration as the usual territory within which the ambulance service operates. The city, town, village, fire district or the fire department or fire company thereof which is authorized to furnish such fire protection pursuant to contract shall have power to contract to furnish such general ambulance service.

**d.** Before any authorization is granted under paragraphs a and b of this subdivision, or before any contract to furnish general ambulance service is entered into pursuant to paragraph c of this subdivision, and before any public hearing is conducted as herein provided, the consents of the fire department, the fire company and the emergency rescue and first aid squad to furnish the general ambulance service shall be obtained. Each consent shall be evidenced by a copy of a resolution certified, respectively, by the secretary of the fire department and fire company and by the officer then in command of the emergency rescue and first aid squad.

**e.** Before authorizing general ambulance service under paragraphs a and b of this subdivision the governing board of a city, town, village or fire district shall conduct a public hearing. Before the governing board of a city, town, village or fire district enters into a contract for fire protection which contract, for the first time for a specific district or area, provides for the furnishing of general ambulance service pursuant to paragraph c of this subdivision, it shall conduct a public hearing in the manner required by law, if any, for the entering into of a fire protection contract therefor, but if a public hearing is not required in any such case, then the public hearing shall be held as herein provided and the procedure for publishing notice under this paragraph shall be applicable. Notice of such hearing shall be published at least once in a newspaper or newspapers having general circulation in the city, town, village or fire district, or, in the case of contracts, in the fire alarm district, fire protection district, or other contract area. In all cases the notice of hearing shall, in general terms, (1) describe the general ambulance service which is proposed to be furnished, (2) describe the area to be served, (3) state the names of the fire department, fire companies and emergency rescue and first aid squad affected, (4) state the time and place within the city, town, village or fire district, or, in the case of contracts, the fire alarm district, fire protection district, or other contract area, where such hearing will be held and (5) state that all persons residing within the area to be served, all persons, firms and corporations owning real property within the area to be served, and all persons, firms and corporations whose business interests or employment would either be benefited or adversely affected, whether or not a resident or owner of real property within the area to be served, shall have the right to be heard in person or by representative at the public hearing. Such notice shall be published at least ten days prior to the date fixed for the hearing.

**f.** After the hearing and after considering the statements made at the hearing the governing board shall determine whether authorizing the furnishing of general ambulance service, or the entering into of a contract for general ambulance service, is in the public interest. If the governing board determines that it is in the public interest to authorize the furnishing of general ambulance service, or to enter into a contract for general ambulance service, it shall adopt the resolution authorizing the same and within ten days thereafter cause a certified copy of the resolution and the determination on which it is based to be filed in the office of the clerk of the county or counties in which the city, town, village or fire district is located. The consents required by paragraph d of this subdivision shall be filed with such resolution and determination.

**g.** The determination of the governing board in relation to the furnishing of general ambulance service shall be subject to review in the manner provided in article seventy-eight of the civil practice law and rules provided that application has been made therefor within thirty days from the date of the filing thereof. Such determination shall become final and conclusive and the resolution shall become effective at the expiration of such thirty days or, if application for review be made, upon the final determination thereof.

**h.** When general ambulance service is authorized pursuant to this subdivision, the emergency rescue and first aid squad shall answer all calls and demands for such service to be furnished to sick, injured or disabled persons entitled thereto, subject to such rules and regulations as shall be prescribed by authorities having control of such squad, and subject at all times to the emergency needs of the fire department and any limitations upon such service specified in a fire protection contract. Such rules and regulations may establish limitations on the distances which may be traveled outside the area to be served in order to reach hospitals, clinics, sanatoriums or other places where care and treatment is to be or has been furnished.

**i.** Any action taken pursuant to this subdivision may be rescinded by resolution of the governing board which has taken such action. The term “resolution”, as used in this subdivision two, means resolution, ordinance, act or local law.

**j.** The provisions of this subdivision two shall apply to all cities, towns, villages and fire districts, except where the provisions of a general or special law expressly prohibit the rendition of general ambulance service by an emergency rescue and first aid squad of the fire department thereof.

**3.** Transportation of persons. Squads and persons authorized to render service pursuant to this section shall transport sick, injured or disabled persons only in vehicles owned by or under the control of a city, town, village, fire district, a fire department or a fire company unless ordered or permitted to transport such persons in other vehicles by the authorities having control of the fire department or fire company of which he is a member.

**3-a.** Mutual aid.

**a.** The governing board of any city, town which has a fire department, village or fire district which has in its fire department an emergency rescue and first aid squad composed mainly of volunteer firefighters, may, by resolution authorize any such squad to enter into one or more mutual aid agreements as defined in subdivision twenty of [section three](#) thousand one of the public health law, and/or to contract with ambulance services as defined in subdivisions two and three of [section three](#) thousand one of the public health law to provide services when the emergency rescue and first aid squad is unavailable.

**b.** The town board of a town which does not have a fire department but in which there is a fire corporation located outside any village, fire district, fire alarm district or fire protection district may, by resolution, authorize the emergency rescue and first aid squad of such fire corporation to enter into one or more mutual aid agreements as defined in subdivision twenty of [section three](#) thousand one of the public health law, and/or to contract with ambulance services as defined in subdivisions two and three of [section three](#) thousand one of the public health law to provide services when the emergency rescue and first aid squad is unavailable.

**4.** [Eff until April 9, 2026] Fees and charges authorized. (a) Subject to the restrictions set forth in paragraph (d) of this subdivision, emergency and general ambulance service, including emergency medical service as defined in *section three* thousand one of the public health law, authorized pursuant to this section may be furnished without cost to the person served; provided, however, that the authorities having control of a fire department or fire company that have authorized such fire department or fire company to provide such service or services may fix a schedule of fees or charges to be paid by persons requesting such service or services. The authorities having control of a fire department or fire company may provide for the collection of fees and charges or may formulate rules and regulations for the collection thereof by the fire department or fire company. When fees and charges are authorized pursuant to this subdivision, the fees and charges collected shall be disbursed in accordance with a written contract entered into between the authority having control of a fire department or fire company and the fire department or fire company itself. If the authorities having control of a fire department or fire company have authorized such fire department or fire company to fix a schedule of fees or charges to be paid by persons requesting such service or services, and seek participation in and reimbursement from the medical assistance program, the authorities having control of a fire department or fire company shall adhere to any medical assistance enrollment and billing requirements applicable to such services prior to receiving reimbursement. The acceptance by any firefighter of any personal remuneration or gratuity, directly or indirectly, from a person served shall be a ground for his or her expulsion or suspension as a member of the fire department or fire company.

**(b)** Notwithstanding the provisions of paragraph (a) of this subdivision, a basic life support service which establishes a schedule of fees for service shall enter into a contract with a provider or providers of advanced life support services to provide such



advanced life support services. Such contract shall at a minimum establish the fees for advanced life support services and the means by which said provider will be reimbursed when the ambulance service bills for emergency medical service.

(c) An emergency and general ambulance service, including emergency medical service as defined in *section three* thousand one of the public health law, authorized pursuant to this section which does not issue a bill for its services and which requests an Advanced Life Support (ALS) intercept from another ambulance service furnishing service in an area that is designated as a rural area by any law or regulation of the state, or that is located in a rural census tract of a metropolitan statistical area (as determined under the most recent Goldsmith Modification), shall pay the ambulance service providing the ALS intercept an ALS Rural Intercept Fee at rates negotiated between the providers of such services. In the absence of any agreed upon rates, the service receiving such ALS intercept shall pay the service providing the ALS intercept for such services at the usual and customary charge, which shall not be excessive or unreasonable.

(d) An emergency and general ambulance service, including emergency medical service as defined in *section three* thousand one of the public health law, authorized pursuant to this section to fix a schedule of fees or charges to be paid by persons requesting such service or services, may apply such fees and charges only within such service's primary response territory as assigned and evidenced by a valid ambulance service certificate issued by the commissioner of health pursuant to *section three* thousand five of the public health law, on or before January first, two thousand twenty-two.

(e) An emergency and general ambulance service, including emergency medical service as defined in *section three* thousand one of the public health law, authorized pursuant to this section shall not directly issue a bill for its services to any uninsured recipient of such services.

**4.** [Eff April 9, 2026] Fees and charges prohibited. Emergency and general ambulance service authorized pursuant to this section shall be furnished without cost to the person served. The acceptance by any firefighter of any personal remuneration or gratuity, directly or indirectly, from a person served shall be a ground for his or her expulsion or suspension as a member of the fire department or fire company.

**5.** The term "emergency", as used in this chapter, or in any other law of general application, in relation to the operations of fire departments, includes, unless a contrary intent is clearly expressed or indicated, the search for persons and the search for, and attempts to recover or the recovery of, bodies of persons even though it is possible or is known that all hope of life is gone.