U.S. Department
of Transportation
**Federal Aviation
Administration**

MAR - 4 2012

Ms. Rachael Waldinger
Intermedix
6451 N. Federal Highway
Suite 1000
Ft. Lauderdale, FL 33308

Dear Ms. Waldinger:

This letter is in response to your January 23, 2012 letter requesting a legal interpretation of whether an operator may obtain payment for certain air ambulance operations conducted under part 91. Specifically you ask whether a "public air medical agency" operating under part 91 may "recover miscellaneous medical expenses incurred while treating a patient by billing Medicare (or any other insurance)" at the ground ambulance base rate without mileage "for the medical services provided in flight."

During subsequent conversations with my staff you advised us that this question does not address public aircraft operations as defined in 49 U.S.C. § 40102(a)(41). Rather, this question addresses a government entity that conducts civil aircraft operations under part 91 of title 14, Code of Federal Regulations.

In general, when a flight involves the carriage of persons for compensation or hire, the operator is required by part 119 to hold an air carrier or commercial operator certificate and operate its flights in accordance with the appropriate rules found in parts 121 or 135. *See* 14 C.F.R. §§ 119.1, 119.21, 119.25; *see also* Legal Interpretation to Joseph A. Kirwan, from Rebecca B. MacPherson, Assistant Chief Counsel, Regulations Division (May 27, 2005) (recognizing that charitable medical flights that involve point to point transportation for which compensation is received would be considered commercial operations); Legal Interpretation to Peter Bunce, from Rebecca B. MacPherson, Assistant Chief Counsel for Regulations (Nov. 19, 2008). For purposes of determining whether a flight is conducted for compensation or hire, the FAA would not distinguish between money collected for medical services provided in flight from that collected for transporting the patient from one place to another. *See* Legal Interpretation to Kirwan (May 27, 2005) (stating that compensation is the receipt of anything of value).

The air ambulance operator in your scenario would be seeking reimbursement from Medicare or other insurance to cover expenses for medical services provided in flight. By accepting payment from Medicare or an insurance company, whatever the amount, the company would be receiving compensation for transporting patients and would therefore need to conduct that operation under a part 119 certificate.

This response was prepared by Dean E. Griffith, Attorney in the Regulations Division of the Office of the Chief Counsel, and was coordinated with the Air Transportation Division and

General Aviation and Commercial Division of Flight Standards Service. Please contact us at (202) 267-3073 if we can be of additional assistance.

Sincerely,

Rebecca B. MacPherson
Assistant Chief Counsel for Regulations