

1 ENGROSSED HOUSE
2 BILL NO. 1398

By: Lepak, Sims, Sneed, Olsen,
Caldwell (Trey), Humphrey,
Randleman, Sterling, and
Wolfley of the House

4 and

5 Jett of the Senate

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9 An Act relating to emergency medical services;
10 defining term; defining certain actions as unfair
11 methods of competition or unfair or deceptive acts or
12 practices for certain purposes; prohibiting
13 distinction in health care coverage related to
14 network status of emergency care providers or
15 facilities; prohibiting construction of statutory
16 provisions with respect to cost-sharing amounts;
17 imposing requirements related to emergency care
18 claims; prescribing procedures for utilization review
19 process; providing for statutory construction with
20 respect to utilization review; providing for
21 codification; and providing an effective date.

22 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

23 SECTION 1. NEW LAW A new section of law to be codified
24 in the Oklahoma Statutes as Section 4420 of Title 36, unless there
is created a duplication in numbering, reads as follows:

A. As used in this section, "emergency care" means health care
services provided in a general medical surgical hospital, critical
access hospital, or emergency hospital, as such terms are defined in

1 Section 1-701 of Title 63 of the Oklahoma Statutes, that is licensed
2 by the State Department of Health, to evaluate and stabilize medical
3 conditions of a recent and onset severity, including severe pain,
4 regardless of the final diagnosis that is given, that would lead a
5 prudent layperson possessing an average knowledge of medicine and
6 health to believe that the individual's condition, sickness, or
7 injury is of such a nature that failure to get immediate medical
8 care could:

- 9 1. Place the individual's health in serious jeopardy;
- 10 2. Result in serious impairment to bodily function;
- 11 3. Result in serious disfunction of a bodily organ or part;
- 12 4. Result in serious disfigurement; or
- 13 5. For pregnant women, result in serious jeopardy to the health
14 of the fetus.

15 Nothing in this section shall be construed as providing licensure
16 of, or applying to, facilities providing emergency care that are not
17 licensed as, or affiliated with, a hospital as defined in Section 1-
18 701 of Title 63 of the Oklahoma Statutes.

19 B. It shall be an unfair method of competition or an unfair or
20 deceptive act or practice in the business of insurance for an
21 insurer or an individual or entity acting on behalf of an insurer
22 to:

- 23 1. Deter enrollees from seeking care consistent with the
24 prudent layperson standard for emergency care; or

1 2. Engage in a pattern of wrongful denials of claims for
2 emergency care.

3 C. If an individual's health insurance coverage includes any
4 benefits for emergency care, there shall be no distinction made in
5 regard to network status of an emergency care provider or facility.
6 An enrollee's cost-sharing amount shall not be greater than that
7 which would be imposed if the services were provided in-network for
8 emergency care.

9 D. This section shall not be construed to prohibit an insurer
10 from imposing a different cost-sharing amount for out-of-network
11 services so long as the services provided are not related to the
12 evaluation and stabilization of an emergency medical care situation.

13 E. Utilization review of an emergency care claim must be
14 performed by a physician board-certified in emergency medicine. A
15 utilization review agent:

16 1. May not make an adverse determination for the emergency care
17 claim based on the final diagnosis that is given, including the
18 classification under a Current Procedural Terminology or
19 International Classification of Diseases code; and

20 2. Must review the enrollee's medical records before making an
21 adverse determination.

22 F. Nothing in this section may be construed as authorizing
23 utilization review of emergency care when otherwise prohibited by
24 law.

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SECTION 2. This act shall become effective November 1, 2023.

Passed the House of Representatives the 22nd day of March, 2023.

Presiding Officer of the House
of Representatives

Passed the Senate the ___ day of _____, 2023.

Presiding Officer of the Senate