

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 59th Legislature (2023)

4 HOUSE BILL 1398

 By: Lepak

5
6
7 AS INTRODUCED

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

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

22 SECTION 1. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 4420 of Title 36, unless there
24 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
 Section 1-701 of Title 63 of the Oklahoma Statutes, that is licensed

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

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

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

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

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

24

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.

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

COMMITTEE REPORT BY: COMMITTEE ON INSURANCE, dated 02/23/2023 - DO
PASS.