

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 HOUSE BILL 1398

By: Lepak

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5
6 AS INTRODUCED

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

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

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

24 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
by the State Department of Health, to evaluate and stabilize medical

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

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

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

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

- 21 1. Deter enrollees from seeking care consistent with the
22 prudent layperson standard for emergency care; or
- 23 2. Engage in a pattern of wrongful denials of claims for
24 emergency care.

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

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

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

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

18 2. Must review the enrollee's medical records before making an
19 adverse determination.

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

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

59-1-5327 TJ 11/29/22