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LEGISLATIVE SERVICES
COLUMBIA UNIVERSITY

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2000



ENROLLED

House Bill No. 4084

(By Delegates Thompson, Beane, Faircloth,
Compton, Douglas and Hutchins)



Passed March 9, 2000

In Effect Ninety Days from Passage

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CLERK OF THE HOUSE

ENROLLED

H. B. 4084

(BY DELEGATES THOMPSON, BEANE, FAIRCLOTH,
COMPTON, DOUGLAS AND HUTCHINS)

[Passed March 9, 2000; in effect ninety days from passage.]

AN ACT to amend and reenact section eight, article sixteen, chapter five; section twenty-one, article one; section twenty-one, article fifteen; section three-i, article sixteen; section seven-e, article twenty-four; section eight-d, article twenty-five; and section eight-d, article twenty-five-a, all of chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to eliminating the date restrictions on insurance coverage for emergency medical services.

Be it enacted by the Legislature of West Virginia:

That section eight, article sixteen, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section twenty-one, article one; section twenty-one, article fifteen; section three-i, article sixteen; section seven-e, article twenty-four; section eight-d, article twenty-five; and section eight-d, article twenty-five-a, all of chapter thirty-three of said code be amended and reenacted, all to read as follows:

**CHAPTER 5. GENERAL POWERS AND AUTHORITY
OF THE GOVERNOR, SECRETARY OF STATE AND
ATTORNEY GENERAL; BOARD OF PUBLIC WORKS;
MISCELLANEOUS AGENCIES, COMMISSIONS,
OFFICES, PROGRAMS, ETC.**

ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.

§5-16-8. Conditions of insurance program.

1 The insurance plans provided for in this article shall be
2 designed by the public employees insurance agency:

3 (1) To provide a reasonable relationship between the
4 hospital, surgical, medical and prescription drug benefits to be
5 included and the expected reasonable and customary hospital,
6 surgical, medical and prescription drug expenses as established
7 by the director to be incurred by the affected employee, his or
8 her spouse and his or her dependents. The establishment of
9 reasonable and customary expenses by the public employees
10 insurance agency pursuant to the preceding sentence is not
11 subject to the state administrative procedures act in chapter
12 twenty-nine-a of this code;

13 (2) To include reasonable controls which may include
14 deductible and coinsurance provisions applicable to some or all
15 of the benefits, and shall include other provisions, including,
16 but not limited to, copayments, preadmission certification, case
17 management programs and preferred provider arrangements;

18 (3) To prevent unnecessary utilization of the various
19 hospital, surgical, medical and prescription drug services
20 available;

21 (4) To provide reasonable assurance of stability in future
22 years for the plans;

23 (5) To provide major medical insurance for the employees
24 covered under this article;

25 (6) To provide certain group life and accidental death
26 insurance for the employees covered under this article;

27 (7) To include provisions for the coordination of benefits
28 payable by the terms of the plans with the benefits to which the
29 employee, or his or her spouse or his or her dependents may be
30 entitled by the provisions of any other group hospital, surgical,
31 medical, major medical, or prescription drug insurance or any
32 combination thereof;

33 (8) To provide a cash incentive plan for employees, spouses
34 and dependents to increase utilization of, and to encourage the
35 use of, lower cost alternative health care facilities, health care
36 providers and generic drugs. The plan shall be reviewed
37 annually by the director and the advisory board;

38 (9) To provide "wellness" programs and activities which
39 will include, but not be limited to, benefit plan incentives to
40 discourage tobacco, alcohol and chemical abuse and an educa-
41 tional program to encourage proper diet and exercise. In
42 establishing "wellness" programs, the division of vocational
43 rehabilitation shall cooperate with the public employees
44 insurance agency in establishing statewide wellness programs.
45 The director of the public employees insurance agency shall
46 contract with county boards of education for the use of facili-
47 ties, equipment or any service related to that purpose. Boards of
48 education may charge only the cost of janitorial service and
49 increased utilities for the use of the gymnasium and related
50 equipment. The cost of the exercise program shall be paid by
51 county boards of education, the public employees insurance
52 agency, or participating employees, their spouses or depend-
53 ents. All exercise programs shall be made available to all
54 employees, their spouses or dependents and shall not be limited
55 to employees of county boards of education;

56 (10) To provide a program, to be administered by the
57 director, for a patient audit plan with reimbursement up to a

58 maximum of one thousand dollars annually, to employees for
59 discovery of health care provider or hospital overcharges when
60 the affected employee brings the overcharge to the attention of
61 the plan. The hospital or health care provider shall certify to the
62 director that it has provided, prior to or simultaneously with the
63 submission of the statement of charges for payments, an
64 itemized statement of the charges to the employee participant
65 for which payment is requested of the plan;

66 (11) To require that all employers give written notice to
67 each covered employee prior to institution of any changes in
68 benefits to employees, and to include appropriate penalty for
69 any employer not providing the required information to any
70 employee; and

71 (12)(a) To provide coverage for emergency services under
72 offered plans. For the purposes of this subsection, "emergency
73 services" means services provided in or by a hospital emer-
74 gency facility, an ambulance providing related services under
75 the provisions of article four-c, chapter sixteen of this code or
76 the private office of a dentist to evaluate and treat a medical
77 condition manifesting itself by the sudden, and at the time,
78 unexpected onset of symptoms that require immediate medical
79 attention and for which failure to provide medical attention
80 would result in serious impairment to bodily function, serious
81 dysfunction to any bodily organ or part, or would place the
82 person's health in jeopardy.

83 (b) From the first day of July, one thousand nine hundred
84 ninety-eight, plans shall provide coverage for emergency
85 services, including any prehospital services, to the extent
86 necessary to screen and stabilize the covered person. The plans
87 shall reimburse, less any applicable copayments, deductibles,
88 or coinsurance, for emergency services rendered and related to
89 the condition for which the covered person presented. Prior
90 authorization of coverage shall not be required for the screening

91 services if a prudent layperson acting reasonably would have
92 believed that an emergency medical condition existed. Prior
93 authorization of coverage shall not be required for stabilization
94 if an emergency medical condition exists. In the event that prior
95 authorization was obtained, the authorization may not be
96 retracted after the services have been provided except when the
97 authorization was based on a material misrepresentation about
98 the medical condition by the provider of the services or the
99 insured person. The provider of the emergency services and the
100 plan representative shall make a good faith effort to communi-
101 cate with each other in a timely fashion to expedite
102 postevaluation or poststabilization services. Payment of claims
103 for emergency services shall be based on the retrospective
104 review of the presenting history and symptoms of the covered
105 person.

106 (c) For purposes of this subdivision:

107 (A) "Emergency services" means those services required to
108 screen for or treat an emergency medical condition until the
109 condition is stabilized, including prehospital care;

110 (B) "Prudent layperson" means a person who is without
111 medical training and who draws on his or her practical experi-
112 ence when making a decision regarding whether an emergency
113 medical condition exists for which emergency treatment should
114 be sought;

115 (C) "Emergency medical condition for the prudent
116 layperson" means one that manifests itself by acute symptoms
117 of sufficient severity, including severe pain, such that the
118 person could reasonably expect the absence of immediate
119 medical attention to result in serious jeopardy to the individ-
120 ual's health, or, with respect to a pregnant woman, the health of
121 the unborn child; serious impairment to bodily functions; or
122 serious dysfunction of any bodily organ or part;

123 (D) “Stabilize” means with respect to an emergency
124 medical condition, to provide medical treatment of the condi-
125 tion necessary to assure, with reasonable medical probability
126 that no medical deterioration of the condition is likely to result
127 from or occur during the transfer of the individual from a
128 facility: *Provided*, That this provision may not be construed to
129 prohibit, limit or otherwise delay the transportation required for
130 a higher level of care than that possible at the treating facility;

131 (E) “Medical screening examination” means an appropriate
132 examination within the capability of the hospital’s emergency
133 department, including ancillary services routinely available to
134 the emergency department, to determine whether or not an
135 emergency medical condition exists; and

136 (F) “Emergency medical condition” means a condition that
137 manifests itself by acute symptoms of sufficient severity
138 including severe pain such that the absence of immediate
139 medical attention could reasonably be expected to result in
140 serious jeopardy to the individual’s health or with respect to a
141 pregnant woman the health of the unborn child, serious impair-
142 ment to bodily functions or serious dysfunction of any bodily
143 part or organ.

CHAPTER 33. INSURANCE.

ARTICLE 1. DEFINITIONS.

§33-1-21. Emergency services.

1 (a) Emergency services are: Those services provided in or
2 by a hospital emergency facility, an ambulance providing
3 related services under the provisions of article four-c, chapter
4 sixteen of this code or the private office of a dentist to evaluate
5 and treat a medical condition manifesting itself by the sudden,
6 and at the time, unexpected onset of symptoms that require
7 immediate medical attention and that failure to provide medical

8 attention would result in serious impairment to bodily function,
9 serious dysfunction to any bodily organ or part, or would place
10 the person's health in jeopardy.

11 (b) From the first day of July, one thousand nine hundred
12 ninety-eight, the following provisions apply:

13 (1) "Emergency medical services" means those services
14 required to screen for or treat an emergency medical condition
15 until the condition is stabilized, including prehospital care;

16 (2) "Prudent layperson" means a person who is without
17 medical training and who draws on his or her practical experi-
18 ence when making a decision regarding whether an emergency
19 medical condition exists for which emergency treatment should
20 be sought;

21 (3) "Emergency medical condition for the prudent
22 layperson" means one that manifests itself by acute symptoms
23 of sufficient severity, including severe pain, such that the
24 person could reasonably expect the absence of immediate
25 medical attention to result in serious jeopardy to the individ-
26 ual's health, or, with respect to a pregnant woman, the health of
27 the unborn child; serious impairment to bodily functions; or
28 serious dysfunction of any bodily organ or part;

29 (4) "Stabilize" means with respect to an emergency medical
30 condition, to provide medical treatment of the condition
31 necessary to assure, with reasonable medical probability that no
32 medical deterioration of the condition is likely to result from or
33 occur during the transfer of the individual from a facility;
34 *Provided*, That this provision may not be construed to prohibit,
35 limit or otherwise delay the transportation required for a higher
36 level of care than that possible at the treating facility;

37 (5) "Medical screening examination" means an appropriate
38 examination within the capability of the hospital's emergency

39 department, including ancillary services routinely available to
40 the emergency department, to determine whether or not an
41 emergency medical condition exists; and

42 (6) "Emergency medical condition" means a condition that
43 manifests itself by acute symptoms of sufficient severity
44 including severe pain such that the absence of immediate
45 medical attention could reasonably be expected to result in
46 serious jeopardy to the individual's health or with respect to a
47 pregnant woman the health of the unborn child, serious impair-
48 ment to bodily functions or serious dysfunction of any bodily
49 part or organ.

ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.

§33-15-21. Coverage of emergency services.

1 From the first day of July, one thousand nine hundred
2 ninety-eight:

3 (a) Every insurer shall provide coverage for emergency
4 medical services, including prehospital services, to the extent
5 necessary to screen and to stabilize an emergency medical
6 condition. The insurer shall not require prior authorization of
7 the screening services if a prudent layperson acting reasonably
8 would have believed that an emergency medical condition
9 existed. Prior authorization of coverage shall not be required for
10 stabilization if an emergency medical condition exists. Payment
11 of claims for emergency services shall be based on the retro-
12 spective review of the presenting history and symptoms of the
13 covered person.

14 (b) An insurer that has given prior authorization for
15 emergency services shall cover the services and shall not retract
16 the authorization after the services have been provided unless
17 the authorization was based on a material misrepresentation
18 about the covered person's health condition made by the

19 referring provider, the provider of the emergency services or the
20 covered person.

21 (c) Coverage of emergency services shall be subject to
22 coinsurance, copayments and deductibles applicable under the
23 health benefit plan.

24 (d) The emergency department and the insurer shall make
25 a good faith effort to communicate with each other in a timely
26 fashion to expedite postevaluation or poststabilization services
27 in order to avoid material deterioration of the covered person's
28 condition.

29 (e) As used in this section:

30 (1) "Emergency medical services" means those services
31 required to screen for or treat an emergency medical condition
32 until the condition is stabilized, including prehospital care;

33 (2) "Prudent layperson" means a person who is without
34 medical training and who draws on his or her practical experi-
35 ence when making a decision regarding whether an emergency
36 medical condition exists for which emergency treatment should
37 be sought;

38 (3) "Emergency medical condition for the prudent
39 layperson" means one that manifests itself by acute symptoms
40 of sufficient severity, including severe pain, such that the
41 person could reasonably expect the absence of immediate
42 medical attention to result in serious jeopardy to the individ-
43 ual's health, or, with respect to a pregnant woman, the health of
44 the unborn child; serious impairment to bodily functions; or
45 serious dysfunction of any bodily organ or part;

46 (4) "Stabilize" means with respect to an emergency medical
47 condition, to provide medical treatment of the condition
48 necessary to assure, with reasonable medical probability that no

49 medical deterioration of the condition is likely to result from or
50 occur during the transfer of the individual from a facility:
51 *Provided*, That this provision may not be construed to prohibit,
52 limit or otherwise delay the transportation required for a higher
53 level of care than that possible at the treating facility;

54 (5) "Medical screening examination" means an appropriate
55 examination within the capability of the hospital's emergency
56 department, including ancillary services routinely available to
57 the emergency department, to determine whether or not an
58 emergency medical condition exists; and

59 (6) "Emergency medical condition" means a condition that
60 manifests itself by acute symptoms of sufficient severity
61 including severe pain such that the absence of immediate
62 medical attention could reasonably be expected to result in
63 serious jeopardy to the individual's health or with respect to a
64 pregnant woman the health of the unborn child, serious impair-
65 ment to bodily functions or serious dysfunction of any bodily
66 part or organ.

ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.

§33-16-3i. Coverage of emergency services.

1 (a) Notwithstanding any provision of any policy, provision,
2 contract, plan or agreement to which this article applies, any
3 entity regulated by this article shall provide as benefits to all
4 subscribers and members coverage for emergency services. A
5 policy, provision, contract, plan or agreement may apply to
6 emergency services the same deductibles, coinsurance and other
7 limitations as apply to other covered services: *Provided*, That
8 preauthorization or precertification shall not be required.

9 (b) From the first day of July, one thousand nine hundred
10 ninety-eight, the following provisions apply:

11 (1) Every insurer shall provide coverage for emergency
12 medical services, including prehospital services, to the extent
13 necessary to screen and to stabilize an emergency medical
14 condition. The insurer shall not require prior authorization of
15 the screening services if a prudent layperson acting reasonably
16 would have believed that an emergency medical condition
17 existed. Prior authorization of coverage shall not be required for
18 stabilization if an emergency medical condition exists. Payment
19 of claims for emergency services shall be based on the retro-
20 spective review of the presenting history and symptoms of the
21 covered person.

22 (2) An insurer that has given prior authorization for
23 emergency services shall cover the services and shall not retract
24 the authorization after the services have been provided unless
25 the authorization was based on a material misrepresentation
26 about the covered person's health condition made by the
27 referring provider, the provider of the emergency services or the
28 covered person.

29 (3) Coverage of emergency services shall be subject to
30 coinsurance, copayments and deductibles applicable under the
31 health benefit plan.

32 (4) The emergency department and the insurer shall make
33 a good faith effort to communicate with each other in a timely
34 fashion to expedite postevaluation or poststabilization services
35 in order to avoid material deterioration of the covered person's
36 condition.

37 (5) As used in this section:

38 (A) "Emergency medical services" means those services
39 required to screen for or treat an emergency medical condition
40 until the condition is stabilized, including prehospital care;

41 (B) "Prudent layperson" means a person who is without
42 medical training and who draws on his or her practical experi-

43 ence when making a decision regarding whether an emergency
44 medical condition exists for which emergency treatment should
45 be sought;

46 (C) “Emergency medical condition for the prudent
47 layperson” means one that manifests itself by acute symptoms
48 of sufficient severity, including severe pain, such that the
49 person could reasonably expect the absence of immediate
50 medical attention to result in serious jeopardy to the individ-
51 ual’s health, or, with respect to a pregnant woman, the health of
52 the unborn child; serious impairment to bodily functions; or
53 serious dysfunction of any bodily organ or part;

54 (D) “Stabilize” means with respect to an emergency
55 medical condition, to provide medical treatment of the condi-
56 tion necessary to assure, with reasonable medical probability
57 that no medical deterioration of the condition is likely to result
58 from or occur during the transfer of the individual from a
59 facility: *Provided*, That this provision may not be construed to
60 prohibit, limit or otherwise delay the transportation required for
61 a higher level of care than that possible at the treating facility;

62 (E) “Medical screening examination” means an appropriate
63 examination within the capability of the hospital’s emergency
64 department, including ancillary services routinely available to
65 the emergency department, to determine whether or not an
66 emergency medical condition exists; and

67 (F) “Emergency medical condition” means a condition that
68 manifests itself by acute symptoms of sufficient severity
69 including severe pain such that the absence of immediate
70 medical attention could reasonably be expected to result in
71 serious jeopardy to the individual’s health or with respect to a
72 pregnant woman the health of the unborn child, serious impair-
73 ment to bodily functions or serious dysfunction of any bodily
74 part or organ.

ARTICLE 24. HOSPITAL SERVICE CORPORATIONS, MEDICAL SERVICE CORPORATIONS, DENTAL SERVICE CORPORATIONS AND HEALTH SERVICE CORPORATIONS.

§33-24-7e. Coverage of emergency services.

1 (a) Notwithstanding any provision of any policy, provision,
2 contract, plan or agreement to which this article applies, any
3 entity regulated by this article shall provide as benefits to all
4 subscribers and members coverage for emergency services. A
5 policy, provision, contract, plan or agreement may apply to
6 emergency services the same deductibles, coinsurance and other
7 limitations as apply to other covered services: *Provided*, That
8 preauthorization or precertification shall not be required.

9 (b) From the first day of July, one thousand nine hundred
10 ninety-eight, the following provisions apply:

11 (1) Every insurer shall provide coverage for emergency
12 medical services, including prehospital services, to the extent
13 necessary to screen and to stabilize an emergency medical
14 condition. The insurer shall not require prior authorization of
15 the screening services if a prudent layperson acting reasonably
16 would have believed that an emergency medical condition
17 existed. Prior authorization of coverage shall not be required for
18 stabilization if an emergency medical condition exists. Payment
19 of claims for emergency services shall be based on the retro-
20 spective review of the presenting history and symptoms of the
21 covered person.

22 (2) An insurer that has given prior authorization for
23 emergency services shall cover the services and shall not retract
24 the authorization after the services have been provided unless
25 the authorization was based on a material misrepresentation
26 about the covered person's health condition made by the
27 referring provider, the provider of the emergency services or the
28 covered person.

29 (3) Coverage of emergency services shall be subject to
30 coinsurance, copayments and deductibles applicable under the
31 health benefit plan.

32 (4) The emergency department and the insurer shall make
33 a good faith effort to communicate with each other in a timely
34 fashion to expedite postevaluation or poststabilization services
35 in order to avoid material deterioration of the covered person's
36 condition.

37 (5) As used in this section:

38 (A) "Emergency medical services" means those services
39 required to screen for or treat an emergency medical condition
40 until the condition is stabilized, including prehospital care;

41 (B) "Prudent layperson" means a person who is without
42 medical training and who draws on his or her practical experi-
43 ence when making a decision regarding whether an emergency
44 medical condition exists for which emergency treatment should
45 be sought;

46 (C) "Emergency medical condition for the prudent
47 layperson" means one that manifests itself by acute symptoms
48 of sufficient severity, including severe pain, such that the
49 person could reasonably expect the absence of immediate
50 medical attention to result in serious jeopardy to the individ-
51 ual's health, or, with respect to a pregnant woman, the health of
52 the unborn child; serious impairment to bodily functions; or
53 serious dysfunction of any bodily organ or part;

54 (D) "Stabilize" means with respect to an emergency
55 medical condition, to provide medical treatment of the condi-
56 tion necessary to assure, with reasonable medical probability
57 that no medical deterioration of the condition is likely to result
58 from or occur during the transfer of the individual from a
59 facility: *Provided*, That this provision may not be construed to

60 prohibit, limit or otherwise delay the transportation required for
61 a higher level of care than that possible at the treating facility;

62 (E) "Medical screening examination" means an appropriate
63 examination within the capability of the hospital's emergency
64 department, including ancillary services routinely available to
65 the emergency department, to determine whether or not an
66 emergency medical condition exists; and

67 (F) "Emergency medical condition" means a condition that
68 manifests itself by acute symptoms of sufficient severity
69 including severe pain such that the absence of immediate
70 medical attention could reasonably be expected to result in
71 serious jeopardy to the individual's health or with respect to a
72 pregnant woman the health of the unborn child, serious impair-
73 ment to bodily functions or serious dysfunction of any bodily
74 part or organ.

ARTICLE 25. HEALTH CARE CORPORATIONS.

§33-25-8d. Coverage of emergency services.

1 (a) Notwithstanding any provision of any policy, provision,
2 contract, plan or agreement to which this article applies, any
3 entity regulated by this article shall provide as benefits to all
4 subscribers and members coverage for emergency services. A
5 policy, provision, contract, plan or agreement may apply to
6 emergency services the same deductibles, coinsurance and other
7 limitations as apply to other covered services: *Provided*, That
8 preauthorization or precertification shall not be required.

9 (b) From the first day of July, one thousand nine hundred
10 ninety-eight, the following provisions apply:

11 (1) Every insurer shall provide coverage for emergency
12 medical services, including prehospital services, to the extent
13 necessary to screen and to stabilize an emergency medical

14 condition. The insurer shall not require prior authorization of
15 the screening services if a prudent layperson acting reasonably
16 would have believed that an emergency medical condition
17 existed. Prior authorization of coverage shall not be required for
18 stabilization if an emergency medical condition exists. Payment
19 of claims for emergency services shall be based on the retro-
20 spective review of the presenting history and symptoms of the
21 covered person.

22 (2) An insurer that has given prior authorization for
23 emergency services shall cover the services and shall not retract
24 the authorization after the services have been provided unless
25 the authorization was based on a material misrepresentation
26 about the covered person's health condition made by the
27 referring provider, the provider of the emergency services or the
28 covered person.

29 (3) Coverage of emergency services shall be subject to
30 coinsurance, copayments and deductibles applicable under the
31 health benefit plan.

32 (4) The emergency department and the insurer shall make
33 a good faith effort to communicate with each other in a timely
34 fashion to expedite postevaluation or poststabilization services
35 in order to avoid material deterioration of the covered person's
36 condition.

37 (5) As used in this section:

38 (A) "Emergency medical services" means those services
39 required to screen for or treat an emergency medical condition
40 until the condition is stabilized, including prehospital care;

41 (B) "Prudent layperson" means a person who is without
42 medical training and who draws on his or her practical experi-
43 ence when making a decision regarding whether an emergency
44 medical condition exists for which emergency treatment should
45 be sought;

46 (C) “Emergency medical condition for the prudent
47 layperson” means one that manifests itself by acute symptoms
48 of sufficient severity, including severe pain, such that the
49 person could reasonably expect the absence of immediate
50 medical attention to result in serious jeopardy to the individ-
51 ual’s health, or, with respect to a pregnant woman, the health of
52 the unborn child; serious impairment to bodily functions; or
53 serious dysfunction of any bodily organ or part;

54 (D) “Stabilize” means with respect to an emergency
55 medical condition, to provide medical treatment of the condi-
56 tion necessary to assure, with reasonable medical probability
57 that no medical deterioration of the condition is likely to result
58 from or occur during the transfer of the individual from a
59 facility: *Provided*, That this provision may not be construed to
60 prohibit, limit or otherwise delay the transportation required for
61 a higher level of care than that possible at the treating facility;

62 (E) “Medical screening examination” means an appropriate
63 examination within the capability of the hospital’s emergency
64 department, including ancillary services routinely available to
65 the emergency department, to determine whether or not an
66 emergency medical condition exists; and

67 (F) “Emergency medical condition” means a condition that
68 manifests itself by acute symptoms of sufficient severity
69 including severe pain such that the absence of immediate
70 medical attention could reasonably be expected to result in
71 serious jeopardy to the individual’s health or with respect to a
72 pregnant woman the health of the unborn child, serious impair-
73 ment to bodily functions or serious dysfunction of any bodily
74 part or organ.

ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.

§33-25A-8d. Coverage of emergency services.

1 (a) Notwithstanding any provision of any policy, provision,
2 contract, plan or agreement to which this article applies, any

3 entity regulated by this article shall provide as benefits to all
4 subscribers and members coverage for emergency services. A
5 policy, provision, contract, plan or agreement may apply to
6 emergency services the same deductibles, coinsurance and other
7 limitations as apply to other covered services: *Provided*, That
8 preauthorization or precertification shall not be required.

9 (b) From the first day of July, one thousand nine hundred
10 ninety-eight, the following provisions apply:

11 (1) Every insurer shall provide coverage for emergency
12 medical services, including prehospital services, to the extent
13 necessary to screen and to stabilize an emergency medical
14 condition. The insurer shall not require prior authorization of
15 the screening services if a prudent layperson acting reasonably
16 would have believed that an emergency medical condition
17 existed. Prior authorization of coverage shall not be required for
18 stabilization if an emergency medical condition exists. Payment
19 of claims for emergency services shall be based on the retro-
20 spective review of the presenting history and symptoms of the
21 covered person.

22 (2) An insurer that has given prior authorization for
23 emergency services shall cover the services and shall not retract
24 the authorization after the services have been provided unless
25 the authorization was based on a material misrepresentation
26 about the covered person's health condition made by the
27 referring provider, the provider of the emergency services or the
28 covered person.

29 (3) Coverage of emergency services shall be subject to
30 coinsurance, copayments and deductibles applicable under the
31 health benefit plan.

32 (4) The emergency department and the insurer shall make
33 a good faith effort to communicate with each other in a timely
34 fashion to expedite postevaluation or poststabilization services

35 in order to avoid material deterioration of the covered person's
36 condition.

37 (5) As used in this section:

38 (A) "Emergency medical services" means those services
39 required to screen for or treat an emergency medical condition
40 until the condition is stabilized, including prehospital care;

41 (B) "Prudent layperson" means a person who is without
42 medical training and who draws on his or her practical experi-
43 ence when making a decision regarding whether an emergency
44 medical condition exists for which emergency treatment should
45 be sought;

46 (C) "Emergency medical condition for the prudent
47 layperson" means one that manifests itself by acute symptoms
48 of sufficient severity, including severe pain, such that the
49 person could reasonably expect the absence of immediate
50 medical attention to result in serious jeopardy to the individ-
51 ual's health, or, with respect to a pregnant woman, the health of
52 the unborn child; serious impairment to bodily functions; or
53 serious dysfunction of any bodily organ or part;

54 (D) "Stabilize" means with respect to an emergency
55 medical condition, to provide medical treatment of the condi-
56 tion necessary to assure, with reasonable medical probability
57 that no medical deterioration of the condition is likely to result
58 from or occur during the transfer of the individual from a
59 facility: *Provided*, That this provision may not be construed to
60 prohibit, limit or otherwise delay the transportation required for
61 a higher level of care than that possible at the treating facility;

62 (E) "Medical screening examination" means an appropriate
63 examination within the capability of the hospital's emergency
64 department, including ancillary services routinely available to
65 the emergency department, to determine whether or not an
66 emergency medical condition exists; and

67 (F) "Emergency medical condition" means a condition that
68 manifests itself by acute symptoms of sufficient severity
69 including severe pain such that the absence of immediate
70 medical attention could reasonably be expected to result in
71 serious jeopardy to the individual's health or with respect to a
72 pregnant woman the health of the unborn child, serious impair-
73 ment to bodily functions or serious dysfunction of any bodily
74 part or organ.

75 (6) Each insurer shall provide the enrolled member with a
76 description of procedures to be followed by the member for
77 emergency services, including the following:

78 (A) The appropriate use of emergency facilities;

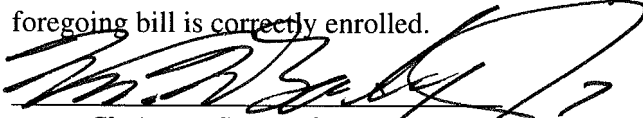
79 (B) The appropriate use of any prehospital services pro-
80 vided by the health maintenance organization;

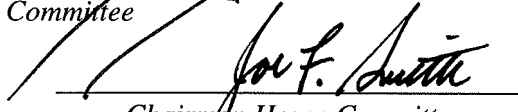
81 (C) Any potential responsibility of the member for payment
82 for nonemergency services rendered in an emergency facility;

83 (D) Any cost-sharing provisions for emergency services;
84 and

85 (E) An explanation of the prudent layperson standard for
86 emergency medical condition.

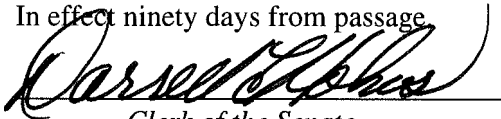
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


Chairman Senate Committee

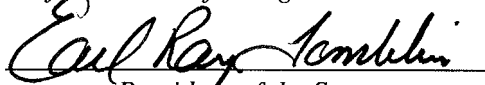

Chairman House Committee

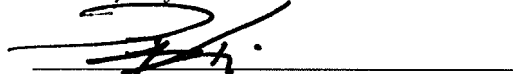
Originating in the House.

In effect ninety days from passage

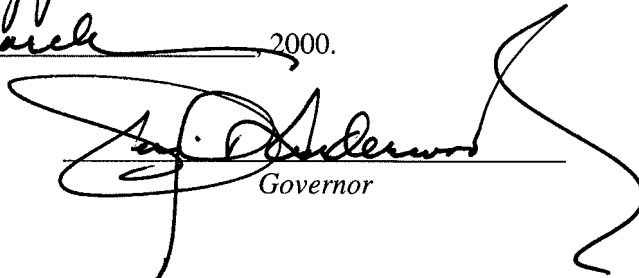

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within approved this the 20th
day of March, 2000.


Governor

PRESENTED TO THE

GOVERNOR

Date

3/15/00

Time

10:10am