

# WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Enrolled  
Committee Substitute  
for

**Senate Bill 533**

BY SENATORS DEEDS, BARRETT, HAMILTON, HUNT,  
NELSON, PHILLIPS, QUEEN, ROBERTS, SWOPE, TAKUBO,  
PLYMALE, MARONEY, AND WOODRUM

[Passed March 8, 2024; in effect 90 days from  
passage (June 6, 2024)]

FILED

2024 MAR 26 P 2:25

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

SB 533



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1 AN ACT to amend and reenact §16-4C-3 of the Code of West Virginia, 1931, as amended; to  
2 amend said code by adding thereto a new section, designated §16-4C-26; to amend said  
3 code by adding thereto a new section, designated §33-15-4x; to amend and reenact §33-  
4 15-21 of said code; to amend and reenact §33-16-3i of said code; to amend said code by  
5 adding thereto a new section, designated §33-16-3rr; to amend and reenact §33-24-7e of  
6 said code; to amend said code by adding thereto a new section, designated §33-24-7y; to  
7 amend and reenact §33-25-8d of said code; to amend said code by adding thereto a new  
8 section, designated §33-25-8v; to amend and reenact §33-25A-8d of said code; and to  
9 amend said code by adding thereto a new section, designated §33-25A-8y, all relating to  
10 emergency medical services; defining terms; providing that an emergency medical  
11 services agency may triage and transport a patient to an alternate destination in certain  
12 circumstances; mandating insurance coverage; providing that covered services include  
13 pre-hospital screening and stabilization of emergency conditions by an ambulance  
14 service; providing that air ambulance service is excluded from coverage; providing that  
15 coverage is subject to deductibles or copayment; providing that coverage be provided if  
16 the patient declines to be transported against medical advice; and providing effective date.

*Be it enacted by the Legislature of West Virginia:*

## **CHAPTER 16. PUBLIC HEALTH.**

### **ARTICLE 4C. EMERGENCY MEDICAL SERVICES ACT.**

#### **§16-4C-3. Definitions.**

1 As used in this article, unless the context clearly requires a different meaning:

2 (a) "Ambulance" means any privately, publicly-owned vehicle, or aircraft which is  
3 designed, constructed, or modified; equipped or maintained; and operated for the transportation  
4 of patients, including, but not limited to, emergency medical services vehicles; rotary and fixed  
5 wing air ambulances; gsa kkk-A-1822 federal standard type I, type II, and type III vehicles; and

6 specialized multipatient medical transport vehicles operated by an emergency medical services  
7 agency;

8 (b)(1) "Alternative destination" means a lower-acuity facility that provides medical  
9 services, including without limitation:

10 (A) A federally-qualified health center;

11 (B) An urgent care center;

12 (C) A rural health clinic;

13 (D) A physician office or medical clinic as selected by the patient; and

14 (E) A behavioral or mental health care facility including, without limitation, a crisis  
15 stabilization unit.

16 (2) "Alternative destination" does not include a:

17 (A) Critical access hospital;

18 (B) Dialysis center;

19 (C) Hospital;

20 (D) Private residence; or

21 (E) Skilled nursing facility.

22 (c) "Commissioner" means the Commissioner of the Bureau for Public Health;

23 (d) "Council" means the Emergency Medical Services Advisory Council created pursuant  
24 to this article;

25 (e) "Director" means the Director of the Office of Emergency Medical Services;

26 (f) "Emergency Medical Services" means all services set forth in Public Law 93-154 The  
27 Emergency Medical Services Systems Act of 1973 and those included in and made a part of the  
28 emergency medical services plan of the Department of Health inclusive of, but not limited to,  
29 responding to the medical needs of an individual to prevent the loss of life or aggravation of illness  
30 or injury;

31 (g) "Emergency medical services agency" means any agency licensed under §16-4C-6a  
32 of this code to provide emergency medical services;

33 (h) "Emergency medical services personnel" means any person certified by the  
34 commissioner to provide emergency medical services as set forth by legislative rule;

35 (i) "Emergency medical services provider" means any authority, person, corporation,  
36 partnership, or other entity, public or private, which owns or operates a licensed emergency  
37 medical services agency providing emergency medical services in this state;

38 (j) "Governing body" has the meanings ascribed to it as applied to a municipality in §8-1-  
39 2(b)(1) of this code;

40 (k) "Line officer" means the emergency medical services personnel, present at the scene  
41 of an accident, injury, or illness, who has taken the responsibility for patient care;

42 (l) "Medical command" means the issuing of orders by a physician from a medical facility  
43 to emergency medical services personnel for the purpose of providing appropriate patient care;

44 (m) "Municipality" has the meaning ascribed to it in §8-1-2(a)(1) of this code;

45 (n) "Patient" means any person who is a recipient of the services provided by emergency  
46 medical services;

47 (o) "A rural health clinic" means an outpatient care facility that provides rural health  
48 services, such as primary care and routine laboratory services, to rural and often underserved  
49 communities;

50 (p) "Service reciprocity" means the provision of emergency medical services to citizens of  
51 this state by emergency medical services personnel certified to render those services by a  
52 neighboring state;

53 (q) "Small emergency medical services provider" means any emergency medical services  
54 provider which is made up of less than 20 emergency medical services personnel; and

55 (r) "Specialized multipatient medical transport" means a type of ambulance transport  
56 provided for patients with medical needs greater than those of the average population, which may

57 require the presence of a trained emergency medical technician during the transport of the patient:  
58 *Provided*, That the requirement of "greater medical need" may not prohibit the transportation of a  
59 patient whose need is preventive in nature.

**§16-4C-26. Triage, treat, and transport to alternative destination.**

1 (a) An emergency medical services agency may triage and transport a patient to an  
2 alternative destination in this state or treat in place if the emergency medical services agency is  
3 coordinating the care of the patient through medical command or telehealth services with a  
4 physician for a medical-based complaint or with a behavioral health specialist for a behavioral-  
5 based complaint. Emergency medical services agencies shall execute a memorandum of  
6 understanding with alternative treatment destinations as permitted by the protocols to transport  
7 patients.

8 (b) On or before October 1, 2024, the director shall establish protocols for emergency  
9 medical services agencies to triage, treat, and transport to alternative destinations.

**CHAPTER 33. INSURANCE.**

**ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.**

**§33-15-4x. Coverage of emergency medical services to triage and transport to alternative destination or treat in place.**

1 (a) The following terms are defined:

2 (1) "911 call" means a communication indicating that an individual may need emergency  
3 medical services;

4 (2) "Alternative destination" means a lower-acuity facility that provides medical services,  
5 including without limitation:

6 (A) A federally-qualified health center;

7 (B) An urgent care center;

8 (C) A rural health clinic;



9 (D) A physician office or medical clinic as selected by the patient; and

10 (E) A behavioral or mental health care facility including, without limitation, a crisis  
11 stabilization unit.

12 "Alternative destination" does not include a:

13 (A) Critical access hospital;

14 (B) Dialysis center;

15 (C) Hospital;

16 (D) Private residence; or

17 (E) Skilled nursing facility;

18 (3) "Emergency medical services agency" means any agency licensed under §16-4C-6a  
19 of this code to provide emergency medical services: *Provided*, That rotary and fixed wing air  
20 ambulances are specifically excluded from the definition of an emergency medical services  
21 agency;

22 (4) "Medical command" means the issuing of orders by a physician from a medical facility  
23 to emergency medical services personnel for the purpose of providing appropriate patient care;  
24 and

25 (5) "Telehealth services" means the use of synchronous or asynchronous  
26 telecommunications technology or audio-only telephone calls by a health care practitioner to  
27 provide health care services, including, but not limited to, assessment, diagnosis, consultation,  
28 treatment, and monitoring of a patient; transfer of medical data; patient and professional health-  
29 related education; public health services; and health administration. The term does not include e-  
30 mail messages or facsimile transmissions.

31 (b) An insurer which issues or renews a health insurance policy on or after January 1,  
32 2025, shall provide coverage for:

33 (1) An emergency medical services agency to:

34 (A) Treat an enrollee in place if the ambulance service is coordinating the care of the  
35 enrollee through telehealth services with a physician for a medical-based complaint or with a  
36 behavioral health specialist for a behavioral-based complaint;

37 (B) Triage or triage and transport an enrollee to an alternative destination if the ambulance  
38 service is coordinating the care of the enrollee through telehealth services with a physician for a  
39 medical-based complaint or with a behavioral health specialist for a behavioral-based complaint;

40 or

41 (C) An encounter between an ambulance service and enrollee that results in no transport  
42 of the enrollee if:

43 (i) The enrollee declines to be transported against medical advice; and

44 (ii) The emergency medical services agency is coordinating the care of the enrollee  
45 through telehealth services or medical command with a physician for a medical-based complaint  
46 or with a behavioral health specialist for a behavioral-based complaint.

47 (c) The coverage under this section:

48 (1) Only includes emergency medical services transportation to the treatment location;

49 (2) Is subject to the initiation of response, triage, and treatment as a result of a 911 call  
50 that is documented in the records of the emergency medical services agency;

51 (3) Is subject to deductibles or copayment requirements of the policy, contract, or plan;

52 (4) Does not diminish or limit benefits otherwise allowable under a health benefit plan,  
53 even if the billing claims for medical or behavioral health services overlap in time that is billed by  
54 the ambulance service also providing care; and

55 (5) Does not include rotary or fixed wing air ambulance services.

56 (d) The reimbursement rate for an emergency medical services agency that triages, treats,  
57 and transports a patient to an alternative destination, or triages, treats, and does not transport a  
58 patient, if the patient declines to be transported against medical advice, if the ambulance service  
59 is coordinating the care of the enrollee through medical command or telemedicine with a physician

60 for a medical-based complaint, or with a behavioral health specialist for a behavioral-based  
61 complaint under this section, shall be reimbursed at the same rate as if the patient were  
62 transported to an emergency room of a facility provider.

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

1 From July 1, 1998:

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

9 (b) The coverage for prehospital screening and stabilization of an emergency medical  
10 condition shall include ambulance services provided under the provisions of §16-4C-1 *et seq.* of  
11 this code, excluding air ambulance services as defined in §16-4C-3(a) of this code. The insurer  
12 shall pay claims for prehospital screening and stabilization of emergency condition by ambulance  
13 service if the insured is transported to an emergency room of a facility provider or if the patient  
14 declines to be transported against medical advice. The coverage under this section is subject to  
15 deductibles or copayment requirements of the policy, contract, or plan.

16 (c) An insurer that has given prior authorization for emergency services shall cover the  
17 services and shall not retract the authorization after the services have been provided unless the  
18 authorization was based on a material misrepresentation about the covered person's health  
19 condition made by the referring provider, the provider of the emergency services, or the covered  
20 person.

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

23 (e) The emergency department and the insurer shall make a good faith effort to  
24 communicate with each other in a timely fashion to expedite post evaluation or post stabilization  
25 services in order to avoid material deterioration of the covered person's condition.

26 (f) As used in this section:

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

29 (2) "Prudent layperson" means a person who is without medical training and who draws  
30 on his or her practical experience when making a decision regarding whether an emergency  
31 medical condition exists for which emergency treatment should be sought;

32 (3) "Emergency medical condition for the prudent layperson" means one that manifests  
33 itself by acute symptoms of sufficient severity, including severe pain, such that the person could  
34 reasonably expect the absence of immediate medical attention to result in serious jeopardy to the  
35 individual's health, or, with respect to a pregnant woman, the health of the unborn child; serious  
36 impairment to bodily functions; or serious dysfunction of any bodily organ or part;

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

43 (5) "Medical screening examination" means an appropriate examination within the  
44 capability of the hospital's emergency department, including ancillary services routinely available  
45 to the emergency department, to determine whether or not an emergency medical condition  
46 exists; and

47 (6) "Emergency medical condition" means a condition that manifests itself by acute  
48 symptoms of sufficient severity, including severe pain, such that the absence of immediate

49 medical attention could reasonably be expected to result in serious jeopardy to the individual's  
50 health, or, with respect to a pregnant woman, the health of the unborn child, serious impairment  
51 to bodily functions, or serious dysfunction of any bodily part or organ.

**ARTICLE 16. GROUP ACCIDENT AND SICKNESS COVERAGE.**

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

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

7 (b) From July 1, 1998, the following provisions apply:

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

15 (2) The coverage for prehospital screening and stabilization of an emergency medical  
16 condition shall include ambulance services provided under the provisions of §16-4C-1 *et seq.* of  
17 this code, excluding air ambulance services as defined in §16-4C-3(a) of this code. The insurer  
18 shall pay claims for prehospital screening and stabilization of emergency condition by ambulance  
19 service if the insured is transported to an emergency room of a facility provider or if the patient  
20 declines to be transported against medical advice. The coverage under this section is subject to  
21 deductibles or copayment requirements of the policy, contract, or plan.

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

27 (4) Coverage of emergency services shall be subject to coinsurance, copayments, and  
28 deductibles applicable under the health benefit plan.

29 (5) The emergency department and the insurer shall make a good faith effort to  
30 communicate with each other in a timely fashion to expedite post evaluation or post stabilization  
31 services in order to avoid material deterioration of the covered person's condition.

32 (6) As used in this section:

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

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

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

43 (D) "Stabilize" means with respect to an emergency medical condition, to provide medical  
44 treatment of the condition necessary to assure, with reasonable medical probability, that no  
45 medical deterioration of the condition is likely to result from or occur during the transfer of the  
46 individual from a facility: *Provided*, That this provision may not be construed to prohibit, limit, or

47 otherwise delay the transportation required for a higher level of care than that possible at the  
48 treating facility;

49 (E) "Medical screening examination" means an appropriate examination within the  
50 capability of the hospital's emergency department, including ancillary services routinely available  
51 to the emergency department, to determine whether or not an emergency medical condition  
52 exists; and

53 (F) "Emergency medical condition" means a condition that manifests itself by acute  
54 symptoms of sufficient severity, including severe pain, such that the absence of immediate  
55 medical attention could reasonably be expected to result in serious jeopardy to the individual's  
56 health, or, with respect to a pregnant woman, the health of the unborn child, serious impairment  
57 to bodily functions or serious dysfunction of any bodily part or organ.

**§33-16-3rr. Coverage of emergency medical services to triage and transport to alternative  
destination or treat in place.**

1 (a) The following terms are defined:

2 (1) "911 call" means a communication indicating that an individual may need emergency  
3 medical services;

4 (2) "Alternative destination" means a lower-acuity facility that provides medical services,  
5 including without limitation:

6 (A) A federally-qualified health center;

7 (B) An urgent care center;

8 (C) A rural health clinic;

9 (D) A physician office or medical clinic as selected by the patient; and

10 (E) A behavioral or mental health care facility including, without limitation, a crisis  
11 stabilization unit.

12 "Alternative destination" does not include a:

13 (A) Critical access hospital;

14 (B) Dialysis center;

15 (C) Hospital;

16 (D) Private residence; or

17 (E) Skilled nursing facility;

18 (3) "Emergency medical services agency" means any agency licensed under §16-4C-6a  
19 of this code to provide emergency medical services: *Provided*, That rotary and fixed wing air  
20 ambulances are specifically excluded from the definition of an emergency medical services  
21 agency;

22 (4) "Medical command" means the issuing of orders by a physician from a medical facility  
23 to emergency medical services personnel for the purpose of providing appropriate patient care;  
24 and

25 (5) "Telehealth services" means the use of synchronous or asynchronous  
26 telecommunications technology or audio-only telephone calls by a health care practitioner to  
27 provide health care services, including, but not limited to, assessment, diagnosis, consultation,  
28 treatment, and monitoring of a patient; transfer of medical data; patient and professional health-  
29 related education; public health services; and health administration. The term does not include e-  
30 mail messages or facsimile transmissions.

31 (b) An insurer which issues or renews a health insurance policy on or after January 1,  
32 2025, shall provide coverage for:

33 (1) An emergency medical services agency to:

34 (A) Treat an enrollee in place if the ambulance service is coordinating the care of the  
35 enrollee through telehealth services with a physician for a medical-based complaint or with a  
36 behavioral health specialist for a behavioral-based complaint;

37 (B) Triage or triage and transport an enrollee to an alternative destination if the ambulance  
38 service is coordinating the care of the enrollee through telehealth services with a physician for a



39 medical-based complaint or with a behavioral health specialist for a behavioral-based complaint;  
40 or

41 (C) An encounter between an ambulance service and enrollee that results in no transport  
42 of the enrollee if:

43 (i) The enrollee declines to be transported against medical advice; and

44 (ii) The emergency medical services agency is coordinating the care of the enrollee  
45 through telehealth services or medical command with a physician for a medical-based complaint  
46 or with a behavioral health specialist for a behavioral-based complaint.

47 (c) The coverage under this section:

48 (1) Only includes emergency medical services transportation to the treatment location;

49 (2) Is subject to the initiation of response, triage, and treatment as a result of a 911 call  
50 that is documented in the records of the emergency medical services agency;

51 (3) Is subject to deductibles or copayment requirements of the policy, contract, or plan;

52 (4) Does not diminish or limit benefits otherwise allowable under a health benefit plan,  
53 even if the billing claims for medical or behavioral health services overlap in time that is billed by  
54 the ambulance service also providing care; and

55 (5) Does not include rotary or fixed wing air ambulance services.

56 (d) The reimbursement rate for an emergency medical services agency that triages, treats,  
57 and transports a patient to an alternative destination, or triages, treats, and does not transport a  
58 patient, if the patient declines to be transported against medical advice, if the ambulance service  
59 is coordinating the care of the enrollee through medical command or telemedicine with a physician  
60 for a medical-based complaint, or with a behavioral health specialist for a behavioral-based  
61 complaint under this section, shall be reimbursed at the same rate as if the patient were  
62 transported to an emergency room of a facility provider.

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

7 (b) From July 1, 1998, the following provisions apply:

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

15 (2) The coverage for prehospital screening and stabilization of an emergency medical  
16 condition shall include ambulance services provided under the provisions of §16-4C-1 *et seq.* of  
17 this code, excluding air ambulance services as defined in §16-4C-3(a) of this code. The insurer  
18 shall pay claims for prehospital screening and stabilization of emergency condition by ambulance  
19 service if the insured is transported to an emergency room of a facility provider or if the patient  
20 declines to be transported against medical advice. The coverage under this section is subject to  
21 deductibles or copayment requirements of the policy, contract, or plan.

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

27 (4) Coverage of emergency services shall be subject to coinsurance, copayments, and  
28 deductibles applicable under the health benefit plan.

29 (5) The emergency department and the insurer shall make a good faith effort to  
30 communicate with each other in a timely fashion to expedite post evaluation or post stabilization  
31 services in order to avoid material deterioration of the covered person's condition.

32 (6) As used in this section:

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

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

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

43 (D) "Stabilize" means with respect to an emergency medical condition, to provide medical  
44 treatment of the condition necessary to assure, with reasonable medical probability, that no  
45 medical deterioration of the condition is likely to result from or occur during the transfer of the  
46 individual from a facility: *Provided*, That this provision may not be construed to prohibit, limit, or

47 otherwise delay the transportation required for a higher level of care than that possible at the  
48 treating facility;

49 (E) "Medical screening examination" means an appropriate examination within the  
50 capability of the hospital's emergency department, including ancillary services routinely available  
51 to the emergency department, to determine whether or not an emergency medical condition  
52 exists; and

53 (F) "Emergency medical condition" means a condition that manifests itself by acute  
54 symptoms of sufficient severity, including severe pain, such that the absence of immediate  
55 medical attention could reasonably be expected to result in serious jeopardy to the individual's  
56 health, or, with respect to a pregnant woman, the health of the unborn child, serious impairment  
57 to bodily functions, or serious dysfunction of any bodily part or organ.

**§33-24-7y. Coverage of emergency medical services to triage and transport to alternative  
destination or treat in place.**

1 (a) The following terms are defined:

2 (1) "911 call" means a communication indicating that an individual may need emergency  
3 medical services;

4 (2) "Alternative destination" means a lower-acuity facility that provides medical services,  
5 including without limitation:

6 (A) A federally-qualified health center;

7 (B) An urgent care center;

8 (C) A rural health clinic;

9 (D) A physician office or medical clinic as selected by the patient; and

10 (E) A behavioral or mental health care facility including, without limitation, a crisis  
11 stabilization unit.

12 "Alternative destination" does not include a:

13 (A) Critical access hospital;

14 (B) Dialysis center;

15 (C) Hospital;

16 (D) Private residence; or

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18 (3) "Emergency medical services agency" means any agency licensed under §16-4C-6a  
19 of this code to provide emergency medical services: *Provided*, That rotary and fixed wing air  
20 ambulances are specifically excluded from the definition of an emergency medical services  
21 agency;

22 (4) "Medical command" means the issuing of orders by a physician from a medical facility  
23 to emergency medical services personnel for the purpose of providing appropriate patient care;  
24 and

25 (5) "Telehealth services" means the use of synchronous or asynchronous  
26 telecommunications technology or audio-only telephone calls by a health care practitioner to  
27 provide health care services, including, but not limited to, assessment, diagnosis, consultation,  
28 treatment, and monitoring of a patient; transfer of medical data; patient and professional health-  
29 related education; public health services; and health administration. The term does not include e-  
30 mail messages or facsimile transmissions.

31 (b) An insurer which issues or renews a health insurance policy on or after January 1,  
32 2025, shall provide coverage for:

33 (1) An emergency medical services agency to:

34 (A) Treat an enrollee in place if the ambulance service is coordinating the care of the  
35 enrollee through telehealth services with a physician for a medical-based complaint or with a  
36 behavioral health specialist for a behavioral-based complaint;

37 (B) Triage or triage and transport an enrollee to an alternative destination if the ambulance  
38 service is coordinating the care of the enrollee through telehealth services with a physician for a

39 medical-based complaint or with a behavioral health specialist for a behavioral-based complaint;  
40 or

41 (C) An encounter between an ambulance service and enrollee that results in no transport  
42 of the enrollee if:

43 (i) The enrollee declines to be transported against medical advice; and

44 (ii) The emergency medical services agency is coordinating the care of the enrollee  
45 through telehealth services or medical command with a physician for a medical-based complaint  
46 or with a behavioral health specialist for a behavioral-based complaint.

47 (c) The coverage under this section:

48 (1) Only includes emergency medical services transportation to the treatment location;

49 (2) Is subject to the initiation of response, triage, and treatment as a result of a 911 call  
50 that is documented in the records of the emergency medical services agency;

51 (3) Is subject to deductibles or copayment requirements of the policy, contract, or plan;

52 (4) Does not diminish or limit benefits otherwise allowable under a health benefit plan,  
53 even if the billing claims for medical or behavioral health services overlap in time that is billed by  
54 the ambulance service also providing care; and

55 (5) Does not include rotary or fixed wing air ambulance services.

56 (d) The reimbursement rate for an emergency medical services agency that triages, treats,  
57 and transports a patient to an alternative destination, or triages, treats, and does not transport a  
58 patient, if the patient declines to be transported against medical advice, if the ambulance service  
59 is coordinating the care of the enrollee through medical command or telemedicine with a physician  
60 for a medical-based complaint, or with a behavioral health specialist for a behavioral-based  
61 complaint under this section, shall be reimbursed at the same rate as if the patient were  
62 transported to an emergency room of a facility provider.

## **ARTICLE 25. HEALTH CARE CORPORATIONS.**

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

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

7 (b) From July 1, 1998, the following provisions apply:

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

15 (2) The coverage for prehospital screening and stabilization of an emergency medical  
16 condition shall include ambulance services provided under the provisions of §16-4C-1 *et seq.* of  
17 this code, excluding air ambulance services as defined in §16-4C-3(a) of this code. The insurer  
18 shall pay claims for prehospital screening and stabilization of emergency condition by ambulance  
19 service if the insured is transported to an emergency room of a facility provider or if the patient  
20 declines to be transported against medical advice. The coverage under this section is subject to  
21 deductibles or copayment requirements of the policy, contract, or plan.

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

27 (4) Coverage of emergency services shall be subject to coinsurance, copayments, and  
28 deductibles applicable under the health benefit plan.

29 (5) The emergency department and the insurer shall make a good faith effort to  
30 communicate with each other in a timely fashion to expedite post evaluation or post stabilization  
31 services in order to avoid material deterioration of the covered person's condition.

32 (6) As used in this section:

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

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

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

43 (D) "Stabilize" means with respect to an emergency medical condition, to provide medical  
44 treatment of the condition necessary to assure, with reasonable medical probability, that no  
45 medical deterioration of the condition is likely to result from or occur during the transfer of the  
46 individual from a facility: *Provided*, That this provision may not be construed to prohibit, limit, or  
47 otherwise delay the transportation required for a higher level of care than that possible at the  
48 treating facility;

49 (E) "Medical screening examination" means an appropriate examination within the  
50 capability of the hospital's emergency department, including ancillary services routinely available  
51 to the emergency department, to determine whether or not an emergency medical condition  
52 exists; and



53 (F) "Emergency medical condition" means a condition that manifests itself by acute  
54 symptoms of sufficient severity, including severe pain, such that the absence of immediate  
55 medical attention could reasonably be expected to result in serious jeopardy to the individual's  
56 health, or, with respect to a pregnant woman, the health of the unborn child, serious impairment  
57 to bodily functions or serious dysfunction of any bodily part or organ.

**§33-25-8v. Coverage of emergency medical services to triage and transport to alternative destination or treat in place.**

1 (a) The following terms are defined:

2 (1) "911 call" means a communication indicating that an individual may need emergency  
3 medical services;

4 (2) "Alternative destination" means a lower-acuity facility that provides medical services,  
5 including without limitation:

6 (A) A federally-qualified health center;

7 (B) An urgent care center;

8 (C) A rural health clinic;

9 (D) A physician office or medical clinic as selected by the patient; and

10 (E) A behavioral or mental health care facility including, without limitation, a crisis  
11 stabilization unit.

12 "Alternative destination" does not include a:

13 (A) Critical access hospital;

14 (B) Dialysis center;

15 (C) Hospital;

16 (D) Private residence; or

17 (E) Skilled nursing facility;

18 (3) "Emergency medical services agency" means any agency licensed under §16-4C-6a  
19 of this code to provide emergency medical services: *Provided*, That rotary and fixed wing air

20 ambulances are specifically excluded from the definition of an emergency medical services  
21 agency;

22 (4) "Medical command" means the issuing of orders by a physician from a medical facility  
23 to emergency medical services personnel for the purpose of providing appropriate patient care;  
24 and

25 (5) "Telehealth services" means the use of synchronous or asynchronous  
26 telecommunications technology or audio-only telephone calls by a health care practitioner to  
27 provide health care services, including, but not limited to, assessment, diagnosis, consultation,  
28 treatment, and monitoring of a patient; transfer of medical data; patient and professional health-  
29 related education; public health services; and health administration. The term does not include e-  
30 mail messages or facsimile transmissions.

31 (b) An insurer which issues or renews a health insurance policy on or after January 1,  
32 2025, shall provide coverage for:

33 (1) An emergency medical services agency to:

34 (A) Treat an enrollee in place if the ambulance service is coordinating the care of the  
35 enrollee through telehealth services with a physician for a medical-based complaint or with a  
36 behavioral health specialist for a behavioral-based complaint;

37 (B) Triage or triage and transport an enrollee to an alternative destination if the ambulance  
38 service is coordinating the care of the enrollee through telehealth services with a physician for a  
39 medical-based complaint or with a behavioral health specialist for a behavioral-based complaint;  
40 or

41 (C) An encounter between an ambulance service and enrollee that results in no transport  
42 of the enrollee if:

43 (i) The enrollee declines to be transported against medical advice; and

44 (ii) The emergency medical services agency is coordinating the care of the enrollee  
45 through telehealth services or medical command with a physician for a medical-based complaint  
46 or with a behavioral health specialist for a behavioral-based complaint.

47 (c) The coverage under this section:

48 (1) Only includes emergency medical services transportation to the treatment location;

49 (2) Is subject to the initiation of response, triage, and treatment as a result of a 911 call  
50 that is documented in the records of the emergency medical services agency;

51 (3) Is subject to deductibles or copayment requirements of the policy, contract, or plan;

52 (4) Does not diminish or limit benefits otherwise allowable under a health benefit plan,  
53 even if the billing claims for medical or behavioral health services overlap in time that is billed by  
54 the ambulance service also providing care; and

55 (5) Does not include rotary or fixed wing air ambulance services.

56 (d) The reimbursement rate for an emergency medical services agency that triages, treats,  
57 and transports a patient to an alternative destination, or triages, treats, and does not transport a  
58 patient, if the patient declines to be transported against medical advice, if the ambulance service  
59 is coordinating the care of the enrollee through medical command or telemedicine with a physician  
60 for a medical-based complaint, or with a behavioral health specialist for a behavioral-based  
61 complaint under this section, shall be reimbursed at the same rate as if the patient were  
62 transported to an emergency room of a facility provider.

## **ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.**

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

1 (a) Notwithstanding any provision of any policy, provision, contract, plan, or agreement to  
2 which this article applies, any entity regulated by this article shall provide as benefits to all  
3 subscribers and members coverage for emergency services. A policy, provision, contract, plan,  
4 or agreement may apply to emergency services the same deductibles, coinsurance, and other

5 limitations as apply to other covered services: *Provided*, That preauthorization or precertification  
6 shall not be required.

7 (b) From July 1, 1998, the following provisions apply:

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

15 (2) The coverage for prehospital screening and stabilization of an emergency medical  
16 condition shall include ambulance services provided under the provisions of §16-4C-1 *et seq.* of  
17 this code, excluding air ambulance services as defined in §16-4C-3(a) of this code. The insurer  
18 shall pay claims for prehospital screening and stabilization of emergency condition by ambulance  
19 service if the insured is transported to an emergency room of a facility provider or if the patient  
20 declines to be transported against medical advice. The coverage under this section is subject to  
21 deductibles or copayment requirements of the policy, contract, or plan.

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

27 (4) Coverage of emergency services shall be subject to coinsurance, copayments, and  
28 deductibles applicable under the health benefit plan.

29           (5) The emergency department and the insurer shall make a good faith effort to  
30 communicate with each other in a timely fashion to expedite post evaluation or post stabilization  
31 services in order to avoid material deterioration of the covered person's condition.

32           (6) As used in this section:

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

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

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

43           (D) "Stabilize" means with respect to an emergency medical condition, to provide medical  
44 treatment of the condition necessary to assure, with reasonable medical probability, that no  
45 medical deterioration of the condition is likely to result from or occur during the transfer of the  
46 individual from a facility: *Provided*, That this provision may not be construed to prohibit, limit, or  
47 otherwise delay the transportation required for a higher level of care than that possible at the  
48 treating facility;

49           (E) "Medical screening examination" means an appropriate examination within the  
50 capability of the hospital's emergency department, including ancillary services routinely available  
51 to the emergency department, to determine whether or not an emergency medical condition  
52 exists; and

53           (F) "Emergency medical condition" means a condition that manifests itself by acute  
54 symptoms of sufficient severity, including severe pain, such that the absence of immediate

55 medical attention could reasonably be expected to result in serious jeopardy to the individual's  
56 health or with respect to a pregnant woman, the health of the unborn child, serious impairment to  
57 bodily functions or serious dysfunction of any bodily part or organ.

58 (7) Each insurer shall provide the enrolled member with a description of procedures to be  
59 followed by the member for emergency services, including the following:

60 (A) The appropriate use of emergency facilities;

61 (B) The appropriate use of any prehospital services provided by the health maintenance  
62 organization;

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

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

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

**§33-25A-8y. Coverage of emergency medical services to triage and transport to alternative  
destination or treat in place.**

1 (a) The following terms are defined:

2 (1) "911 call" means a communication indicating that an individual may need emergency  
3 medical services;

4 (2) "Alternative destination" means a lower-acuity facility that provides medical services,  
5 including without limitation:

6 (A) A federally-qualified health center;

7 (B) An urgent care center;

8 (C) A rural health clinic;

9 (D) A physician office or medical clinic as selected by the patient; and

10 (E) A behavioral or mental health care facility including, without limitation, a crisis  
11 stabilization unit.

12 "Alternative destination" does not include a:

13 (A) Critical access hospital;

14 (B) Dialysis center;

15 (C) Hospital;

16 (D) Private residence; or

17 (E) Skilled nursing facility;

18 (3) "Emergency medical services agency" means any agency licensed under §16-4C-6a  
19 of this code to provide emergency medical services: *Provided*, That rotary and fixed wing air  
20 ambulances are specifically excluded from the definition of an emergency medical services  
21 agency;

22 (4) "Medical command" means the issuing of orders by a physician from a medical facility  
23 to emergency medical services personnel for the purpose of providing appropriate patient care;  
24 and

25 (5) "Telehealth services" means the use of synchronous or asynchronous  
26 telecommunications technology or audio-only telephone calls by a health care practitioner to  
27 provide health care services, including, but not limited to, assessment, diagnosis, consultation,  
28 treatment, and monitoring of a patient; transfer of medical data; patient and professional health-  
29 related education; public health services; and health administration. The term does not include e-  
30 mail messages or facsimile transmissions.

31 (b) An insurer which issues or renews a health insurance policy on or after January 1,  
32 2025, shall provide coverage for:

33 (1) An emergency medical services agency to:

34 (A) Treat an enrollee in place if the ambulance service is coordinating the care of the  
35 enrollee through telehealth services with a physician for a medical-based complaint or with a  
36 behavioral health specialist for a behavioral-based complaint;

37 (B) Triage or triage and transport an enrollee to an alternative destination if the ambulance  
38 service is coordinating the care of the enrollee through telehealth services with a physician for a

39 medical-based complaint or with a behavioral health specialist for a behavioral-based complaint;  
40 or

41 (C) An encounter between an ambulance service and enrollee that results in no transport  
42 of the enrollee if:

43 (i) The enrollee declines to be transported against medical advice; and

44 (ii) The emergency medical services agency is coordinating the care of the enrollee  
45 through telehealth services or medical command with a physician for a medical-based complaint  
46 or with a behavioral health specialist for a behavioral-based complaint.

47 (c) The coverage under this section:

48 (1) Only includes emergency medical services transportation to the treatment location;

49 (2) Is subject to the initiation of response, triage, and treatment as a result of a 911 call  
50 that is documented in the records of the emergency medical services agency;

51 (3) Is subject to deductibles or copayment requirements of the policy, contract, or plan;

52 (4) Does not diminish or limit benefits otherwise allowable under a health benefit plan,  
53 even if the billing claims for medical or behavioral health services overlap in time that is billed by  
54 the ambulance service also providing care; and

55 (5) Does not include rotary or fixed wing air ambulance services.

56 (d) The reimbursement rate for an emergency medical services agency that triages, treats,  
57 and transports a patient to an alternative destination, or triages, treats, and does not transport a  
58 patient, if the patient declines to be transported against medical advice, if the ambulance service  
59 is coordinating the care of the enrollee through medical command or telemedicine with a physician  
60 for a medical-based complaint, or with a behavioral health specialist for a behavioral-based  
61 complaint under this section, shall be reimbursed at the same rate as if the patient were  
62 transported to an emergency room of a facility provider.



The Clerk of the Senate and the Clerk of the House of Delegates hereby certify that the foregoing bill is correctly enrolled.


  
Clerk of the Senate

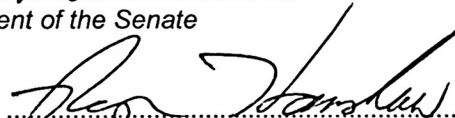
  
Clerk of the House of Delegates

FILED  
2024 MAR 26 P 2:25  
OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE


Originated in the Senate.

In effect 90 days from passage.

  
President of the Senate

  
Speaker of the House of Delegates

The within is approved this the 26th  
Day of March 2024.

  
Governor



PRESENTED TO THE GOVERNOR

MAR 19 2024

Time 3:20 pm