

By: Johnson of Dallas

H.B. No. 2035

A BILL TO BE ENTITLED

1 AN ACT
2 relating to utilization review of emergency care claims under
3 health benefit plans.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 533.005, Government Code, is amended by
6 adding Subsection (e) to read as follows:

7 (e) In addition to the requirements under Subsection (a), a
8 contract described by that subsection must require the managed care
9 organization to comply with Section 541.062, Insurance Code.

10 SECTION 2. Subchapter B, Chapter 541, Insurance Code, is
11 amended by adding Section 541.062 to read as follows:

12 Sec. 541.062. EMERGENCY CARE. (a) In this section,
13 "emergency care" has the meanings assigned by Sections 1301.155 and
14 4201.002 as applicable.

15 (b) It is an unfair method of competition or an unfair or
16 deceptive act or practice in the business of insurance for an
17 insurer or an individual or entity acting on behalf of an insurer
18 to:

19 (1) violate the requirements of Section 4201.156;

20 (2) deter enrollees from seeking care consistent with
21 the prudent layperson standard for emergency care; or

22 (3) engage in a pattern of wrongful denials of claims
23 for emergency care.

24 (c) A violation of this section does not create a private

1 cause of action under Section 541.151 or Section 541.251.

2 SECTION 3. Section 843.002(7), Insurance Code, is amended
3 to read as follows:

4 (7) "Emergency care" means health care services
5 provided in a hospital emergency facility, freestanding emergency
6 medical care facility, or comparable emergency facility to evaluate
7 and stabilize medical conditions of a recent onset and severity,
8 including severe pain, regardless of the final diagnosis that is
9 given, that would lead a prudent layperson possessing an average
10 knowledge of medicine and health to believe that the individual's
11 condition, sickness, or injury is of such a nature that failure to
12 get immediate medical care could:

13 (A) place the individual's health in serious
14 jeopardy;

15 (B) result in serious impairment to bodily
16 functions;

17 (C) result in serious dysfunction of a bodily
18 organ or part;

19 (D) result in serious disfigurement; or

20 (E) for a pregnant woman, result in serious
21 jeopardy to the health of the fetus.

22 SECTION 4. Section 1301.155(a), Insurance Code, is amended
23 to read as follows:

24 (a) In this section, "emergency care" means health care
25 services provided in a hospital emergency facility, freestanding
26 emergency medical care facility, or comparable emergency facility
27 to evaluate and stabilize a medical condition of a recent onset and

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

- 6 (1) placing the person's health in serious jeopardy;
- 7 (2) serious impairment to bodily functions;
- 8 (3) serious dysfunction of a bodily organ or part;
- 9 (4) serious disfigurement; or
- 10 (5) in the case of a pregnant woman, serious jeopardy
11 to the health of the fetus.

12 SECTION 5. Section 4201.002(2), Insurance Code, is amended
13 to read as follows:

14 (2) "Emergency care" means health care services
15 provided in a hospital emergency facility, freestanding emergency
16 medical care facility, or comparable emergency facility to evaluate
17 and stabilize medical conditions of a recent onset and severity,
18 including severe pain, regardless of the final diagnosis that is
19 given, that would lead a prudent layperson possessing an average
20 knowledge of medicine and health to believe that the individual's
21 condition, sickness, or injury is of such a nature that failure to
22 get immediate medical care could:

23 (A) place the individual's health in serious
24 jeopardy;

25 (B) result in serious impairment to bodily
26 functions;

27 (C) result in serious dysfunction of a bodily

1 organ or part;

2 (D) result in serious disfigurement; or

3 (E) for a pregnant woman, result in serious
4 jeopardy to the health of the fetus.

5 SECTION 6. Subchapter D, Chapter 4201, Insurance Code, is
6 amended by adding Section 4201.156 to read as follows:

7 Sec. 4201.156. REVIEW PROCEDURES FOR EMERGENCY CARE CLAIMS.

8 (a) Utilization review of an emergency care claim must be performed
9 by a physician:

10 (1) licensed to practice medicine in this state; and

11 (2) board certified in emergency medicine.

12 (b) With respect to an enrollee's medical condition that is
13 the basis for an emergency care claim, a utilization review agent:

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

19 (2) must review the enrollee's medical record before
20 making an adverse determination.

21 (c) Nothing in this section may be construed as authorizing
22 utilization review of emergency care when otherwise prohibited by
23 law.

24 SECTION 7. Sections 541.062 and 4201.156, Insurance Code,
25 as added by this Act, apply only to a health benefit plan delivered,
26 issued for delivery, or renewed on or after January 1, 2022. A
27 health benefit plan delivered, issued for delivery, or renewed

1 before January 1, 2022, is governed by the law as it existed
2 immediately before the effective date of this Act, and that law is
3 continued in effect for that purpose.

4 SECTION 8. If before implementing any provision of this Act
5 a state agency determines that a waiver or authorization from a
6 federal agency is necessary for implementation of that provision,
7 the agency affected by the provision shall request the waiver or
8 authorization and may delay implementing that provision until the
9 waiver or authorization is granted.

10 SECTION 9. This Act takes effect September 1, 2021.