

AN ACT

ENTITLED, An Act to establish certain requirements regarding coverage of emergency medical services.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. Terms used in this Act mean:

- (1) "Covered person," a policyholder, subscriber, enrollee, or other individual participating in a plan;
- (2) "Emergency medical condition," the sudden and, at the time, unexpected onset of a health condition that requires immediate medical attention, if failure to provide medical attention would result in serious impairment to bodily functions or serious dysfunction of a bodily organ or part, or would place the person's health in serious jeopardy;
- (3) "Emergency service," health care items and services furnished or required to evaluate and treat an emergency medical condition;
- (3A) "Health carrier," an entity subject to the insurance laws and regulations of this state, or subject to the jurisdiction of the director, that contracts or offers to contract, or enters into an agreement to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services, including a sickness and accident insurance company, a health maintenance organization, a nonprofit hospital and health service corporation, or any other entity providing a plan of health insurance, health benefits, or health services;
- (4) "Managed care contractor," a person who establishes, operates, or maintains a network of participating providers; or contracts with an insurance company, a hospital or medical service plan, an employer, an employee organization, or any other entity providing coverage for health care services to operate a managed care plan;
- (5) "Managed care entity," a licensed insurance company, hospital or medical service plan, health maintenance organization, an employer or employee organization, or a managed

care contractor that operates a managed care plan;

- (6) "Managed care plan," a plan operated by a managed care entity that provides for the financing or delivery of health care services, or both, to persons enrolled in the plan through any of the following:
 - (a) Arrangements with selected providers to furnish health care services;
 - (b) Explicit standards for the selection of participating providers; or
 - (c) Financial incentives for persons enrolled in the plan to use the participating providers and procedures provided for by the plan;
- (7) "Participating provider," a provider who, under a contract with the health carrier or with its contractor or subcontractor, has agreed to provide health care services to covered persons with an expectation of receiving payment, other than coinsurance, copayments, or deductibles, directly or indirectly from the health carrier;
- (8) "Stabilized," with respect to an emergency medical condition, that no material deterioration of the condition is likely, with reasonable medical probability, to result or occur before an individual can be transferred.

Section 2. A health carrier shall cover emergency services necessary to screen and stabilize a covered person and may not require prior authorization of such services if a prudent lay person acting reasonably would have believed that an emergency medical condition existed. With respect to care obtained from a noncontracting provider within the service area of a managed care plan, a health carrier shall cover emergency services necessary to screen and stabilize a covered person and may not require prior authorization of such services if a prudent layperson would have reasonably believed that use of a contracting provider would result in a delay that would worsen the emergency, or if a provision of federal, state, or local law requires the use of a specific provider. The coverage shall be at the same benefit level as if the service or treatment had been rendered by a participating provider.

A health carrier shall cover emergency services if the plan, acting through a participating provider

or other authorized representative, has authorized the provision of emergency services.

Section 3. If a participating provider or other authorized representative of a health carrier authorizes emergency services, the health carrier may not retroactively deny its authorization after the emergency services have been provided, or reduce payment for a covered expense furnished in reliance on approval, unless the approval was based on a material misrepresentation about the covered person's health condition made by the provider of emergency services.

Section 4. Coverage of emergency services is subject to any contract coverage limits, applicable copayments, coinsurance, and deductibles.

Section 5. For immediately required post-evaluation or post-stabilization services, a health carrier shall provide access to an authorized representative twenty-four hours a day, seven days a week, to facilitate review, or otherwise provide coverage with no financial penalty to the covered person.

Section 6. A covered person shall have access to emergency services twenty-four hours a day, seven days a week to treat emergency medical conditions that require immediate medical attention.

Section 7. Nothing in this Act applies to dental only, vision only, accident only, school accident, travel, or specified disease plans or plans that primarily provide a fixed daily, fixed occurrence, or fixed per procedure benefit without regard to expenses incurred.

Section 8. If the director of the Division of Insurance and the secretary of the Department of Health find that the requirements of any private accrediting body meet the requirements of coverage of emergency medical services as set forth in this Act, the health carrier may, at the discretion of the director and secretary, be deemed to have met the applicable requirements.

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I certify that the attached Act
originated in the

HOUSE as Bill No. 1013

Chief Clerk

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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1013
File No. _____
Chapter No. _____

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Received at this Executive Office
this ____ day of _____ ,

19__ at ____ M.

By _____
for the Governor

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The attached Act is hereby
approved this _____ day of
_____, A.D., 19__

Governor

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STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 19__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State