

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

346C0266

SENATE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **HB1013** - 2/10/99

Introduced by: Representatives Hunt, Duenwald, Fiegen, Hagen, Koskan, and Peterson and  
Senators Lawler, Brosz, Ham, and Kloucek at the request of the Interim Health  
and Human Services Committee

1 FOR AN ACT ENTITLED, An Act to establish certain requirements regarding coverage of  
2 emergency medical services.

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

4 Section 1. Terms used in this Act mean:

5 (1) "Covered person," a policyholder, subscriber, enrollee, or other individual  
6 participating in a plan;

7 (2) "Emergency medical condition," the sudden and, at the time, unexpected onset of a  
8 health condition that requires immediate medical attention, if failure to provide  
9 medical attention would result in serious impairment to bodily functions or serious  
10 dysfunction of a bodily organ or part, or would place the person's health in serious  
11 jeopardy;

12 (3) "Emergency service," health care items and services furnished or required to evaluate  
13 and treat an emergency medical condition;

14 (3A) "Health carrier," an entity subject to the insurance laws and regulations of this state,  
15 or subject to the jurisdiction of the director, that contracts or offers to contract, or

1 enters into an agreement to provide, deliver, arrange for, pay for, or reimburse any of  
2 the costs of health care services, including a sickness and accident insurance company,  
3 a health maintenance organization, a nonprofit hospital and health service corporation,  
4 or any other entity providing a plan of health insurance, health benefits, or health  
5 services;

6 (4) "Managed care contractor," a person who establishes, operates, or maintains a  
7 network of participating providers; or contracts with an insurance company, a hospital  
8 or medical service plan, an employer, an employee organization, or any other entity  
9 providing coverage for health care services to operate a managed care plan;

10 (5) "Managed care entity," a licensed insurance company, hospital or medical service  
11 plan, health maintenance organization, an employer or employee organization, or a  
12 managed care contractor that operates a managed care plan;

13 (6) "Managed care plan," a plan operated by a managed care entity that provides for the  
14 financing or delivery of health care services, or both, to persons enrolled in the plan  
15 through any of the following:

16 (a) Arrangements with selected providers to furnish health care services;

17 (b) Explicit standards for the selection of participating providers; or

18 (c) Financial incentives for persons enrolled in the plan to use the participating  
19 providers and procedures provided for by the plan;

20 (7) "Participating provider," a provider who, under a contract with the health carrier or  
21 with its contractor or subcontractor, has agreed to provide health care services to  
22 covered persons with an expectation of receiving payment, other than coinsurance,  
23 copayments, or deductibles, directly or indirectly from the health carrier;

24 (8) "Stabilized," with respect to an emergency medical condition, that no material  
25 deterioration of the condition is likely, with reasonable medical probability, to result

1 or occur before an individual can be transferred.

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

12 A health carrier shall cover emergency services if the plan, acting through a participating  
13 provider or other authorized representative, has authorized the provision of emergency services.

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

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

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

25 Section 6. A covered person shall have access to emergency services twenty-four hours a

1 day, seven days a week to treat emergency medical conditions that require immediate medical  
2 attention.

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

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

1 **BILL HISTORY**

2 1/12/99 First read in House and referred to Health and Human Services. H.J. 34

3 1/27/99 Scheduled for Committee hearing on this date.

4 1/27/99 Scheduled for Committee hearing on this date.

5 1/29/99 Scheduled for Committee hearing on this date.

6 1/29/99 Health and Human Services Do Pass Amended, Passed, AYES 12, NAYS 0. H.J. 309

7 2/4/99 House of Representatives Do Pass Amended, Passed, AYES 53, NAYS 6. H.J. 377

8 2/5/99 First read in Senate and referred to State Affairs. S.J. 346

9 2/8/99 Scheduled for Committee hearing on this date.

10 2/8/99 Scheduled for Committee hearing on this date.

11 2/8/99 State Affairs Do Pass Amended, Passed, AYES 8, NAYS 0. S.J. 396