

ACT 246

S.B. NO. 2037

A Bill for an Act Relating to Health Insurance.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to article 10A to be appropriately designated and to read as follows:

“§431:10A- Emergency medical services. (a) As used in this section unless the context otherwise requires:

“Emergency medical condition” means a medical condition that manifests itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:

- (1) Placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;
- (2) Serious impairment to bodily functions; or

(3) Serious dysfunction of any bodily organ or part.

“Emergency services” means:

- (1) A medical screening examination (as required by federal law) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department, to evaluate an emergency medical condition; or
- (2) Such further medical examination and treatment (as required by federal law) that is within the capabilities of the staff and facilities available at the hospital (including any trauma and burn center of the hospital), to stabilize an emergency medical condition.

“Stabilize” means the provision of medical treatment as may be necessary to assure, within reasonable medical probability, that no material deterioration of an individual’s medical condition is likely to result from or occur during a transfer to another facility, if the medical condition could result in:

- (1) Placing the health of the individual (or with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;
- (2) Serious impairment to bodily functions; or
- (3) Serious dysfunction of any bodily organ or part.

In the case of a woman having contractions, “stabilize” means medical treatment as may be necessary to deliver (including the placenta).

“Stabilized” means that no material deterioration of an individual’s medical condition, as described in this subsection, is likely, within reasonable medical probability, to result from or occur during the transfer of the individual from a facility, or in the case of a woman having contractions, that the woman has delivered (including the placenta).

(b) A health plan shall cover emergency services provided twenty-four hours a day, seven days a week to members with emergency medical conditions without regard to whether the member, or an emergency provider treating the member, obtained prior authorization for these services.

(c) A health plan shall cover emergency services provided to a member at a participating emergency department if the member presents oneself with an emergency medical condition.

(d) A health plan shall cover emergency services provided to a member at a nonparticipating emergency department up to the point of stabilization if:

- (1) The member presents oneself with an emergency medical condition; and
 - (2) One of the following applies:
 - (A) Due to circumstances beyond the member’s control, the member was unable to arrive at a participating emergency department without serious threat to life or health;
 - (B) A prudent layperson possessing an average knowledge of health and medicine would have reasonably believed that, under the circumstances, the time required to go to a participating emergency provider or department could result in one or more of the following:
 - (i) Placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;
 - (ii) Serious impairment to bodily functions; or
 - (iii) Serious dysfunction of any bodily organ or part;
- or

- (C) A person authorized by the health plan refers the member to an emergency department and does not specify a participating emergency department.
- (e) Except as provided in subsection (f), a health plan shall not be required to reimburse an emergency provider or an emergency department for any services, other than those medically necessary to stabilize a member, until:
 - (1) The emergency department has contacted the member's health benefits plan; and
 - (2) There is agreement between the emergency provider and the plan concerning treatment and services to be provided by the emergency provider after the member is stabilized.
- (f) A health plan shall reimburse an emergency provider and an emergency department for any items or services not necessary to stabilize the patient but that are determined to be medically necessary to treat the illness that lead the patient to believe that he or she had an emergency medical condition, and that a reasonable patient would expect to receive from a physician at the time of presentation.
- (g) A health plan that arranges for, or otherwise covers, urgent care services and comprehensive primary care may impose different cost-sharing on the member for:
 - (1) Use of an emergency department over another setting; and
 - (2) Use of a nonparticipating emergency department over a participating emergency department unless:
 - (A) Due to circumstances beyond the member's control, the member was unable to arrive at a participating emergency department without serious threat to life or health; or
 - (B) A prudent layperson possessing an average knowledge of health and medicine would have reasonably believed that, under the circumstances, the time required to go to a participating emergency department could result in one or more of the following:
 - (i) Placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;
 - (ii) Serious impairment to bodily functions; or
 - (iii) Serious dysfunction of any bodily organ or part.
- (h) A health plan that provides coverage for emergency medical services shall educate members on:
 - (1) Coverage for emergency medical services;
 - (2) The appropriate use of emergency services, including the use of the 911 system and other telephone access systems used to access prehospital emergency services;
 - (3) Any cost sharing provisions for emergency services; and
 - (4) The procedures for obtaining emergency and other medical services so that members are familiar with the location of in-plan emergency departments and with the location and availability of other in-plan settings at which they could receive medical care."

SECTION 2. Chapter 432, Hawaii Revised Statutes, is amended by adding a new section to article 1 to be appropriately designated and to read as follows:

“§432:1- Emergency medical services. (a) As used in this section unless the context otherwise requires:

“Emergency medical condition” means a medical condition that manifests itself by acute symptoms of sufficient severity, including severe pain, such that a

prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:

- (1) Placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;
- (2) Serious impairment to bodily functions; or
- (3) Serious dysfunction of any bodily organ or part.

“Emergency services” means:

- (1) A medical screening examination (as required by federal law) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department, to evaluate an emergency medical condition; or
- (2) Such further medical examination and treatment (as required by federal law) that is within the capabilities of the staff and facilities available at the hospital (including any trauma and burn center of the hospital), to stabilize an emergency medical condition.

“Stabilize” means the provision of medical treatment as may be necessary to assure, within reasonable medical probability, that no material deterioration of an individual’s medical condition is likely to result from or occur during a transfer to another facility, if the medical condition could result in:

- (1) Placing the health of the individual (or with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;
- (2) Serious impairment to bodily functions; or
- (3) Serious dysfunction of any bodily organ or part.

In the case of a woman having contractions, “stabilize” means medical treatment as may be necessary to deliver (including the placenta).

“Stabilized” means that no material deterioration of an individual’s medical condition, as described in this subsection, is likely, within reasonable medical probability, to result from or occur during the transfer of the individual from a facility, or in the case of a woman having contractions, that the woman has delivered (including the placenta).

(b) A health plan shall cover emergency services provided twenty-four hours a day, seven days a week to members with emergency medical conditions without regard to whether the member, or an emergency provider treating the member, obtained prior authorization for these services.

(c) A health plan shall cover emergency services provided to a member at a participating emergency department if the member presents oneself with an emergency medical condition.

(d) A health plan shall cover emergency services provided to a member at a nonparticipating emergency department up to the point of stabilization if:

- (1) The member presents oneself with an emergency medical condition; and
- (2) One of the following applies:
 - (A) Due to circumstances beyond the member’s control, the member was unable to arrive at a participating emergency department without serious threat to life or health;
 - (B) A prudent layperson possessing an average knowledge of health and medicine would have reasonably believed that, under the circumstances, the time required to go to a participating emergency provider or department could result in one or more of the following:

- (i) Placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;
 - (ii) Serious impairment to bodily functions; or
 - (iii) Serious dysfunction of any bodily organ or part;or
 - (C) A person authorized by the health plan refers the member to an emergency department and does not specify a participating emergency department.
- (e) Except as provided in subsection (f), a health plan shall not be required to reimburse an emergency provider or an emergency department for any services, other than those medically necessary to stabilize a member, until:
- (1) The emergency department has contacted the member's health benefits plan; and
 - (2) There is agreement between the emergency provider and the plan concerning treatment and services to be provided by the emergency provider after the member is stabilized.
- (f) A health plan shall reimburse an emergency provider and an emergency department for any items or services not necessary to stabilize the patient but that are determined to be medically necessary to treat the illness that lead the patient to believe that he or she had an emergency medical condition, and that a reasonable patient would expect to receive from a physician at the time of presentation.
- (g) A health plan that arranges for, or otherwise covers, urgent care services and comprehensive primary care may impose different cost-sharing on the member for:
- (1) Use of an emergency department over another setting; and
 - (2) Use of a nonparticipating emergency department over a participating emergency department unless:
 - (A) Due to circumstances beyond the member's control, the member was unable to arrive at a participating emergency department without serious threat to life or health; or
 - (B) A prudent layperson possessing an average knowledge of health and medicine would have reasonably believed that, under the circumstances, the time required to go to a participating emergency department could result in one or more of the following:
 - (i) Placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;
 - (ii) Serious impairment to bodily functions; or
 - (iii) Serious dysfunction of any bodily organ or part.
- (h) A health plan that provides coverage for emergency medical services shall educate members on:
- (1) Coverage for emergency medical services;
 - (2) The appropriate use of emergency services, including the use of the 911 system and other telephone access systems used to access prehospital emergency services;
 - (3) Any cost sharing provisions for emergency services; and
 - (4) The procedures for obtaining emergency and other medical services so that members are familiar with the location of in-plan emergency departments and with the location and availability of other in-plan settings at which they could receive medical care."

SECTION 3. Chapter 432D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§432D- Emergency medical services. (a) As used in this section unless the context otherwise requires:

“Emergency medical condition” means a medical condition that manifests itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:

- (1) Placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;
- (2) Serious impairment to bodily functions; or
- (3) Serious dysfunction of any bodily organ or part.

“Emergency services” means:

- (1) A medical screening examination (as required by federal law) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department, to evaluate an emergency medical condition; or
- (2) Such further medical examination and treatment (as required by federal law) that is within the capabilities of the staff and facilities available at the hospital (including any trauma and burn center of the hospital), to stabilize an emergency medical condition.

“Stabilize” means the provision of medical treatment as may be necessary to assure, within reasonable medical probability, that no material deterioration of an individual’s medical condition is likely to result from or occur during a transfer to another facility, if the medical condition could result in:

- (1) Placing the health of the individual (or with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;
- (2) Serious impairment to bodily functions; or
- (3) Serious dysfunction of any bodily organ or part.

In the case of a woman having contractions, “stabilize” means medical treatment as may be necessary to deliver (including the placenta).

“Stabilized” means that no material deterioration of an individual’s medical condition, as described in this subsection, is likely, within reasonable medical probability, to result from or occur during the transfer of the individual from a facility, or in the case of a woman having contractions, that the woman has delivered (including the placenta).

(b) A health plan shall cover emergency services provided twenty-four hours a day, seven days a week to members with emergency medical conditions without regard to whether the member, or an emergency provider treating the member, obtained prior authorization for these services.

(c) A health plan shall cover emergency services provided to a member at a participating emergency department if the member presents oneself with an emergency medical condition.

(d) A health plan shall cover emergency services provided to a member at a nonparticipating emergency department up to the point of stabilization if:

- (1) The member presents oneself with an emergency medical condition; and
- (2) One of the following applies:
 - (A) Due to circumstances beyond the member’s control, the member was unable to arrive at a participating emergency department without serious threat to life or health;

- (B) A prudent layperson possessing an average knowledge of health and medicine would have reasonably believed that, under the circumstances, the time required to go to a participating emergency provider or department could result in one or more of the following:
 - (i) Placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;
 - (ii) Serious impairment to bodily functions; or
 - (iii) Serious dysfunction of any bodily organ or part;
 or
- (C) A person authorized by the health plan refers the member to an emergency department and does not specify a participating emergency department.

(e) Except as provided in subsection (f), a health plan shall not be required to reimburse an emergency provider or an emergency department for any services, other than those medically necessary to stabilize a member, until:

- (1) The emergency department has contacted the member's health benefits plan; and
- (2) There is agreement between the emergency provider and the plan concerning treatment and services to be provided by the emergency provider after the member is stabilized.

(f) A health plan shall reimburse an emergency provider and an emergency department for any items or services not necessary to stabilize the patient but that are determined to be medically necessary to treat the illness that lead the patient to believe that he or she had an emergency medical condition, and that a reasonable patient would expect to receive from a physician at the time of presentation.

(g) A health plan that arranges for, or otherwise covers, urgent care services and comprehensive primary care may impose different cost-sharing on the member for:

- (1) Use of an emergency department over another setting; and
- (2) Use of a nonparticipating emergency department over a participating emergency department unless:
 - (A) Due to circumstances beyond the member's control, the member was unable to arrive at a participating emergency department without serious threat to life or health; or
 - (B) A prudent layperson possessing an average knowledge of health and medicine would have reasonably believed that, under the circumstances, the time required to go to a participating emergency department could result in one or more of the following:
 - (i) Placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;
 - (ii) Serious impairment to bodily functions; or
 - (iii) Serious dysfunction of any bodily organ or part.

(i)¹ A health plan that provides coverage for emergency medical services shall educate members on:

- (1) Coverage for emergency medical services;
- (2) The appropriate use of emergency services, including the use of the 911 system and other telephone access systems used to access prehospital emergency services;
- (3) Any cost sharing provisions for emergency services; and
- (4) The procedures for obtaining emergency and other medical services so that members are familiar with the location of in-plan emergency

departments and with the location and availability of other in-plan settings at which they could receive medical care.”

SECTION 4. New statutory material is underscored.²

SECTION 5. This Act shall take effect on July 1, 1998; and shall be repealed on July 1, 2003.

(Approved July 20, 1998.)

Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.