

SB 444 -- Redline

Introduced to Committee Substitute -- Relating to health insurance coverage for certain emergency services

Deletions ~~struck~~ · Insertions underlined

WEST VIRGINIA LEGISLATURE REGULAR SESSION ~~Introduced~~Committee Substitute for Senate Bill 444 ~~By~~BY ~~Senators~~SENATORS ~~Deeds, DEEDS, Smith, SMIT, Stover, STOVER, Stuart, TUART, Woelfel, W Barrett, OELFEL, Roberts, ARRETT, and ROBERTS, AND Takubo TAKUBO~~ [~~Introduced~~Originating January in 15, the 2024; Committee on Health and Human Resources;

~~referred~~reported February 2, 2024] CS for SB 444 A BILL to amend and reenact Sec.33-15-21 of the Committee Code on of HumanWest Resources; Virginia, 1931, as amended;

~~and then to the Committee on Finance] Intr SB444 2024R2636 A BILL to amend and reenact Sec.33-15-21 of the Code of West Virginia, 1931, as amended;~~

and to amend and reenact Sec.33-25A-8d of said code, all relating to ~~clarifying that~~ health insurance coverage for emergency ~~services, services; when a prudent layperson acting reasonably would have believed that an emergency medical condition existed, includes pre-hospital screening and stabilization of emergency condition by ambulance service if the patient declines to be transported against medical advice.~~

providing coverage mandates for ground ambulance services when a prudent layperson acting reasonably would have believed that an emergency medical condition existed;

providing that covered services include pre-hospital screening and stabilization of emergency conditions by an ambulance service;

providing that air ambulance service is excluded from coverage;

providing that coverage is subject to deductibles or copayment requirements of the policy, contract, or plan;

and providing that coverage be provided if the patient declines to be transported against medical advice.

(b) The coverage for prehospital screening and stabilization of an emergency medical condition shall include ambulance services provided under the provisions of ~~Sec.16-4-1, Sec.16-4C-1~~ et seq.

of this code, excluding air ambulance services as defined in Sec.16-4C-3(a) of this code.

The insurer shall pay claims for prehospital screening and stabilization of emergency condition by ambulance ~~CS for SB 444~~ service if the insured is transported to an emergency room of a facility provider or if the patient declines to be transported against medical advice.

~~(b)The (c)coverage Anunder insurer, this thatsection has is given subject prior to authorization deductibles for or emergency copayment services requirements shall cover the services and shall not retract the authorization after the services have been provided unless the Intr SB444 2024R2636 authorization was based on a material misrepresentation about the covered person's health condition made by the referring provider, the provider of the emergency policy, services contract, or the plan. covered person.~~

~~(b) (c) (d)An Coverage insurer of that has given prior authorization for emergency services shall be cover subject the to services coinsurance, and copayments shall and not deductibles retract applicable the under authorization after the services have been provided unless the authorization was based on a material misrepresentation about the covered person's health benefit condition plan made by the referring provider, the provider of the emergency services, or the covered person.~~

~~(c) (d) (e)Coverage The of emergency department services and the insurer shall make be a subject good faith effort to communicate coinsurance, with copayments, each and other deductibles in applicable a under timely fashion to expedite postevaluation or poststabilization services in order to avoid material deterioration of the covered health person's benefit condition plan.~~

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

(4) "Stabilize" means with respect to an emergency medical condition, to provide medical treatment of the condition necessary to assure, with reasonable medical ~~probability~~probability, that no CS for SB 444 medical deterioration of the condition is likely to result from or occur during the transfer of the individual from a facility:

Provided, That this provision may not be construed to prohibit, ~~limit~~limit, or otherwise delay the transportation required for a higher level of care than that possible at the treating facility;

(5) "Medical screening examination" means an appropriate examination within the ~~Intr SB444 2024R2636~~ capability of the hospital's emergency department, including ancillary services routinely available to the emergency department, to determine whether or not an emergency medical condition exists;

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

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

(a) Notwithstanding any provision of any policy, provision, contract, ~~plan~~plan, or agreement to which this article applies, any entity regulated by this article shall provide as benefits to all subscribers and members coverage for emergency services.

A policy, provision, contract, ~~plan~~plan, or agreement may apply to emergency services the same deductibles, ~~coinsurance~~coinsurance, and other limitations as apply to other covered services:

Provided, ~~That~~that preauthorization or precertification shall not be required.

CS for SB 444 Prior authorization of coverage shall not be required for stabilization if an emergency medical condition exists.

(2) The coverage for prehospital screening and stabilization of an emergency medical condition shall include ambulance services provided under the provisions of ~~Sec.16-4-1, Sec.16-4C-1~~ et seq.

of ~~Intr this SB444 code, 2024R2636~~ excluding air ambulance services as defined in Sec.16-4C-3(a) of this code.

~~(2) The (3) coverage An under insurer this that section has is given subject prior to authorization deductibles for or emergency copayment services requirements shall cover the services and shall not retract the authorization after the services have been provided unless the authorization was based on a material misrepresentation about the covered person's health condition made by the referring provider, the provider of the emergency policy, services contract, or the plan. covered person.~~

~~(2) (3) (4) An Coverage insurer of that has given prior authorization for emergency services shall be cover subject the to services coinsurance, and copayments shall and not deductibles retract applicable the under authorization after the services have been provided unless the authorization was based on a material misrepresentation about the covered person's health benefit condition plan made by the referring provider, the provider of the emergency services, or the covered person.~~

~~(3) (4) (5) Coverage The of emergency department services and the insurer shall make be a subject good faith effort to communicate coinsurance, with copayments, each and other deductibles in applicable under timely fashion to expedite post evaluation or post stabilization services in order to avoid material deterioration of the covered health person's benefit condition plan.~~

~~(4) (5) The emergency department and the insurer shall make a good faith effort to communicate with each other in a timely fashion to expedite post evaluation or post stabilization services in order to avoid material deterioration of the covered person's condition.~~

CS for SB 444 (C) "Emergency medical condition for the prudent layperson" means one that manifests itself by acute symptoms of sufficient severity, including severe pain, such that the person could reasonably expect the absence of immediate medical attention to result in serious jeopardy to the individual's health, or, with respect to a pregnant woman, the health of the unborn child;

(D) "Stabilize" means with respect to an emergency medical condition, to provide medical treatment of the condition necessary to assure, with reasonable medical ~~probability~~probability, that no ~~Intr SB444 2024R2636~~ medical deterioration of the condition is likely to result from or occur during the transfer of the individual from a facility:

Provided, That this provision may not be construed to prohibit, ~~limit~~limit, or otherwise delay the transportation required for a higher level of care than that possible at the treating facility;

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

(a) Notwithstanding any provision of any policy, provision, contract, ~~plan~~plan, or agreement to which this article applies, any entity regulated by this article shall provide as benefits to all CS for SB 444 subscribers and members coverage for emergency services.

A policy, provision, contract, ~~plan~~plan, or agreement may apply to emergency services the same deductibles, ~~coinsurance~~coinsurance, and other limitations as apply to other covered services:

(1) Every insurer shall provide coverage for emergency medical services, including ~~Intr SB444 2024R2636~~ prehospital services, to the extent necessary to screen and to stabilize an emergency medical condition.

(2) The coverage for prehospital screening and stabilization of an emergency medical condition shall include ambulance services provided under the provisions of ~~Sec.16-4-1, Sec.16-4C-1~~ et seq.

of this ~~code, excluding air ambulance services as defined in Sec.16-4C-3(a) of this code.~~

~~(2) The (3) coverage An under insurer this that section has is given subject prior to authorization deductibles for or emergency copayment services requirements shall cover the services and shall not retract the authorization after the services have been provided unless the authorization was based on a material misrepresentation about the covered person's health condition made by the referring provider, the provider of the emergency policy, services contract, or the plan. covered person.~~

~~(2) (3) (4) An Coverage insurer of that has given prior authorization for emergency services shall be cover subject the to services coinsurance, and copayments shall and not deductibles retract applicable the under authorization after the services have been provided unless the authorization was based on a material misrepresentation about the covered person's health benefit condition plan, made by the referring provider, the provider of the emergency services, or the covered person.~~

~~(3) (4) (5) Coverage The of emergency department services and the insurer shall make be a subject good faith effort to communicate coinsurance, with copayments, each and other deductibles in applicable a under timely fashion to expedite postevaluation or poststabilization services in order to avoid material deterioration of the covered health person's benefit condition plan.~~

CS for SB 444 (4) (5) The emergency department and the insurer shall make a good faith effort to communicate with each other in a timely fashion to expedite post evaluation or post stabilization services in order to avoid material deterioration of the covered person's condition.

(B) "Prudent layperson" means a person who is without medical training and who draws on his or her practical experience when making a decision regarding whether an emergency medical ~~Intr SB444 2024R2636~~ condition exists for which emergency treatment should be sought;

(D) "Stabilize" means with respect to an emergency medical condition, to provide medical treatment of the condition necessary to assure, with reasonable medical ~~probability~~ probability, that no medical deterioration of the condition is likely to result from or occur during the transfer of the individual from a facility:

Provided, That this provision may not be construed to prohibit, ~~limit~~ limit, or otherwise delay the transportation required for a higher level of care than that possible at the treating facility;

and (F) "Emergency medical condition" means a condition that manifests itself by acute symptoms of sufficient ~~severity~~ severity, including severe ~~pain~~ pain, such that the absence of immediate CS for SB 444 medical attention could reasonably be expected to result in serious jeopardy to the individual's ~~health~~ health, ~~or~~, with respect to a pregnant ~~woman~~ woman, the health of the unborn child, serious impairment to bodily ~~functions~~ functions, or serious dysfunction of any bodily part or organ.

(a) Notwithstanding any provision of any policy, provision, contract, ~~plan~~ plan, or agreement to which this article applies, any entity regulated by this article shall provide as benefits to all subscribers and members coverage for emergency services.

A policy, provision, contract, ~~plan~~ plan, or ~~Intr SB444 2024R2636~~ agreement may apply to emergency services the same deductibles, ~~coinsurance~~ coinsurance, and other limitations as apply to other covered services:

(2) The coverage for prehospital screening and stabilization of an emergency medical condition shall include ambulance services provided under the provisions of ~~Sec.16-4-1, Sec.16-4C-1~~ et seq.

of this code, excluding air ambulance services as defined in Sec.16-4C-3(a) of this code.

~~(2) The (3) coverage A under insurer this that section has is given subject prior to authorization deductibles for or emergency copayment services requirements shall cover the services and shall not retract the authorization after the services have been provided unless the authorization was based on a material misrepresentation about the covered person's health condition made by the referring provider, the provider of the emergency policy, services contract, or the plan, covered person.~~

CS for SB 444 (2) (3) (4) An Coverage insurer of that has given prior authorization for emergency services shall be cover subject the to services coinsurance, and copayments shall and not deductibles retract applicable the under authorization after the services have been provided unless the authorization was based on a material misrepresentation about the covered person's health benefit condition plan, made by the referring provider, the provider of the emergency services, or the covered person.

~~(3) (4) (5) Coverage The of emergency department services and the insurer shall make be a subject good faith effort to communicate coinsurance, with copayments, each and other deductibles in applicable a under timely fashion to expedite postevaluation or poststabilization services in order to avoid material deterioration of the covered health person's benefit condition plan.~~

Intr (4) SB444 (5) 2024R2636 The (5) emergency (6) department As and used the insurer shall make a good faith effort to communicate with each other in this a section: timely fashion to expedite post evaluation or post stabilization services in order to avoid material deterioration of the covered person's condition.

(5) (6) As used in this section:

(D) "Stabilize" means with respect to an emergency medical condition, to provide medical treatment of the condition necessary to assure, with reasonable medical ~~probability~~ probability, that no medical deterioration of the condition is likely to result from or occur during the transfer of the individual from a facility:

Provided, That this provision may not be construed to prohibit, ~~limit~~ limit, or CS for SB 444 otherwise delay the transportation required for a higher level of care than that possible at the treating facility;

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

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

~~Intr SB444 2024R2636~~ ARTICLE 25A.

(a) Notwithstanding any provision of any policy, provision, contract, ~~plan~~plan, or agreement to which this article applies, any entity regulated by this article shall provide as benefits to all subscribers and members coverage for emergency services.

A policy, provision, contract, ~~plan~~plan, or agreement may apply to emergency services the same deductibles, ~~coinsurance~~coinsurance, and other limitations as apply to other covered services:

Prior authorization of coverage shall not be required for stabilization if an emergency medical ~~CS for SB 444~~CS for SB 444 condition exists.

(2) The coverage for prehospital screening and stabilization of an emergency medical condition shall include ambulance services provided under the provisions of ~~Sec.16-4-1, Sec.16-4C-1~~Sec.16-4-1, Sec.16-4C-1 et seq.

of this ~~code, excluding air ambulance services as defined in Sec.16-4C-3(a) of this~~code.

~~(2) The (3) coverage An under insurer this that section has is given subject prior to authorization deductibles for or emergency copayment services requirements shall cover the services and shall not retract the authorization after the services have been provided unless the authorization was based on a material misrepresentation about the covered person's health Intr SB444 2024R2636 condition made by the referring provider, the provider of the emergency policy, services contract, or the plan. covered person.~~

~~(2) (3) (4) An Coverage insurer of that has given prior authorization for emergency services shall be cover subject the to services coinsurance, and copayments shall and not deductibles retract applicable the under authorization after the services have been provided unless the authorization was based on a material misrepresentation about the covered person's health benefit condition plan made by the referring provider, the provider of the emergency services, or the covered person.~~

~~(3) (4) (5) Coverage The of emergency department services and the insurer shall make be a subject good faith effort to communicate coinsurance, with copayments, each and other deductibles in applicable under timely fashion to expedite post evaluation or post stabilization services in order to avoid material deterioration of the covered health person's benefit condition plan.~~

~~(4) (5) The emergency department and the insurer shall make a good faith effort to communicate with each other in a timely fashion to expedite post evaluation or post stabilization services in order to avoid material deterioration of the covered person's condition.~~

CS for SB 444 (C) "Emergency medical condition for the prudent layperson" means one that manifests itself by acute symptoms of sufficient severity, including severe pain, such that the person could reasonably expect the absence of immediate medical attention to result in serious jeopardy to the individual's health, or, with respect to a pregnant woman, the health of the unborn child;

(D) "Stabilize" means with respect to an emergency medical condition, to provide medical treatment of the condition necessary to assure, with reasonable medical ~~probability~~probability, that no medical deterioration of the condition is likely to result from or occur during the transfer of the individual from a facility:

Provided, That this provision may not be construed to prohibit, ~~limit~~limit, or otherwise delay the transportation required for a higher level of care than that possible at the treating facility;

(E) "Medical screening examination" means an appropriate examination within the capability of the hospital's emergency department, including ancillary services routinely available ~~Intr SB444 2024R2636~~ to the emergency department, to determine whether or not an emergency medical condition exists;

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

CS for SB 444 (C) Any potential responsibility of the member for payment for nonemergency services rendered in an emergency facility;

NOTE:13

~~The purpose of this bill is to clarify that health insurance coverage for emergency services when a prudent layperson acting reasonably would have believed that an emergency medical condition existed includes prehospital screening and stabilization of emergency condition by ambulance service if the patient declines to be transported against medical advice.~~

~~Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.~~

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