

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

H.P. 844 - L.D. 1155

An Act To Protect Patients and the Prudent Layperson Standard**Be it enacted by the People of the State of Maine as follows:****Sec. 1. 24-A MRSA §4301-A, sub-§§4-A and 4-B** are enacted to read:

4-A. Emergency medical condition. "Emergency medical condition" means the sudden and, at the time, unexpected onset of a physical or mental health condition, including severe pain, manifesting itself by symptoms of sufficient severity, regardless of the final diagnosis that is given, that would lead a prudent layperson, possessing an average knowledge of medicine and health, to believe:

A. That the absence of immediate medical attention for an individual could reasonably be expected to result in:

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

B. With respect to a pregnant woman who is having contractions, that there is:

- (1) Inadequate time to effect a safe transfer of the woman to another hospital before delivery; or
- (2) A threat to the health or safety of the woman or unborn child if the woman were to be transferred to another hospital.

4-B. Emergency service. "Emergency service" means a health care item or service furnished or required to evaluate and treat an emergency medical condition that is provided in an emergency facility or setting.

Sec. 2. 24-A MRSA §4304, sub-§5, as enacted by PL 1999, c. 742, §13, is amended to read:

5. Emergency services. When conducting utilization review or making a benefit determination for emergency services, a carrier shall provide benefits for emergency services consistent with the requirements of this subsection and any applicable bureau rule.

A. Before a carrier denies benefits or reduces payment for an emergency service based on a determination of the absence of an emergency medical condition or a determination that a lower level of care was needed, the carrier shall conduct a utilization review done by a board-certified emergency physician who is licensed in this State, including a review of the enrollee's medical record related to the emergency medical condition subject to dispute. If a carrier requests records related to a potential denial of or payment reduction for an enrollee's benefits when emergency services were furnished to an enrollee, a provider has an affirmative duty to respond to the carrier in a timely manner. This paragraph does not apply when a reduction in payment is made by a carrier based on a contractually agreed upon adjustment for health care service.

Sec. 3. 24-A MRSA §4320-C, as enacted by PL 2011, c. 364, §34, is amended to read:

§4320-C. Emergency services

~~If a carrier offering a health plan subject to the requirements of the federal Affordable Care Act provides or covers any benefits with respect to services in an emergency department of a hospital facility or setting, the plan must cover emergency services in accordance with the requirements of the federal Affordable Care Act, including requirements that emergency services be covered without prior authorization and that cost-sharing. Cost-sharing requirements, expressed as a copayment amount or coinsurance rate, for out-of-network services are the same as requirements that would apply if such services were provided in network. A carrier offering a health plan in this State shall also comply with the requirements of section 4304, subsection 5.~~

Sec. 4. Rulemaking. Notwithstanding the Maine Revised Statutes, Title 24-A, section 4309, any rules adopted by the Department of Professional and Financial Regulation, Bureau of Insurance to amend rule Chapter 850: Health Plan Accountability as necessary to conform to this Act are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.