



Prudent Layperson Standard in Out-of-Network Legislation ICEP Urges Support of SB 1658

The Illinois College of Emergency Physicians (ICEP) urges the General Assembly to pass SB 1658 to amend Public Act 096-1523. The amendment would ensure the preservation of the prudent layperson standard for emergency services which has been codified in Illinois law.

Public Act 096-1523 was enacted in 2011 as a response to the DOI's rule that holds patients harmless when they are treated by an out-of network hospital-based physician at an in-network hospital. The patient is only accountable for co-payments that would be equal to an amount that would have been assessed if the physician was in network.

Public Act 096-1523 must be amended as it jeopardizes access to emergency care at Illinois hospitals. Without an amendment, the law creates a significant adverse effect on the fair payment of emergency physicians providing emergency services to patients who are out of network. Under the federal EMTALA law, emergency physicians must evaluate and stabilize every patient who seeks care. Unlike any other medical specialty, emergency physicians cannot limit or turn away patients who are out of network. In addition, patients frequently are transported by EMS to the closest hospital without any knowledge of the insurance status of the emergency physicians working there.

The prudent layperson standard must be preserved by amendment so that out of network claims are not determined retrospectively **but on the patient's presenting symptoms.**

- A "prudent layperson" has been defined in the law as one who possesses an average knowledge of health and medicine, and the standard establishes the criteria that insurance coverage is based not on ultimate diagnosis, but on whether a prudent person might anticipate serious impairment to his or her health in an emergency situation.
- **The standard requires health plans to cover emergency services if a prudent layperson believed he or she was experiencing a medical emergency.** In such cases, prior authorization from the plan is not required.
- By incorporating the prudent layperson standard, the amendment would protect the patient and require the insurer to pay all the costs incurred by the "prudent layperson" seeking care at an in-network facility. In that case, if a prudent layperson presents to a hospital facility, such as an emergency department, that participates in his/her insurance plan's network, the insurance plan is obligated to pay **all pre-negotiated charges related to that incident**, subject to co-insurance and/or co-payment, **and the bills of any non-participating providers involved in the care of the insured directly related to the episode of care treated at that facility.**

Emergency physicians provide treatment to all patients coming to the hospital, regardless of their ability to pay including a relatively high percentage of Medicaid, Medicare and uninsured patients. Emergency physicians provide the largest amount of uncompensated care of any medical specialty. Public Act 096-1523 places undue burden on emergency physicians by holding them to standards that do not take into account their unique position within the health care environment. The end result will be emergency physicians leaving Illinois for more favorable practice climates — and access to care for all Illinois citizens threatened as a result.