

2018 -- H 7234

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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A N A C T

RELATING TO INSURANCE - ACCIDENT AND SICKNESS INSURANCE POLICIES

Introduced By: Representatives Edwards, and Newberry

Date Introduced: January 19, 2018

Referred To: House Health, Education & Welfare

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 27-18-76 of the General Laws in Chapter 27-18 entitled "Accident
2 and Sickness Insurance Policies" is hereby amended to read as follows:

3 **27-18-76. Emergency services.**

4 (a) As used in this section:

5 (1) "Emergency medical condition" means a medical condition manifesting itself by acute
6 symptoms of sufficient severity (including severe pain) so that a prudent layperson, who
7 possesses an average knowledge of health and medicine, could reasonably expect the absence of
8 immediate medical attention to result in a condition: (i) Placing the health of the individual, or
9 with respect to a pregnant woman her unborn child, in serious jeopardy; (ii) Constituting a serious
10 impairment to bodily functions; or (iii) Constituting a serious dysfunction of any bodily organ or
11 part.

12 (2) "Emergency services" means, with respect to an emergency medical condition:

13 (A) A medical screening examination (as required under section 1867 of the Social
14 Security Act, 42 U.S.C. § 1395dd) that is within the capability of the emergency department of a
15 hospital, including ancillary services routinely available to the emergency department to evaluate
16 such emergency medical condition, and

17 (B) Such further medical examination and treatment, to the extent they are within the
18 capabilities of the staff and facilities available at the hospital, as are required under section 1867
19 of the Social Security Act (42 U.S.C. § 1395dd) to stabilize the patient.

1 (3) "Stabilize", with respect to an emergency medical condition has the meaning given in
2 § 1867(e)(3) of the Social Security Act (42 U.S.C. § 1395dd(e)(3)).

3 (b) If a health insurance carrier offering health insurance coverage provides any benefits
4 with respect to services in an emergency department of a hospital, the carrier must cover
5 emergency services in compliance with this section.

6 (c) A health insurance carrier shall provide coverage for emergency services in the
7 following manner:

8 (1) Without the need for any prior authorization determination, even if the emergency
9 services are provided on an out-of-network basis;

10 (2) Without regard to whether the health care provider furnishing the emergency services
11 is a participating network provider with respect to the services;

12 (3) If the emergency services are provided out of network, without imposing any
13 administrative requirement or limitation on coverage that is more restrictive than the requirements
14 or limitations that apply to emergency services received from in-network providers;

15 (4) If the emergency services are provided out of network, by complying with the cost-
16 sharing requirements of subsection (d) of this section; and

17 (5) Without regard to any other term or condition of the coverage, other than:

18 (A) The exclusion of or coordination of benefits;

19 (B) An affiliation or waiting period permitted under part 7 of federal ERISA, part A of
20 title XXVII of the federal PHS Act, or chapter 100 of the federal Internal Revenue Code; or

21 (C) Applicable cost-sharing.

22 (d) (1) Any cost-sharing requirement expressed as a copayment amount or coinsurance
23 rate imposed with respect to a participant or beneficiary for out-of-network emergency services
24 cannot exceed the cost-sharing requirement imposed with respect to a participant or beneficiary if
25 the services were provided in-network; provided, however, that a participant or beneficiary ~~may~~
26 ~~be required to pay, in addition to the in-network cost sharing, the excess of the amount the out-of-~~
27 ~~network provider charges over the amount the health insurance carrier is required to pay under~~
28 ~~subdivision (1) of this subsection~~ shall incur no greater out-of-pocket costs for the emergency
29 services than the participant or beneficiary would have incurred with an in-network provider
30 other than the in-network cost sharing. A health insurance carrier complies with the requirements
31 of this subsection if it provides benefits with respect to an emergency service in an amount equal
32 to the greatest of the three amounts specified in subdivisions (A), (B), and (C) of this subdivision
33 (1) (which are adjusted for in-network cost-sharing requirements).

34 (A) The amount negotiated with in-network providers for the emergency service

1 furnished, excluding any in-network copayment or coinsurance imposed with respect to the
2 participant or beneficiary. If there is more than one amount negotiated with in-network providers
3 for the emergency service, the amount described under this subdivision (A) is the median of these
4 amounts, excluding any in-network copayment or coinsurance imposed with respect to the
5 participant or beneficiary. In determining the median described in the preceding sentence, the
6 amount negotiated with each in-network provider is treated as a separate amount (even if the
7 same amount is paid to more than one provider). If there is no per-service amount negotiated with
8 in-network providers (such as under a capitation or other similar payment arrangement), the
9 amount under this subdivision (A) is disregarded.

10 (B) The amount for the emergency service shall be calculated using the same method the
11 plan generally uses to determine payments for out-of-network services (such as the usual,
12 customary, and reasonable amount), excluding any in-network copayment or coinsurance
13 imposed with respect to the participant or beneficiary. The amount in this subdivision (B) is
14 determined without reduction for out-of-network cost-sharing that generally applies under the
15 plan or health insurance coverage with respect to out-of-network services.

16 (C) The amount that would be paid under Medicare (part A or part B of title XVIII of the
17 Social Security Act, 42 U.S.C. § 1395 et seq.) for the emergency service, excluding any in-
18 network copayment or coinsurance imposed with respect to the participant or beneficiary.

19 (2) Any cost-sharing requirement other than a copayment or coinsurance requirement
20 (such as a deductible or out-of-pocket maximum) may be imposed with respect to emergency
21 services provided out of network if the cost-sharing requirement generally applies to out-of-
22 network benefits. A deductible may be imposed with respect to out-of-network emergency
23 services only as part of a deductible that generally applies to out-of-network benefits. If an out-of-
24 pocket maximum generally applies to out-of-network benefits, that out-of-pocket maximum must
25 apply to out-of-network emergency services.

26 (e) The provisions of this section apply for plan years beginning on or after September
27 23, 2010.

28 (f) This section shall not apply to grandfathered health plans. This section shall not apply
29 to insurance coverage providing benefits for: (1) hospital confinement indemnity; (2) disability
30 income; (3) accident only; (4) long term care; (5) Medicare supplement; (6) limited benefit
31 health; (7) specified disease indemnity; (8) sickness or bodily injury or death by accident or both;
32 and (9) other limited benefit policies.

33 SECTION 2. Section 27-19-66 of the General Laws in Chapter 27-19 entitled "Nonprofit
34 Hospital Service Corporations" is hereby amended to read as follows:

1 **27-19-66. Emergency services.**

2 (a) As used in this section:

3 (1) "Emergency medical condition" means a medical condition manifesting itself by acute
4 symptoms of sufficient severity (including severe pain) so that a prudent layperson, who
5 possesses an average knowledge of health and medicine, could reasonably expect the absence of
6 immediate medical attention to result in a condition: (i) Placing the health of the individual, or
7 with respect to a pregnant woman her unborn child, in serious jeopardy; (ii) Constituting a serious
8 impairment to bodily functions; or (iii) Constituting a serious dysfunction of any bodily organ or
9 part.

10 (2) "Emergency services" means, with respect to an emergency medical condition:

11 (A) A medical screening examination (as required under section 1867 of the Social
12 Security Act, 42 U.S.C. § 1395dd) that is within the capability of the emergency department of a
13 hospital, including ancillary services routinely available to the emergency department to evaluate
14 such emergency medical condition, and

15 (B) Such further medical examination and treatment, to the extent they are within the
16 capabilities of the staff and facilities available at the hospital, as are required under section 1867
17 of the Social Security Act (42 U.S.C. § 1395dd) to stabilize the patient.

18 (3) "Stabilize", with respect to an emergency medical condition has the meaning given in
19 § 1867(e)(3) of the Social Security Act (42 U.S.C. § 1395dd(e)(3)).

20 (b) If a health insurance carrier offering health insurance coverage provides any benefits
21 with respect to services in an emergency department of a hospital, the carrier must cover
22 emergency services in compliance with this section.

23 (c) A health insurance carrier shall provide coverage for emergency services in the
24 following manner:

25 (1) Without the need for any prior authorization determination, even if the emergency
26 services are provided on an out-of-network basis;

27 (2) Without regard to whether the health care provider furnishing the emergency services
28 is a participating network provider with respect to the services;

29 (3) If the emergency services are provided out of network, without imposing any
30 administrative requirement or limitation on coverage that is more restrictive than the requirements
31 or limitations that apply to emergency services received from in-network providers;

32 (4) If the emergency services are provided out of network, by complying with the cost-
33 sharing requirements of subsection (d) of this section; and

34 (5) Without regard to any other term or condition of the coverage, other than:

1 (A) The exclusion of or coordination of benefits;

2 (B) An affiliation or waiting period permitted under part 7 of federal ERISA, part A of
3 title XXVII of the federal PHS Act, or chapter 100 of the federal Internal Revenue Code; or

4 (C) Applicable cost-sharing.

5 (d) (1) Any cost-sharing requirement expressed as a copayment amount or coinsurance
6 rate imposed with respect to a participant or beneficiary for out-of-network emergency services
7 cannot exceed the cost-sharing requirement imposed with respect to a participant or beneficiary if
8 the services were provided in-network; provided, however, that a participant or beneficiary ~~may~~
9 ~~be required to pay, in addition to the in-network cost sharing, the excess of the amount the out-of-~~
10 ~~network provider charges over the amount the health insurance carrier is required to pay under~~
11 ~~subdivision (1) of this subsection~~ shall incur no greater out-of-pocket costs for the emergency
12 services than the participant or beneficiary would have incurred with an in-network provider
13 other than the in-network cost sharing. A health insurance carrier complies with the requirements
14 of this subsection if it provides benefits with respect to an emergency service in an amount equal
15 to the greatest of the three amounts specified in subdivisions (A), (B), and (C) of this subdivision
16 (1) (which are adjusted for in-network cost-sharing requirements).

17 (A) The amount negotiated with in-network providers for the emergency service
18 furnished, excluding any in-network copayment or coinsurance imposed with respect to the
19 participant or beneficiary. If there is more than one amount negotiated with in-network providers
20 for the emergency service, the amount described under this subdivision (A) is the median of these
21 amounts, excluding any in-network copayment or coinsurance imposed with respect to the
22 participant or beneficiary. In determining the median described in the preceding sentence, the
23 amount negotiated with each in-network provider is treated as a separate amount (even if the
24 same amount is paid to more than one provider). If there is no per-service amount negotiated with
25 in-network providers (such as under a capitation or other similar payment arrangement), the
26 amount under this subdivision (A) is disregarded.

27 (B) The amount for the emergency service shall be calculated using the same method the
28 plan generally uses to determine payments for out-of-network services (such as the usual,
29 customary, and reasonable amount), excluding any in-network copayment or coinsurance
30 imposed with respect to the participant or beneficiary. The amount in this subdivision (B) is
31 determined without reduction for out-of-network cost-sharing that generally applies under the
32 plan or health insurance coverage with respect to out-of-network services.

33 (C) The amount that would be paid under Medicare (part A or part B of title XVIII of the
34 Social Security Act, 42 U.S.C. § 1395 et seq.) for the emergency service, excluding any in-

1 network copayment or coinsurance imposed with respect to the participant or beneficiary.

2 (2) Any cost-sharing requirement other than a copayment or coinsurance requirement
3 (such as a deductible or out-of-pocket maximum) may be imposed with respect to emergency
4 services provided out of network if the cost-sharing requirement generally applies to out-of-
5 network benefits. A deductible may be imposed with respect to out-of-network emergency
6 services only as part of a deductible that generally applies to out-of-network benefits. If an out-of-
7 pocket maximum generally applies to out-of-network benefits, that out-of-pocket maximum must
8 apply to out-of-network emergency services.

9 (e) The provisions of this section apply for plan years beginning on or after September
10 23, 2010.

11 (f) This section shall not apply to grandfathered health plans. This section shall not apply
12 to insurance coverage providing benefits for: (1) hospital confinement indemnity; (2) disability
13 income; (3) accident only; (4) long term care; (5) Medicare supplement; (6) limited benefit
14 health; (7) specified disease indemnity; (8) sickness or bodily injury or death by accident or both;
15 and (9) other limited benefit policies.

16 SECTION 3. Section 27-20-62 of the General Laws in Chapter 27-20 entitled "Nonprofit
17 Medical Service Corporations" is hereby amended to read as follows:

18 **27-20-62. Emergency services.**

19 (a) As used in this section:

20 (1) "Emergency medical condition" means a medical condition manifesting itself by acute
21 symptoms of sufficient severity (including severe pain) so that a prudent layperson, who
22 possesses an average knowledge of health and medicine, could reasonably expect the absence of
23 immediate medical attention to result in a condition: (i) Placing the health of the individual, or
24 with respect to a pregnant woman her unborn child, in serious jeopardy; (ii) Constituting a serious
25 impairment to bodily functions; or (iii) Constituting a serious dysfunction of any bodily organ or
26 part.

27 (2) "Emergency services" means, with respect to an emergency medical condition:

28 (A) A medical screening examination (as required under section 1867 of the Social
29 Security Act, 42 U.S.C. § 1395dd) that is within the capability of the emergency department of a
30 hospital, including ancillary services routinely available to the emergency department to evaluate
31 such emergency medical condition, and

32 (B) Such further medical examination and treatment, to the extent they are within the
33 capabilities of the staff and facilities available at the hospital, as are required under section 1867
34 of the Social Security Act (42 U.S.C. § 1395dd) to stabilize the patient.

1 (3) "Stabilize", with respect to an emergency medical condition has the meaning given in
2 § 1867(e)(3) of the Social Security Act (42 U.S.C. § 1395dd(e)(3)).

3 (b) If a health insurance carrier offering health insurance coverage provides any benefits
4 with respect to services in an emergency department of a hospital, the carrier must cover
5 emergency services in compliance with this section.

6 (c) A health insurance carrier shall provide coverage for emergency services in the
7 following manner:

8 (1) Without the need for any prior authorization determination, even if the emergency
9 services are provided on an out-of-network basis;

10 (2) Without regard to whether the health care provider furnishing the emergency services
11 is a participating network provider with respect to the services;

12 (3) If the emergency services are provided out of network, without imposing any
13 administrative requirement or limitation on coverage that is more restrictive than the requirements
14 or limitations that apply to emergency services received from in-network providers;

15 (4) If the emergency services are provided out of network, by complying with the cost-
16 sharing requirements of subsection (d) of this section; and

17 (5) Without regard to any other term or condition of the coverage, other than:

18 (A) The exclusion of or coordination of benefits;

19 (B) An affiliation or waiting period permitted under part 7 of federal ERISA, part A of
20 title XXVII of the federal PHS Act, or chapter 100 of the federal Internal Revenue Code; or

21 (C) Applicable cost-sharing.

22 (d) (1) Any cost-sharing requirement expressed as a copayment amount or coinsurance
23 rate imposed with respect to a participant or beneficiary for out-of-network emergency services
24 cannot exceed the cost-sharing requirement imposed with respect to a participant or beneficiary if
25 the services were provided in-network; provided, however, that a participant or beneficiary ~~may~~
26 ~~be required to pay, in addition to the in-network cost sharing, the excess of the amount the out-of-~~
27 ~~network provider charges over the amount the health insurance carrier is required to pay under~~
28 ~~subdivision (1) of this subsection~~ shall incur no greater out-of-pocket costs for the emergency
29 services than the participant or beneficiary would have incurred with an in-network provider
30 other than the in-network cost sharing. A health insurance carrier complies with the requirements
31 of this subsection if it provides benefits with respect to an emergency service in an amount equal
32 to the greatest of the three amounts specified in subdivisions (A), (B), and (C) of this subdivision
33 (1) (which are adjusted for in-network cost-sharing requirements).

34 (A) The amount negotiated with in-network providers for the emergency service

1 furnished, excluding any in-network copayment or coinsurance imposed with respect to the
2 participant or beneficiary. If there is more than one amount negotiated with in-network providers
3 for the emergency service, the amount described under this subdivision (A) is the median of these
4 amounts, excluding any in-network copayment or coinsurance imposed with respect to the
5 participant or beneficiary. In determining the median described in the preceding sentence, the
6 amount negotiated with each in-network provider is treated as a separate amount (even if the
7 same amount is paid to more than one provider). If there is no per-service amount negotiated with
8 in-network providers (such as under a capitation or other similar payment arrangement), the
9 amount under this subdivision (A) is disregarded.

10 (B) The amount for the emergency service shall be calculated using the same method the
11 plan generally uses to determine payments for out-of-network services (such as the usual,
12 customary, and reasonable amount), excluding any in-network copayment or coinsurance
13 imposed with respect to the participant or beneficiary. The amount in this subdivision (B) is
14 determined without reduction for out-of-network cost-sharing that generally applies under the
15 plan or health insurance coverage with respect to out-of-network services.

16 (C) The amount that would be paid under Medicare (part A or part B of title XVIII of the
17 Social Security Act, 42 U.S.C. § 1395 et seq.) for the emergency service, excluding any in-
18 network copayment or coinsurance imposed with respect to the participant or beneficiary.

19 (2) Any cost-sharing requirement other than a copayment or coinsurance requirement
20 (such as a deductible or out-of-pocket maximum) may be imposed with respect to emergency
21 services provided out of network if the cost-sharing requirement generally applies to out-of-
22 network benefits. A deductible may be imposed with respect to out-of-network emergency
23 services only as part of a deductible that generally applies to out-of-network benefits. If an out-of-
24 pocket maximum generally applies to out-of-network benefits, that out-of-pocket maximum must
25 apply to out-of-network emergency services.

26 (e) The provisions of this section apply for plan years beginning on or after September
27 23, 2010.

28 (f) This section shall not apply to grandfathered health plans. This section shall not apply
29 to insurance coverage providing benefits for: (1) hospital confinement indemnity; (2) disability
30 income; (3) accident only; (4) long term care; (5) Medicare supplement; (6) limited benefit
31 health; (7) specified disease indemnity; (8) sickness or bodily injury or death by accident or both;
32 and (9) other limited benefit policies.

33 SECTION 4. Section 27-41-79 of the General Laws in Chapter 27-41 entitled "Health
34 Maintenance Organizations" is hereby amended to read as follows:

1 **27-41-79. Emergency services.**

2 (a) As used in this section:

3 (1) "Emergency medical condition" means a medical condition manifesting itself by acute
4 symptoms of sufficient severity (including severe pain) so that a prudent layperson, who
5 possesses an average knowledge of health and medicine, could reasonably expect the absence of
6 immediate medical attention to result in a condition: (i) Placing the health of the individual, or
7 with respect to a pregnant woman her unborn child, in serious jeopardy; (ii) Constituting a serious
8 impairment to bodily functions; or (iii) Constituting a serious dysfunction of any bodily organ or
9 part.

10 (2) "Emergency services" means, with respect to an emergency medical condition:

11 (A) A medical screening examination (as required under section 1867 of the Social
12 Security Act, 42 U.S.C. § 1395dd) that is within the capability of the emergency department of a
13 hospital, including ancillary services routinely available to the emergency department to evaluate
14 such emergency medical condition, and

15 (B) Such further medical examination and treatment, to the extent they are within the
16 capabilities of the staff and facilities available at the hospital, as are required under section 1867
17 of the Social Security Act (42 U.S.C. § 1395dd) to stabilize the patient.

18 (3) "Stabilize", with respect to an emergency medical condition has the meaning given in
19 § 1867(e)(3) of the Social Security Act (42 U.S.C. § 1395dd(e)(3)).

20 (b) If a health insurance carrier offering health insurance coverage provides any benefits
21 with respect to services in an emergency department of a hospital, the carrier must cover
22 emergency services in compliance with this section.

23 (c) A health insurance carrier shall provide coverage for emergency services in the
24 following manner:

25 (1) Without the need for any prior authorization determination, even if the emergency
26 services are provided on an out-of-network basis;

27 (2) Without regard to whether the health care provider furnishing the emergency services
28 is a participating network provider with respect to the services;

29 (3) If the emergency services are provided out of network, without imposing any
30 administrative requirement or limitation on coverage that is more restrictive than the requirements
31 or limitations that apply to emergency services received from in-network providers;

32 (4) If the emergency services are provided out of network, by complying with the cost-
33 sharing requirements of subsection (d) of this section; and

34 (5) Without regard to any other term or condition of the coverage, other than:

1 (A) The exclusion of or coordination of benefits;

2 (B) An affiliation or waiting period permitted under part 7 of federal ERISA, part A of
3 title XXVII of the federal PHS Act, or chapter 100 of the federal Internal Revenue Code; or

4 (C) Applicable cost-sharing.

5 (d) (1) Any cost-sharing requirement expressed as a copayment amount or coinsurance
6 rate imposed with respect to a participant or beneficiary for out-of-network emergency services
7 cannot exceed the cost-sharing requirement imposed with respect to a participant or beneficiary if
8 the services were provided in-network; provided, however, that a participant or beneficiary ~~may~~
9 ~~be required to pay, in addition to the in-network cost sharing, the excess of the amount the out-of-~~
10 ~~network provider charges over the amount the health insurance carrier is required to pay under~~
11 ~~subdivision (1) of this subsection~~ shall incur no greater out-of-pocket costs for the emergency
12 services than the participant or beneficiary would have incurred with an in-network provider
13 other than the in-network cost sharing. A health insurance carrier complies with the requirements
14 of this subsection if it provides benefits with respect to an emergency service in an amount equal
15 to the greatest of the three amounts specified in subdivisions (A), (B), and (C) of this subdivision
16 (1) (which are adjusted for in-network cost-sharing requirements).

17 (A) The amount negotiated with in-network providers for the emergency service
18 furnished, excluding any in-network copayment or coinsurance imposed with respect to the
19 participant or beneficiary. If there is more than one amount negotiated with in-network providers
20 for the emergency service, the amount described under this subdivision (A) is the median of these
21 amounts, excluding any in-network copayment or coinsurance imposed with respect to the
22 participant or beneficiary. In determining the median described in the preceding sentence, the
23 amount negotiated with each in-network provider is treated as a separate amount (even if the
24 same amount is paid to more than one provider). If there is no per-service amount negotiated with
25 in-network providers (such as under a capitation or other similar payment arrangement), the
26 amount under this subdivision (A) is disregarded.

27 (B) The amount for the emergency service shall be calculated using the same method the
28 plan generally uses to determine payments for out-of-network services (such as the usual,
29 customary, and reasonable amount), excluding any in-network copayment or coinsurance
30 imposed with respect to the participant or beneficiary. The amount in this subdivision (B) is
31 determined without reduction for out-of-network cost-sharing that generally applies under the
32 plan or health insurance coverage with respect to out-of-network services.

33 (C) The amount that would be paid under Medicare (part A or part B of title XVIII of the
34 Social Security Act, 42 U.S.C. § 1395 et seq.) for the emergency service, excluding any in-

1 network copayment or coinsurance imposed with respect to the participant or beneficiary.

2 (2) Any cost-sharing requirement other than a copayment or coinsurance requirement
3 (such as a deductible or out-of-pocket maximum) may be imposed with respect to emergency
4 services provided out of network if the cost-sharing requirement generally applies to out-of-
5 network benefits. A deductible may be imposed with respect to out-of-network emergency
6 services only as part of a deductible that generally applies to out-of-network benefits. If an out-of-
7 pocket maximum generally applies to out-of-network benefits, that out-of-pocket maximum must
8 apply to out-of-network emergency services.

9 (e) The provisions of this section apply for plan years beginning on or after September
10 23, 2010.

11 (f) This section shall not apply to grandfathered health plans. This section shall not apply
12 to insurance coverage providing benefits for: (1) hospital confinement indemnity; (2) disability
13 income; (3) accident only; (4) long term care; (5) Medicare supplement; (6) limited benefit
14 health; (7) specified disease indemnity; (8) sickness or bodily injury or death by accident or both;
15 and (9) other limited benefit policies.

16 SECTION 5. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO INSURANCE - ACCIDENT AND SICKNESS INSURANCE POLICIES

1 This act would require that a participant or beneficiary incur no greater out-of-pocket
2 costs for emergency services than they would have incurred with an in-network provider other
3 than in-network cost sharing.

4 This act would take effect upon passage.

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