

IN THE SENATE

SENATE BILL NO. 1319

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO INSURANCE; AMENDING TITLE 41, IDAHO CODE, BY THE ADDITION OF A
2 NEW CHAPTER 67, TITLE 41, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PRO-
3 VIDE LEGISLATIVE INTENT, TO DEFINE TERMS, TO ESTABLISH PROVISIONS RE-
4 GARDING BILLING BY OUT-OF-NETWORK PROVIDERS FOR EMERGENCY SERVICES, TO
5 ESTABLISH PROVISIONS REGARDING SELF-FUNDED PLAN PARTICIPATION, AND TO
6 ESTABLISH PROVISIONS REGARDING ENFORCEMENT; AND DECLARING AN EMERGENCY
7 AND PROVIDING AN EFFECTIVE DATE.
8

9 Be It Enacted by the Legislature of the State of Idaho:

10 SECTION 1. That Title 41, Idaho Code, be, and the same is hereby amended
11 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
12 ter 67, Title 41, Idaho Code, and to read as follows:

13 CHAPTER 67

14 EMERGENCY CARE AFFORDABILITY ACT

15 41-6701. SHORT TITLE. This chapter shall be known and may be cited as
16 the "Emergency Care Affordability Act."

17 41-6702. LEGISLATIVE INTENT. It is the intent of the legislature in
18 enacting this chapter to protect patients who are members of a health bene-
19 fit plan from high-cost emergency medical bills for care rendered in an out-
20 of-network freestanding emergency room or by out-of-network providers.

21 41-6703. DEFINITIONS. As used in this chapter:

22 (1) "Allowed amount" means the amount determined by a health benefit
23 plan as payment in full for a covered emergency health care service or item
24 when furnished by an in-network provider or in-network facility of the same
25 or similar specialty or type in the same geographic area, including any ap-
26 plicable cost-sharing responsibility of the covered person, but excluding
27 billed charges or amounts determined by an out-of-network provider or facil-
28 ity.

29 (2) "Emergency medical condition" means a medical, mental health, or
30 substance use disorder condition manifesting itself by acute symptoms of
31 sufficient severity, including but not limited to severe pain or emotional
32 distress, such that a prudent layperson who possesses an average knowledge
33 of health and medicine could reasonably expect the absence of immediate med-
34 ical, mental health, or substance use disorder treatment attention to result
35 in:

36 (a) A condition placing the health of the individual, or with respect to
37 a pregnant woman, the health of the woman or her unborn child, in serious
38 jeopardy;

39 (b) Serious impairment to bodily functions; or

1 (c) Serious dysfunction of any bodily organ or part.

2 (3) "Emergency services" means a medical screening examination, as
3 required pursuant to 42 U.S.C. 1395dd, that is within the capability of the
4 emergency department of a hospital, or an emergency facility or provider
5 subject to equivalent federal or state emergency medical screening and sta-
6 bilization obligations, including ancillary services routinely available
7 to the emergency department or emergency facility or provider to evalu-
8 ate that emergency medical condition, and further medical examination and
9 treatment that are within the capabilities of the staff and facilities
10 available at the hospital or emergency facility, as are required pursuant to
11 42 U.S.C. 1395dd to stabilize the patient.

12 (4) (a) "Freestanding emergency room" means any facility that:

13 (i) Is not designated as a critical access hospital under federal
14 law;

15 (ii) Is physically separate and distinct from the main campus of a
16 general acute care hospital;

17 (iii) Principally provides unscheduled emergency medical ser-
18 vices to the general public on a twenty-four (24) hour basis,
19 including emergency physician services, diagnostic imaging,
20 laboratory services, and short-term observation regardless of
21 whether inpatient beds are maintained;

22 (iv) Operates or holds itself out as a freestanding emergency de-
23 partment, micro-hospital, specialty hospital, or hospital outpa-
24 tient department;

25 (v) Submits claims for emergency or other medical services to
26 state-regulated health benefit plans; and

27 (vi) Operates generally under an out-of-network reimbursement
28 strategy and participates directly or indirectly in the federal
29 independent dispute resolution process, whether in its own name or
30 through any affiliated entity, pursuant to 42 U.S.C. 300gg-111.

31 (b) The term "freestanding emergency room" does not include:

32 (i) A general acute care hospital operated as part of a multi-cam-
33 pus Idaho hospital system licensed pursuant to chapter 13, title
34 39, Idaho Code;

35 (ii) Critical access hospitals; and

36 (iii) A physician-owned, nonemergency surgery center that does
37 not advertise or hold itself out as an emergency department and
38 does not provide twenty-four (24) hour emergency medical ser-
39 vices.

40 (c) For purposes of this section, ownership structure, federal program
41 participation, management arrangements, or physician staffing models
42 shall not affect whether a facility is deemed a freestanding emergency
43 room if the criteria in paragraph (a) of this subsection are otherwise
44 satisfied.

45 (5) "In-network provider" or "in-network facility" means a provider or
46 facility that is contracted with a health benefit plan or its contractor or
47 subcontractor to provide health care services or emergency health care ser-
48 vices to covered persons for reimbursement by the health benefit plan at a
49 contracted rate as payment in full for the health care services, including
50 applicable cost-sharing obligations.

1 (6) "Out-of-network provider" or "out-of-network facility" means a
2 provider or facility that is not contracted with a health benefit plan or
3 its contractor or subcontractor to provide health care services to covered
4 persons. The term includes any affiliate, subsidiary, management company,
5 staffing entity, billing entity, or other related entity that submits or at-
6 tempts to submit a claim for payment on behalf of, or in connection with ser-
7 vices furnished by, an out-of-network provider or out-of-network facility.

8 (7) "Stabilize," with respect to an emergency medical condition, has
9 the same meaning as provided in 42 U.S.C. 1395dd(e) (3).

10 (8) "Covered benefits," "covered person," "facility," "health bene-
11 fit plan," "health care provider" or "provider," "health care services,"
12 and "health carrier" shall have the same meanings as provided in section
13 41-5903, Idaho Code.

14 41-6704. BILLING BY OUT-OF-NETWORK PROVIDERS FOR EMERGENCY SER-
15 VICES. (1) An out-of-network freestanding emergency room that provides
16 emergency services to a covered person shall accept as payment in full the
17 health benefit plan's allowed amount for in-network providers of the same
18 specialty or type for the same covered emergency service performed at an
19 in-network facility in the same geographic area of the state of Idaho, re-
20 gardless of the billing entity, modifier usage, unbundling, rebundling, or
21 use of affiliated third-party entities. The out-of-network freestanding
22 emergency room or physicians and their staff working there shall not bill
23 or seek reimbursement for amounts in excess of the allowed amount from the
24 covered person who received emergency services.

25 (2) In calculating the covered person's cost-sharing responsibility
26 for amounts described in subsection (1) of this section, the health benefit
27 plan shall apply its in-network benefit design.

28 (3) The covered person's health benefit plan shall pay directly to the
29 provider the amounts described in subsection (1) of this section, less any
30 applicable cost-sharing responsibility of the covered person, without re-
31 gard to any assignment of benefits, consent form, financial responsibility
32 acknowledgement, or other agreement or instrument executed by the covered
33 person.

34 (4) Any provision in a consent form or other agreement between a
35 provider and a covered person that purports to permit an out-of-network
36 provider to bill or seek reimbursement for covered emergency services in
37 amounts in excess of the amounts permitted pursuant to this chapter, in-
38 cluding any waiver of balance billing protections, assignment of benefits,
39 financial responsibility acknowledgement, or similar provision, is void and
40 unenforceable.

41 (5) (a) If an out-of-network freestanding emergency room furnishing
42 emergency services is not enrolled as a participating provider in the
43 medicare, medicaid, or TRICARE programs, the provider or facility shall
44 provide a clear and conspicuous disclosure to a covered person who is
45 enrolled in such a program that the provider or facility does not par-
46 ticipate in the applicable program and that the covered person may be
47 personally responsible for payment of some or all charges for services
48 furnished.

1 (b) The disclosure required by this subsection shall be made as soon
2 as practicable after completion of the medical screening examination
3 required pursuant to 42 U.S.C. 1395dd, and only when the covered per-
4 son is conscious, oriented, and capable of receiving such information,
5 and when providing the disclosure will not interfere with the provision
6 of emergency services or stabilization of an emergency medical condi-
7 tion. The disclosure shall be communicated in plain language that is
8 understandable to a reasonable person and may be provided orally or in
9 writing. Failure to provide the disclosure required by this subsection
10 shall constitute a violation of the provisions of this chapter.

11 (6) Failure to provide the disclosure required pursuant to subsection
12 (5) of this section shall give rise to a rebuttable presumption that the cov-
13 ered person was not informed of the freestanding emergency room's nonpartic-
14 ipation in medicare, medicaid, or TRICARE. In the absence of contemporaneous
15 documentation demonstrating compliance with subsection (5) of this section,
16 the freestanding emergency room shall be prohibited from billing, collect-
17 ing, or seeking reimbursement from the covered person for any charges asso-
18 ciated with the emergency services furnished. Any bill, invoice, collection
19 action, or attempt to obtain payment from a covered person in violation of
20 this subsection shall be void and unenforceable as a matter of law, and no
21 payment shall be owed by the covered person.

22 41-6705. SELF-FUNDED PLAN PARTICIPATION. (1) The provisions of this
23 chapter shall apply to a self-funded health plan, including a self-funded
24 group health plan governed by the provisions of 29 U.S.C. 1001 et seq., only
25 if the plan elects to participate in the provisions of this chapter. To elect
26 to participate in the provisions of this chapter, the plan shall provide no-
27 tice, on an annual basis, to the director of the department of insurance, in a
28 manner prescribed by the director, attesting to the plan's participation in
29 and agreement to be bound by the provisions of this chapter. An election made
30 pursuant to this section shall apply for the entire plan year for which no-
31 tice is provided.

32 (2) At least once annually, the director shall post on the department of
33 insurance website a list of the self-funded plans that have elected to par-
34 ticipate in the provisions of this chapter. An entity administering a plan
35 that elects to participate in the provisions of this chapter shall comply
36 with the provisions of this chapter but shall not be considered a carrier
37 or health benefit plan subject to the jurisdiction of the director solely by
38 virtue of such election.

39 41-6706. ENFORCEMENT. (1) Any freestanding emergency room or health
40 benefit plan that violates the provisions of this chapter shall be liable
41 to pay the reasonable attorney's fees and costs that the covered person or
42 health plan incurs to challenge the provider's or health benefit plan's ac-
43 tions.

44 (2) Any billing by an out-of-network freestanding emergency room or any
45 affiliated, related, or billing entity acting on its behalf to the covered
46 person in violation of the provisions of this chapter shall be void and unen-
47 forceable.

1 (3) An out-of-network freestanding emergency room shall be liable to a
2 covered person for reasonable attorney's fees and costs to defend against a
3 provider's attempts to collect amounts in excess of the amount for which the
4 covered person is personally responsible pursuant to this chapter.

5 (4) Upon receipt of written request from an out-of-network freestand-
6 ing emergency room, covered person, or health benefit plan, the director of
7 the department of insurance is authorized to inquire of the patient's health
8 benefit plan to verify whether the amount paid to the provider is consistent
9 with the provisions of this chapter.

10 (5) Each attempt to bill or collect amounts in violation of the provi-
11 sions of this chapter shall constitute a separate violation.

12 SECTION 2. An emergency existing therefor, which emergency is hereby
13 declared to exist, this act shall be in full force and effect on and after
14 July 1, 2026.