Strengthen the Prudent Layperson Standard

TCEP, THA and TMA support **Senate Bill 622** by Sen. Charles Schwertner, MD (R-Georgetown) and **House Bill 1635** by Rep. Tom Oliverson, MD (R-Cypress) to ensure proper reimbursement for emergency services provided to patients.

CSHB 1635 would **clarify payment policies for emergency care to ensure that health plans consider a patient's presenting symptoms, rather than their final diagnosis, for health care services provided in the emergency department.**

Emergency Care Payment

Federal and state law define emergency care as health care services provided to evaluate and stabilize a medical condition that would lead "a prudent layperson" possessing an average knowledge of medicine to believe that a failure to get immediate medical care could result in a serious threat to their health. A patient's presenting symptoms are central to determining the need for emergency care.

The Problem

Despite clear guidance from the Texas Department of Insurance, some health plans condition reimbursement for emergency services that hospitals and physicians already provided on a patient's ultimate diagnosis, rather than the symptoms with which the patient presented to the emergency department.

Under federal law, hospitals and hospital physicians are required to provide emergency health care services to anyone who seeks them, regardless of their ability to pay. **The Emergency Medical Treatment & Labor Act prohibits hospitals from seeking, or directing an individual to seek, insurer authorization for screening or stabilization services until after the hospital has provided a medical screening examination and begun stabilizing treatment.**

When a health plan retroactively defines emergency care based on the patient's final diagnosis instead of the symptoms that brought them to the ED, it disregards the resources, physician time and clinical decision-making required to care for patients and deters patients from seeking medically necessarily care. CSHB 1635 will help bring clarity to payment disputes for emergency care between providers and plans.

CSHB 1635 would:

- Update the definition of "adverse determination" to make clear that a denial of care for emergency room claims is neither "emergency care" nor "appropriate".
- This change ensures clarity for the provider that the plan is making a determination that the care provided was not emergency care.
- The substitute further defines emergency care for the purposes of adverse determination as emergency care regardless of the final diagnosis.

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