

SECOND REGULAR SESSION

# HOUSE BILL NO. 2463

## 99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE STEPHENS (128).

6435H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 376.1350, RSMo, and to enact in lieu thereof one new section relating to the protection of persons with emergency medical conditions.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 376.1350, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 376.1350, to read as follows:

376.1350. For purposes of sections 376.1350 to 376.1390, the following terms mean:

- 2 (1) "Adverse determination", a determination by a health carrier or its designee  
3 utilization review organization that an admission, availability of care, continued stay or other  
4 health care service has been reviewed and, based upon the information provided, does not meet  
5 the health carrier's requirements for medical necessity, appropriateness, health care setting, level  
6 of care or effectiveness, and the payment for the requested service is therefore denied, reduced  
7 or terminated;
- 8 (2) "Ambulatory review", utilization review of health care services performed or  
9 provided in an outpatient setting;
- 10 (3) "Case management", a coordinated set of activities conducted for individual patient  
11 management of serious, complicated, protracted or other health conditions;
- 12 (4) "Certification", a determination by a health carrier or its designee utilization review  
13 organization that an admission, availability of care, continued stay or other health care service  
14 has been reviewed and, based on the information provided, satisfies the health carrier's  
15 requirements for medical necessity, appropriateness, health care setting, level of care and  
16 effectiveness;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 (5) "Clinical peer", a physician or other health care professional who holds a  
18 nonrestricted license in a state of the United States and in the same or similar specialty as  
19 typically manages the medical condition, procedure or treatment under review;

20 (6) "Clinical review criteria", the written screening procedures, decision abstracts,  
21 clinical protocols and practice guidelines used by the health carrier to determine the necessity  
22 and appropriateness of health care services;

23 (7) "Concurrent review", utilization review conducted during a patient's hospital stay or  
24 course of treatment;

25 (8) "Covered benefit" or "benefit", a health care service that an enrollee is entitled under  
26 the terms of a health benefit plan;

27 (9) "Director", the director of the department of insurance, financial institutions and  
28 professional registration;

29 (10) "Discharge planning", the formal process for determining, prior to discharge from  
30 a facility, the coordination and management of the care that a patient receives following  
31 discharge from a facility;

32 (11) "Drug", any substance prescribed by a licensed health care provider acting within  
33 the scope of the provider's license and that is intended for use in the diagnosis, mitigation,  
34 treatment or prevention of disease. The term includes only those substances that are approved  
35 by the FDA for at least one indication;

36 (12) "Emergency medical condition", the sudden and, at the time, unexpected onset of  
37 a health condition that manifests itself by symptoms of sufficient severity, **regardless of the**  
38 **final diagnosis that is given**, that would lead a prudent lay person, possessing an average  
39 knowledge of medicine and health, to believe that immediate medical care is required, which  
40 may include, but shall not be limited to:

41 (a) Placing the person's health in significant jeopardy;

42 (b) Serious impairment to a bodily function;

43 (c) Serious dysfunction of any bodily organ or part;

44 (d) Inadequately controlled pain; or

45 (e) With respect to a pregnant woman who is having contractions:

46 a. That there is inadequate time to effect a safe transfer to another hospital before  
47 delivery; or

48 b. That transfer to another hospital may pose a threat to the health or safety of the woman  
49 or unborn child;

50 (13) "Emergency service", a health care item or service furnished or required to evaluate  
51 and treat an emergency medical condition, which may include, but shall not be limited to, health

52 care services that are provided in a licensed hospital's emergency facility by an appropriate  
53 provider;

54 (14) "Enrollee", a policyholder, subscriber, covered person or other individual  
55 participating in a health benefit plan;

56 (15) "FDA", the federal Food and Drug Administration;

57 (16) "Facility", an institution providing health care services or a health care setting,  
58 including but not limited to hospitals and other licensed inpatient centers, ambulatory surgical  
59 or treatment centers, skilled nursing centers, residential treatment centers, diagnostic, laboratory  
60 and imaging centers, and rehabilitation and other therapeutic health settings;

61 (17) "Grievance", a written complaint submitted by or on behalf of an enrollee regarding  
62 the:

63 (a) Availability, delivery or quality of health care services, including a complaint  
64 regarding an adverse determination made pursuant to utilization review;

65 (b) Claims payment, handling or reimbursement for health care services; or

66 (c) Matters pertaining to the contractual relationship between an enrollee and a health  
67 carrier;

68 (18) "Health benefit plan", a policy, contract, certificate or agreement entered into,  
69 offered or issued by a health carrier to provide, deliver, arrange for, pay for, or reimburse any of  
70 the costs of health care services; except that, health benefit plan shall not include any coverage  
71 pursuant to liability insurance policy, workers' compensation insurance policy, or medical  
72 payments insurance issued as a supplement to a liability policy;

73 (19) "Health care professional", a physician or other health care practitioner licensed,  
74 accredited or certified by the state of Missouri to perform specified health services consistent  
75 with state law;

76 (20) "Health care provider" or "provider", a health care professional or a facility;

77 (21) "Health care service", a service for the diagnosis, prevention, treatment, cure or  
78 relief of a health condition, illness, injury or disease;

79 (22) "Health carrier", an entity subject to the insurance laws and regulations of this state  
80 that contracts or offers to contract to provide, deliver, arrange for, pay for or reimburse any of  
81 the costs of health care services, including a sickness and accident insurance company, a health  
82 maintenance organization, a nonprofit hospital and health service corporation, or any other entity  
83 providing a plan of health insurance, health benefits or health services; except that such plan  
84 shall not include any coverage pursuant to a liability insurance policy, workers' compensation  
85 insurance policy, or medical payments insurance issued as a supplement to a liability policy;

86 (23) "Health indemnity plan", a health benefit plan that is not a managed care plan;

87 (24) "Managed care plan", a health benefit plan that either requires an enrollee to use,  
88 or creates incentives, including financial incentives, for an enrollee to use, health care providers  
89 managed, owned, under contract with or employed by the health carrier;

90 (25) "Participating provider", a provider who, under a contract with the health carrier or  
91 with its contractor or subcontractor, has agreed to provide health care services to enrollees with  
92 an expectation of receiving payment, other than coinsurance, co-payments or deductibles,  
93 directly or indirectly from the health carrier;

94 (26) "Peer-reviewed medical literature", a published scientific study in a journal or other  
95 publication in which original manuscripts have been published only after having been critically  
96 reviewed for scientific accuracy, validity and reliability by unbiased independent experts, and  
97 that has been determined by the International Committee of Medical Journal Editors to have met  
98 the uniform requirements for manuscripts submitted to biomedical journals or is published in a  
99 journal specified by the United States Department of Health and Human Services pursuant to  
100 Section 1861(t)(2)(B) of the Social Security Act, as amended, as acceptable peer-reviewed  
101 medical literature. Peer-reviewed medical literature shall not include publications or  
102 supplements to publications that are sponsored to a significant extent by a pharmaceutical  
103 manufacturing company or health carrier;

104 (27) "Person", an individual, a corporation, a partnership, an association, a joint venture,  
105 a joint stock company, a trust, an unincorporated organization, any similar entity or any  
106 combination of the foregoing;

107 (28) "Prospective review", utilization review conducted prior to an admission or a course  
108 of treatment;

109 (29) "Retrospective review", utilization review of medical necessity that is conducted  
110 after services have been provided to a patient, but does not include the review of a claim that is  
111 limited to an evaluation of reimbursement levels, veracity of documentation, accuracy of coding  
112 or adjudication for payment;

113 (30) "Second opinion", an opportunity or requirement to obtain a clinical evaluation by  
114 a provider other than the one originally making a recommendation for a proposed health service  
115 to assess the clinical necessity and appropriateness of the initial proposed health service;

116 (31) "Stabilize", with respect to an emergency medical condition, that no material  
117 deterioration of the condition is likely to result or occur before an individual may be transferred;

118 (32) "Standard reference compendia":

119 (a) The American Hospital Formulary Service-Drug Information; or

120 (b) The United States Pharmacopoeia-Drug Information;

121 (33) "Utilization review", a set of formal techniques designed to monitor the use of, or  
122 evaluate the clinical necessity, appropriateness, efficacy, or efficiency of, health care services,

123 procedures, or settings. Techniques may include ambulatory review, prospective review, second  
124 opinion, certification, concurrent review, case management, discharge planning or retrospective  
125 review. Utilization review shall not include elective requests for clarification of coverage;  
126 (34) "Utilization review organization", a utilization review agent as defined in section  
127 374.500.

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