LC003682

2022 -- H 7077

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

AN ACT

RELATING TO INSURANCE -- ACCIDENT AND SICKNESS INSURANCE POLICIES

<u>Introduced By:</u> Representatives Edwards, Fogarty, Bennett, Baginski, and Shanley <u>Date Introduced:</u> January 12, 2022 <u>Referred To:</u> House Health & Human Services

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:

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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 possesses 7 an average knowledge of health and medicine, could reasonably expect the absence of immediate 8 medical attention to result in a condition: (i) Placing the health of the individual, or with respect to 9 a pregnant woman her unborn child, in serious jeopardy; (ii) Constituting a serious impairment to 10 bodily functions; or (iii) Constituting a serious dysfunction of any bodily organ or part.

- 11 (2) "Emergency services" means, with respect to an emergency medical condition:
- 12 (A) A medical screening examination (as required under section 1867 of the Social Security

13 Act, 42 U.S.C. § 1395dd) that is within the capability of the emergency department of a hospital,

14 including ancillary services routinely available to the emergency department to evaluate such

15 emergency medical condition, and

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

19 (3) "Stabilize," with respect to an emergency medical condition has the meaning given in

- 1 § 1867(e)(3) of the Social Security Act (42 U.S.C. § 1395dd(e)(3)).
- (b) If a health insurance carrier offering health insurance coverage provides any benefits
 with respect to services in an emergency department of a hospital, the carrier must cover emergency
 services in compliance with this section.
- 5 (c) A health insurance carrier shall provide coverage for emergency services in the 6 following manner:
- 7 (1) Without the need for any prior authorization determination, even if the emergency
 8 services are provided on an out-of-network basis;
- 9 (2) Without regard to whether the healthcare provider furnishing the emergency services is
 10 a participating network provider with respect to the services;
- (3) If the emergency services are provided out of network, without imposing any
 administrative requirement or limitation on coverage that is more restrictive than the requirements
 or limitations that apply to emergency services received from in-network providers;
- 14 (4) If the emergency services are provided out of network, by complying with the cost-15 sharing requirements of subsection (d) of this section; and
- 16 (5) Without regard to any other term or condition of the coverage, other than:
- 17 (A) The exclusion of or coordination of benefits;
- 18 (B) An affiliation or waiting period permitted under part 7 of federal ERISA, part A of title
- 19 XXVII of the federal PHS Act, or chapter 100 of the federal Internal Revenue Code; or
- 20 (C) Applicable cost-sharing.

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

(A) The amount negotiated with in-network providers for the emergency service furnished,
 excluding any in-network copayment or coinsurance imposed with respect to the participant or

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

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

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

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

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

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

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

34 <u>27-19-66. Emergency services.</u>

1 (a) As used in this section:

2	(1) "Emergency medical condition" means a medical condition manifesting itself by acute
3	symptoms of sufficient severity (including severe pain) so that a prudent layperson, who possesses
4	an average knowledge of health and medicine, could reasonably expect the absence of immediate
5	medical attention to result in a condition: (i) Placing the health of the individual, or with respect to
6	a pregnant woman her unborn child, in serious jeopardy; (ii) Constituting a serious impairment to
7	bodily functions; or (iii) Constituting a serious dysfunction of any bodily organ or part.
8	(2) "Emergency services" means, with respect to an emergency medical condition:
9	(A) A medical screening examination (as required under section 1867 of the Social Security
10	Act, 42 U.S.C. § 1395dd) that is within the capability of the emergency department of a hospital,
11	including ancillary services routinely available to the emergency department to evaluate such
12	emergency medical condition, and
13	(B) Such further medical examination and treatment, to the extent they are within the
14	capabilities of the staff and facilities available at the hospital, as are required under section 1867 of
15	the Social Security Act (42 U.S.C. § 1395dd) to stabilize the patient.
16	(3) "Stabilize," with respect to an emergency medical condition has the meaning given in
17	section 1867(e)(3) of the Social Security Act (42 U.S.C. § 1395dd(e)(3)).
18	(b) If a nonprofit hospital service corporation provides any benefits to subscribers with
19	respect to services in an emergency department of a hospital, the plan must cover emergency
20	services consistent with the rules of this section.
21	(c) A nonprofit hospital service corporation shall provide coverage for emergency services
22	in the following manner:
23	(1) Without the need for any prior authorization determination, even if the emergency
24	services are provided on an out-of-network basis;
25	(2) Without regard to whether the healthcare provider furnishing the emergency services is
26	a participating network provider with respect to the services;
27	(3) If the emergency services are provided out of network, without imposing any
28	administrative requirement or limitation on coverage that is more restrictive than the requirements
29	or limitations that apply to emergency services received from in-network providers;
30	(4) If the emergency services are provided out of network, by complying with the cost-
31	sharing requirements of subsection (d) of this section; and
32	(5) Without regard to any other term or condition of the coverage, other than:
33	(A) The exclusion of or coordination of benefits;
34	(B) An affiliation or waiting period permitted under part 7 of federal ERISA, part A of title

1 XXVII of the federal PHS Act, or chapter 100 of the federal Internal Revenue Code; or

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(C) Applicable cost sharing.

3 (d)(1) Any cost-sharing requirement expressed as a copayment amount or coinsurance rate 4 imposed with respect to a participant or beneficiary for out-of-network emergency services cannot 5 exceed the cost-sharing requirement imposed with respect to a participant or beneficiary if the services were provided in-network. However, a participant or beneficiary may be required to pay, 6 7 in addition to the in-network cost sharing, the excess of the amount the out-of-network provider 8 charges over the amount the plan or health insurance carrier is required to pay under subdivision 9 (1) of this subsection shall incur no greater out-of-pocket costs for the emergency services than the 10 participant or beneficiary would have incurred with an in-network provider other than the in-11 network cost sharing. A group health plan or health insurance carrier complies with the 12 requirements of this subsection if it provides benefits with respect to an emergency service in an 13 amount equal to the greatest of the three amounts specified in subdivisions (A), (B), and (C) of this 14 subdivision (1) (which are adjusted for in-network cost-sharing requirements).

15 (A) The amount negotiated with in-network providers for the emergency service furnished, 16 excluding any in-network copayment or coinsurance imposed with respect to the participant or 17 beneficiary. If there is more than one amount negotiated with in-network providers for the 18 emergency service, the amount described under this subdivision (A) is the median of these amounts, 19 excluding any in-network copayment or coinsurance imposed with respect to the participant or 20 beneficiary. In determining the median described in the preceding sentence, the amount negotiated 21 with each in-network provider is treated as a separate amount (even if the same amount is paid to 22 more than one provider). If there is no per-service amount negotiated with in-network providers 23 (such as under a capitation or other similar payment arrangement), the amount under this 24 subdivision (A) is disregarded.

25 (B) The amount for the emergency service shall be calculated using the same method the 26 plan generally uses to determine payments for out-of-network services (such as the usual, 27 customary, and reasonable amount), excluding any in-network copayment or coinsurance imposed 28 with respect to the participant or beneficiary. The amount in this subdivision (B) is determined 29 without reduction for out-of-network cost sharing that generally applies under the plan or health 30 insurance coverage with respect to out-of-network services. Thus, for example, if a plan generally 31 pays seventy percent (70%) of the usual, customary, and reasonable amount for out-of-network 32 services, the amount in this subdivision (B) for an emergency service is the total, that is, one 33 hundred percent (100%), of the usual, customary, and reasonable amount for the service, not 34 reduced by the thirty percent (30%) coinsurance that would generally apply to out-of-network

services (but reduced by the in-network copayment or coinsurance that the individual would be
 responsible for if the emergency service had been provided in-network).

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

- 6 (2) Any cost-sharing requirement other than a copayment or coinsurance requirement (such 7 as a deductible or out-of-pocket maximum) may be imposed with respect to emergency services 8 provided out of network if the cost-sharing requirement generally applies to out-of-network 9 benefits. A deductible may be imposed with respect to out-of-network emergency services only as 10 part of a deductible that generally applies to out-of-network benefits. If an out-of-pocket maximum 11 generally applies to out-of-network benefits, that out-of-pocket maximum must apply to out-of-12 network emergency services.
- (e) The provisions of this section apply for plan years beginning on or after September 23,2010.
- (f) This section shall not apply to insurance coverage providing benefits for: (1) Hospital
 confinement indemnity; (2) Disability income; (3) Accident only; (4) Long-term care; (5) Medicare
 supplement; (6) Limited benefit health; (7) Specified disease indemnity; (8) Sickness or bodily
 injury or death by accident or both; and (9) Other limited benefit policies.
- SECTION 3. Section 27-20-62 of the General Laws in Chapter 27-20 entitled "Nonprofit
 Medical Service Corporations" is hereby amended to read as follows:
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27-20-62. Emergency services.

22 (a) As used in this section:

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

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

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

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(B) Such further medical examination and treatment, to the extent they are within the

capabilities of the staff and facilities available at the hospital, as are required under section 1867 of
 the Social Security Act (42 U.S.C. § 1395dd) to stabilize the patient.

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

5 (b) If a nonprofit medical service corporation offering health insurance coverage provides 6 any benefits with respect to services in an emergency department of a hospital, it must cover 7 emergency services consistent with the rules of this section.

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(c) A nonprofit medical service corporation shall provide coverage for emergency services in the following manner:

10 (1) Without the need for any prior authorization determination, even if the emergency11 services are provided on an out-of-network basis;

(2) Without regard to whether the healthcare provider furnishing the emergency services isa participating network provider with respect to the services;

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

17 (4) If the emergency services are provided out of network, by complying with the cost-

18 sharing requirements of subsection (d) of this section; and

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

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

21 (B) An affiliation or waiting period permitted under part 7 of federal ERISA, part A of title

22 XXVII of the federal PHS Act, or chapter 100 of the federal Internal Revenue Code; or

23 (C) Applicable cost-sharing.

24 (d)(1) Any cost-sharing requirement expressed as a copayment amount or coinsurance rate 25 imposed with respect to a participant or beneficiary for out-of-network emergency services cannot 26 exceed the cost-sharing requirement imposed with respect to a participant or beneficiary if the 27 services were provided in-network. However, a participant or beneficiary may be required to pay, 28 in addition to the in-network cost sharing, the excess of the amount the out-of-network provider 29 charges over the amount the plan or health insurance carrier is required to pay under subdivision 30 (1) of this subsection shall incur no greater out-of-pocket costs for the emergency services than the 31 participant or beneficiary would have incurred with an in-network provider other than the in-32 network cost sharing. A group health plan or health insurance carrier complies with the 33 requirements of this subsection if it provides benefits with respect to an emergency service in an 34 amount equal to the greatest of the three amounts specified in subdivisions (A), (B), and (C) of this

1 subdivision (1) (which are adjusted for in-network cost-sharing requirements).

2 (A) The amount negotiated with in-network providers for the emergency service furnished, 3 excluding any in-network copayment or coinsurance imposed with respect to the participant or 4 beneficiary. If there is more than one amount negotiated with in-network providers for the 5 emergency service, the amount described under this subdivision (A) is the median of these amounts, excluding any in-network copayment or coinsurance imposed with respect to the participant or 6 7 beneficiary. In determining the median described in the preceding sentence, the amount negotiated 8 with each in-network provider is treated as a separate amount (even if the same amount is paid to 9 more than one provider). If there is no per-service amount negotiated with in-network providers 10 (such as under a capitation or other similar payment arrangement), the amount under this 11 subdivision (A) is disregarded.

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

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

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

(f) The provisions of this section shall apply to grandfathered health plans. This section
shall not apply to insurance coverage providing benefits for: (1) Hospital confinement indemnity;
(2) Disability income; (3) Accident only; (4) Long-term care; (5) Medicare supplement; (6) Limited
benefit health; (7) Specified disease indemnity; (8) Sickness or bodily injury or death by accident
or both; 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 <u>27-41-79. Emergency services.</u>

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 possesses
5	an average knowledge of health and medicine, could reasonably expect the absence of immediate
6	medical attention to result in a condition: (i) Placing the health of the individual, or with respect to
7	a pregnant woman her unborn child in serious jeopardy; (ii) Constituting a serious impairment to
8	bodily functions; or (iii) Constituting a serious dysfunction of any bodily organ or part.
9	(2) "Emergency services" means, with respect to an emergency medical condition:
10	(A) A medical screening examination (as required under section 1867 of the Social Security
11	Act, 42 U.S.C. § 1395dd) that is within the capability of the emergency department of a hospital,
12	including ancillary services routinely available to the emergency department to evaluate such
13	emergency medical condition, and
14	(B) Such further medical examination and treatment, to the extent they are within the
15	capabilities of the staff and facilities available at the hospital, as are required under section 1867 of
16	the Social Security Act (42 U.S.C. § 1395dd) to stabilize the patient.
17	(3) "Stabilize," with respect to an emergency medical condition has the meaning given in
18	section 1867(e)(3) of the Social Security Act (42 U.S.C. § 1395dd(e)(3)).
19	(b) If a health maintenance organization offering group health insurance coverage provides
20	any benefits with respect to services in an emergency department of a hospital, it must cover
21	emergency services consistent with the rules of this section.
22	(c) A health maintenance organization shall provide coverage for emergency services in
23	the following manner:
24	(1) Without the need for any prior authorization determination, even if the emergency
25	services are provided on an out-of-network basis;
26	(2) Without regard to whether the healthcare provider furnishing the emergency services is
27	a participating network provider with respect to the services;
28	(3) If the emergency services are provided out of network, without imposing any
29	administrative requirement or limitation on coverage that is more restrictive than the requirements
30	or limitations that apply to emergency services received from in-network providers;
31	(4) If the emergency services are provided out of network, by complying with the cost-
32	sharing requirements of subsection (d) of this section; and
33	(5) Without regard to any other term or condition of the coverage, other than:
34	(A) The exclusion of or coordination of benefits;

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(B) An affiliation or waiting period permitted under part 7 of federal ERISA, part A of title

2 XXVII of the federal PHS Act, or chapter 100 of the federal Internal Revenue Code; or

3 (C) .

(C) Applicable cost sharing.

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

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

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

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

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

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

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9 2010.

(f) The provisions of this section shall apply to grandfathered health plans. This section
shall not apply to insurance coverage providing benefits for: (1) Hospital confinement indemnity;
(2) Disability income; (3) Accident only; (4) Long-term care; (5) Medicare supplement; (6) Limited
benefit health; (7) Specified disease indemnity; (8) Sickness or bodily injury or death by accident
or both; and (9) Other limited benefit policies.
SECTION 5. This act shall take effect upon passage.

LC003682

EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

AN ACT

RELATING TO INSURANCE -- ACCIDENT AND SICKNESS INSURANCE POLICIES

- 1 This act would require that a participant or beneficiary of a health insurance plan incur no
- 2 greater out-of-pocket costs for emergency services than they would have incurred with an in-

3 network provider other than in-network cost sharing.

4 This act would take effect upon passage.

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