



Representative Terrence Upchurch  
10<sup>th</sup> House District  
Representative Susan Manchester  
84<sup>th</sup> House District

**Insurance Committee**  
**House Bill 270 Sponsor Testimony**  
**Representatives Terrence Upchurch & Susan Manchester**  
**Regulate practice of reducing benefits re: emergency services**  
**May 18<sup>th</sup>, 2021**

Chairman Brinkman, Vice Chairman Lampton, Ranking Member Miranda and members of the House Insurance Committee, thank you for the opportunity to give sponsor testimony regarding House Bill 270. House Bill 270 will strengthen Ohio's prudent layperson standard, require insurers to conduct an emergency physician review of a claim before denying or reducing reimbursement for an emergency services claim and require insurers to inform and educate their enrollees about their coverage of emergency services.

A federal law known as EMTALA (the Emergency Medical Treatment and Labor Act) requires that any patient who presents to an emergency department receive a medical screening exam and any care needed to stabilize that emergency. This care is provided regardless of insurance status or ability to pay. Ohio's emergency physicians and emergency departments are open 24 hours a day, seven days a week without exception. They are prepared to see patients with every condition imaginable. They are on the front lines, responding to the COVID-19 pandemic and the opioid epidemic. They treat all ages. They treat stroke and heart attack patients, accident and trauma victims, literally everyone. They are the critical healthcare safety net for Ohioans. They are where people turn, in their worst crisis.

Ohio currently has a prudent layperson standard law. This means that if a person with average medical knowledge believes they have an emergency medical condition, that visit to the emergency department should then be considered a medical emergency. This is logical, as it often requires testing and an exam by a physician to determine the cause of these potentially serious symptoms. However, unfortunately, some insurers are denying legitimate insurance claims of patients who sought care in the emergency department, if after the medical screening the patient's condition was determined to be non-emergent. This retroactive denial by the insurance company results in a "surprise bill" for the patient and a "surprise lack of coverage" resulting in debt to patients and if they can't afford to pay a loss to hospitals and clinicians. This is particularly concerning to safety net hospitals that can ill afford these losses. What is especially vexing is that these patients were not uninsured. They were denied their appropriate coverage. What we are proposing in House Bill 270, is to strengthen and clarify the existing prudent layperson standard and stress that it applies regardless of the final or presumptive diagnosis.

This is an important delineation to make, as many symptoms can be indicative of both benign and life-threatening processes. A classic example is chest pain. A non-physician should reasonably assume that it may be a heart attack, and promptly call 911 and go to the emergency room. However, after the physician's medical exam, that may include diagnostic testing, it may be determined that the patient was not having a heart attack rather something innocuous like heart burn and sent home. While heart burn is considered "non-emergent"; these symptoms can also be present in a true medical emergency.

We educate the public to err on the side of caution and call 911 and go to the ER for a myriad of life threatening diseases such as chest pain, severe headaches, suspected strokes and so many other conditions because it may represent a life threatening emergency. It would be dangerous for Ohioans to be put in a position that they would try and self-diagnose for fear of being stuck with a bill, even though they have insurance.

If an average person is experiencing a symptom or pain they haven't before, they will probably "google" the symptom for more information. If you "google" headache, a pretty common ailment for some, you will see advice to:

See a doctor immediately if you:

Feel worse than usual

Get a sudden, severe headache

Become confused, slur your speech, or faint

Have one-sided numbness or paralysis, or trouble seeing, speaking, or walking

Develop a fever higher than 102°F (39°C)

Experience nausea or vomiting

If your headache falls into these categories, you might choose to go to the ER for an exam to ensure it isn't something more serious. Should the expectation be that if a patient has a sudden onset headache, or crushing chest pain, or sudden weakness in their arms or legs, that they wait until the morning when they can see their doctor? That they google and self-diagnose their disease? Many conditions such as stroke, heart attack, brain aneurysm, are time sensitive diagnosis. The prudent layperson standard was developed to protect our patients, to ensure that their health would never be put in jeopardy because of a disincentive to seek potentially lifesaving care in the event that patient has an acute issue.

Most times, a headache is just a headache, but it could be a brain aneurysm, an infection, a tumor, or some other very serious diagnosis. Only a trained physician can make that determination. Patients should NOT be expected to try and determine what the cause of their symptoms are before deciding whether to seek emergency care.

Patients pay insurance premiums for a number of reasons, and one of those is to cover healthcare costs in the event of an emergency. If things like heart attacks could be identified by an average person, there'd be no reasons for emergency departments. Patient's would just call a cardiologist, say I am having a heart attack, and get their stent. We all know that's not how the human body works. Our bodies recognize when something is not right, manifested by some type of symptom. And when it is concerning enough, we see a doctor. Hindsight is always 20/20, and based on that insurance companies should not retroactively deny a claim as being non emergent if they are arbitrarily determined to not be having a "true emergency". We took significant steps in Ohio to protect patients from out of network bills in the event of an emergency,

but what we are describing here is the true surprise bill. Let's finish the job and make sure that no matter what our constituents are protected.

Mr. Chairman, members of the Committee, thank you for the opportunity to speak to this important patient protection legislation. We hope there will be additional opportunities for hearings, so he can hear from the front-line medical professionals about this important issue.

