

The logo for the Ohio Association of Health Plans features a stylized 'i' composed of a red semi-circle on the left and a blue semi-circle on the right, with a light blue circle above the stem. To the right of the logo, the text 'Ohio Association of Health Plans' is written in a large, bold, red sans-serif font.

# Ohio Association of Health Plans

HB 99 Opponent Testimony  
House Insurance Committee  
June 14, 2023

Chairman Lampton, Vice Chair Barhorst, Ranking Member Miranda, and members of House Insurance: my name is Gretchen Blazer Thompson, and I am the Director of Government Affairs for the Ohio Association of Health Plans (OAHF). On behalf of OAHF, thank you for the opportunity to offer opponent testimony to House Bill 99 (HB 99), which encourages high-cost health care.

OAHF is the state's leading trade association representing the health insurance industry. Our member plans provide health benefits to more than 9 million Ohioans through employer-sponsored coverage, the individual insurance market, and public programs such as Medicare, Medicaid, and the Federal Insurance Marketplace. Our members offer a broad range of health insurance products to Ohioans in the commercial marketplace and are committed partners in public programs.

HB 99 encourages the use of the Emergency Room (ER) in non-emergency scenarios, which would result in increased wait times in an emergency and increased health care costs for Ohioans.

HB 99 addresses the prudent layperson standard, which is a federal standard used to assess if a medical situation is an emergency. Specifically, a prudent layperson is an individual with an average knowledge of health and medicine. Ohio defines "emergency medical condition" as a medical condition that manifests itself by such acute symptoms of sufficient severity, including severe pain that a prudent layperson with an average knowledge of health and medicine could reasonably expect the absence of immediate medical attention to result in any of the following:

- a) Placing the health of the individual or, with respect to pregnant women, the health of the woman or her unborn child, in serious jeopardy;
- b) Serious impairment to bodily functions;
- c) Serious dysfunction of any bodily organ or part.<sup>1</sup>

In essence this means that if an individual is having chest pains and thinks they're having a heart attack, they should go to the ER. However, if the individual has a non-emergency ailment, they should not utilize the ER. The standard is intended to balance encouraging the use of ERs in emergency scenarios, while not encouraging use in situations that would be better treated in a different setting.

However, this legislation directly undermines the prudent layperson standard. It states, "that enrollees are not required to self-diagnose" (lines 108 and 208-209). This means an individual will not have to consider if they believe they are having an emergency before receiving care at the ER. Therefore, this legislation would require almost anyone that walks into the emergency room seeking care, regardless of if the situation is an emergency, to be a covered service. This

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<sup>1</sup> <https://codes.ohio.gov/ohio-revised-code/section-1753.28>

means an individual having chest pains with a family history of heart disease is covered the same as a person that walks in with poison ivy on their arm.

Proper care at the proper place is extremely important, as there are both financial and time costs, specifically:

- Emergency Room: average cost of \$2,200 and average wait time of 2 hours
- Urgent Care: average cost of \$180 and average wait time of 30 minutes<sup>2</sup>

With an average cost of over \$2,000 more for a trip to the ER versus Urgent Care, this bill would encourage high-cost health care and undo the important site of care education work Health Plans have been doing for years. Some examples include post cards sent to members with examples of where to seek care, and website guides and tools.

HB 99 will result in increased utilization of the ER in non-emergency scenarios. Not only does this have a financial cost for employers and individual purchasers of health care, it also has a negative impact on timely access to care in true emergency scenarios, as more individuals will be utilizing the ER and therefore wait times will increase.

To be clear, OAHP encourages and supports the use of the ER in an emergency scenario. However, it should be reserved for just that, an emergency.

Among other matters the bill sets up an “emergency services utilization review” which does not exist today. Before a Health Plan could deny or down code a claim, it would have to go to the emergency services utilization review, which is to be staffed by emergency room physicians, to decide if the claim can be denied or down coded. There is already an appeals process within the Department of Insurance (ODI) for any claim, however this would directly undermine that process and set up this separate one specifically for emergency room claims.

Specifically, there is already a robust appeals process contained in ORC 3922.01-3922.23. The process is overseen and monitored by ODI. Other important aspects of the appeals process include:

- an independent review process, in which the health plan has no say in who the independent reviewer is, and the health plan must abide by the independent reviewer’s decision;
- an expedited appeals process in situations where it is needed as a result of the medical condition of the patient;
- applicability to appeals of claims for **all** provider types, ensuring balanced and uniformed access;
- notice provisions to the consumer and treating providers to ensure that they are aware of their ability to access the appeals process.

For all these reasons OAHP is opposed to HB 99, which encourages the use of the ER in non-emergency scenarios resulting in increased health care costs and wait times.

Thank you for the opportunity to comment on HB 99 on behalf of the more than 9 million Ohioans to whom member plans provide health care coverage. We will continue to fight for affordable, accessible health care for all Ohioans.

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<sup>2</sup> <https://www.uhc.com/member-resources/where-to-go-for-medical-care/urgent-care-vs-er>