AN ACT concerning regulation.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 25. The Illinois Insurance Code is amended by changing Section 356z.3a as follows:

(215 ILCS 5/356z.3a)

Sec. 356z.3a. Billing; emergency services; nonparticipating providers.

(a) As used in this Section:

"Ancillary services" means:

(1) items and services related to emergency medicine, anesthesiology, pathology, radiology, and neonatology that are provided by any health care provider;

(2) items and services provided by assistant surgeons, hospitalists, and intensivists;

(3) diagnostic services, including radiology and laboratory services, except for advanced diagnostic laboratory tests identified on the most current list published by the United States Secretary of Health and Human Services under 42 U.S.C. 300gg-132(b)(3);

(4) items and services provided by other specialty practitioners as the United States Secretary of Health and Human Services specifies through rulemaking under 42

U.S.C. 300gg-132(b)(3);

(5) items and services provided by a nonparticipating provider if there is no participating provider who can furnish the item or service at the facility; and

(6) items and services provided by a nonparticipating provider if there is no participating provider who will furnish the item or service because a participating provider has asserted the participating provider's rights under the Health Care Right of Conscience Act.

"Average gross charge rate" means, with respect to nonparticipating ground ambulance service providers, the average of the provider's gross charge rates in place for each individual charge described in subsection (b-15) of this Section for dates of service that fall within the 12-month period ending on June 30 immediately preceding the date on which the reporting of average gross charge rates is required.

"Cost sharing" means the amount an insured, beneficiary, or enrollee is responsible for paying for a covered item or service under the terms of the policy or certificate. "Cost sharing" includes copayments, coinsurance, and amounts paid toward deductibles, but does not include amounts paid towards premiums, balance billing by out-of-network providers, or the cost of items or services that are not covered under the policy or certificate.

"Emergency department of a hospital" means any hospital department that provides emergency services, including a

hospital outpatient department.

"Emergency medical condition" has the meaning ascribed to that term in Section 10 of the Managed Care Reform and Patient Rights Act.

"Emergency medical screening examination" has the meaning ascribed to that term in Section 10 of the Managed Care Reform and Patient Rights Act.

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

(1) in general, an emergency medical screening examination, including ancillary services routinely available to the emergency department to evaluate such emergency medical condition, and such further medical examination and treatment as would be required to stabilize the patient regardless of the department of the hospital or other facility in which such further examination or treatment is furnished; or

(2) additional items and services for which benefits are provided or covered under the coverage and that are furnished by a nonparticipating provider or nonparticipating emergency facility regardless of the department of the hospital or other facility in which such items are furnished after the insured, beneficiary, or enrollee is stabilized and as part of outpatient observation or an inpatient or outpatient stay with respect to the visit in which the services described in

paragraph (1) are furnished. Services after stabilization cease to be emergency services only when all the conditions of 42 U.S.C. 300gg-111(a)(3)(C)(ii)(II) and regulations thereunder are met.

"Emergency ground ambulance service" means ground ambulance service provided by ground ambulance service providers, regardless of whether the patient was transported, if the service was provided pursuant to a request to 9-1-1 or an equivalent telephone number, texting system, or other method of summoning emergency service or if the service provided was provided when a patient's condition, at the time of service, was considered to be an emergency medical condition as determined by a physician licensed under the Medical Practice Act of 1987.

"Evaluation" means, with respect to emergency ground ambulance service, the provision of a medical screening examination to determine whether an emergency medical condition exists.

"Freestanding Emergency Center" means a facility licensed under Section 32.5 of the Emergency Medical Services (EMS) Systems Act.

"Ground ambulance service" means both medical transportation service that is described as ground ambulance service by the Centers for Medicare and Medicaid Services and medical nontransportation service, such as evaluation without transport, treatment without transport, or paramedic

intercept, and that is, in either case, provided in a vehicle that is licensed as an ambulance under the Emergency Medical Services (EMS) Systems Act or by EMS Personnel assigned to a vehicle that is licensed as an ambulance under the Emergency Medical Services (EMS) Systems Act. "Ground ambulance service" may include any combination of the following: emergency ground ambulance service in a ground ambulance, urgent ground ambulance service, evaluation without treatment, treatment without transport, and paramedic intercept.

"Ground ambulance service provider" means a vehicle service provider under the Emergency Medical Services (EMS) Systems Act that operates licensed ground ambulances for the purpose of providing emergency ground ambulance services, urgent ground ambulances services, or both. "Ground ambulance service provider" includes both ambulance providers and ambulance suppliers as described by the Centers for Medicare and Medicaid Services.

"Health care facility" means, in the context of non-emergency services, any of the following:

(1) a hospital as defined in 42 U.S.C. 1395x(e);

(2) a hospital outpatient department;

(3) a critical access hospital certified under 42 U.S.C. 1395i-4(e);

(4) an ambulatory surgical treatment center as defined in the Ambulatory Surgical Treatment Center Act; or

(5) any recipient of a license under the Hospital

Licensing Act that is not otherwise described in this definition.

"Health care provider" means a provider as defined in subsection (d) of Section 370g. "Health care provider" does not include a provider of air ambulance or ground ambulance services.

"Health care services" has the meaning ascribed to that term in subsection (a) of Section 370g.

"Health insurance issuer" has the meaning ascribed to that term in Section 5 of the Illinois Health Insurance Portability and Accountability Act.

"Nonparticipating emergency facility" means, with respect to the furnishing of an item or service under a policy of group or individual health insurance coverage, any of the following facilities that does not have a contractual relationship directly or indirectly with a health insurance issuer in relation to the coverage:

(1) an emergency department of a hospital;

(2) a Freestanding Emergency Center;

(3) an ambulatory surgical treatment center as defined in the Ambulatory Surgical Treatment Center Act; or

(4) with respect to emergency services described in paragraph (2) of the definition of "emergency services", a hospital.

"Nonparticipating ground ambulance service provider" means, with respect to the furnishing of an item or services

under a policy of group or individual health insurance coverage, any ground ambulance service provider that does not have a contractual relationship directly or indirectly with a health insurance issuer in relation to the coverage.

"Nonparticipating provider" means, with respect to the furnishing of an item or service under a policy of group or individual health insurance coverage, any health care provider who does not have a contractual relationship directly or indirectly with a health insurance issuer in relation to the coverage.

"Paramedic intercept" means a service in which a ground ambulance staffed by licensed paramedics rendezvouses with a ground ambulance staffed with nonparamedics to provide advanced life support care. As used in this definition, "advanced life support care" means life support care that is warranted when a patient's condition and need for treatment exceed the basic life support or intermediate life support level of care.

"Participating emergency facility" means any of the following facilities that has a contractual relationship directly or indirectly with a health insurance issuer offering group or individual health insurance coverage setting forth the terms and conditions on which a relevant health care service is provided to an insured, beneficiary, or enrollee under the coverage:

(1) an emergency department of a hospital;

(2) a Freestanding Emergency Center;

(3) an ambulatory surgical treatment center as defined in the Ambulatory Surgical Treatment Center Act; or

(4) with respect to emergency services described in paragraph (2) of the definition of "emergency services", a hospital.

For purposes of this definition, a single case agreement between an emergency facility and an issuer that is used to address unique situations in which an insured, beneficiary, or enrollee requires services that typically occur out-of-network constitutes a contractual relationship and is limited to the parties to the agreement.

"Participating ground ambulance service provider" means any ground ambulance service provider that has a contractual relationship directly or indirectly with a health insurance issuer offering group or individual health insurance coverage setting forth the terms and conditions on which a relevant health care service is provided to an insured, beneficiary, or enrollee under the coverage. As used in this definition, a single case agreement between a ground ambulance service provider and a health insurance issuer that is used to address unique situations in which an insured, beneficiary, or enrollee requires services that typically occur out-of-network constitutes a contractual relationship and is limited to the parties of the agreement.

"Participating health care facility" means any health care

facility that has a contractual relationship directly or indirectly with a health insurance issuer offering group or individual health insurance coverage setting forth the terms and conditions on which a relevant health care service is provided to an insured, beneficiary, or enrollee under the coverage. A single case agreement between an emergency facility and an issuer that is used to address unique situations in which an insured, beneficiary, or enrollee requires services that typically occur out-of-network constitutes a contractual relationship for purposes of this definition and is limited to the parties to the agreement.

"Participating provider" means any health care provider that has a contractual relationship directly or indirectly with a health insurance issuer offering group or individual health insurance coverage setting forth the terms and conditions on which a relevant health care service is provided to an insured, beneficiary, or enrollee under the coverage.

"Qualifying payment amount" has the meaning given to that term in 42 U.S.C. 300gg-111(a)(3)(E) and the regulations promulgated thereunder.

"Recognized amount" means<u>, except as otherwise provided in this Section,</u> the lesser of the amount initially billed by the provider or the qualifying payment amount.

"Stabilize" means "stabilization" as defined in Section 10 of the Managed Care Reform and Patient Rights Act.

"Treating provider" means a health care provider who has

evaluated the individual.

"Treatment" means, with respect to the provision of emergency ground ambulance service, the provision of an evaluation and either (i) a therapy or therapeutic agent used to treat an emergency medical condition or (ii) a procedure used to treat an emergency medical condition.

"Urgent ground ambulance service" means ground ambulance service that is deemed medically necessary by a health care professional and is required within 12 hours after the certification of the need for the service.

"Visit" means, with respect to health care services furnished to an individual at a health care facility, health care services furnished by a provider at the facility, as well as equipment, devices, telehealth services, imaging services, laboratory services, and preoperative and postoperative services regardless of whether the provider furnishing such services is at the facility.

(b) Emergency services. When a beneficiary, insured, or enrollee receives emergency services from a nonparticipating provider or a nonparticipating emergency facility, the health insurance issuer shall ensure that the beneficiary, insured, or enrollee shall incur no greater out-of-pocket costs than the beneficiary, insured, or enrollee would have incurred with a participating provider or a participating emergency facility. Any cost-sharing requirements shall be applied as though the emergency services had been received from a

participating provider or a participating facility. Cost sharing shall be calculated based on the recognized amount for the emergency services. If the cost sharing for the same item or service furnished by a participating provider would have been a flat-dollar copayment, that amount shall be the cost-sharing amount unless the provider has billed a lesser total amount. In no event shall the beneficiary, insured, enrollee, or any group policyholder or plan sponsor be liable to or billed by the health insurance issuer, the nonparticipating provider, or the nonparticipating emergency facility for any amount beyond the cost sharing calculated in accordance with this subsection with respect to the emergency services delivered. Administrative requirements or limitations shall be no greater than those applicable to emergency services received from a participating provider or a participating emergency facility.

(b-5) Non-emergency services at participating health care facilities.

(1) When a beneficiary, insured, or enrollee utilizes a participating health care facility and, due to any reason, covered ancillary services are provided by a nonparticipating provider during or resulting from the visit, the health insurance issuer shall ensure that the beneficiary, insured, or enrollee shall incur no greater out-of-pocket costs than the beneficiary, insured, or enrollee would have incurred with a participating provider

for the ancillary services. Any cost-sharing requirements shall be applied as though the ancillary services had been received from a participating provider. Cost sharing shall be calculated based on the recognized amount for the ancillary services. If the cost sharing for the same item or service furnished by a participating provider would have been a flat-dollar copayment, that amount shall be the cost-sharing amount unless the provider has billed a lesser total amount. In no event shall the beneficiary, insured, enrollee, or any group policyholder or plan sponsor be liable to or billed by the health insurance issuer, the nonparticipating provider, or the participating health care facility for any amount beyond the cost sharing calculated in accordance with this subsection with respect to the ancillary services delivered. In addition to ancillary services, the requirements of this paragraph shall also apply with respect to covered items or services furnished as a result of unforeseen, urgent medical needs that arise at the time an item or service is furnished, regardless of whether the nonparticipating provider satisfied the notice and consent criteria under paragraph (2) of this subsection.

(2) When a beneficiary, insured, or enrollee utilizes a participating health care facility and receives non-emergency covered health care services other than those described in paragraph (1) of this subsection from a

nonparticipating provider during or resulting from the visit, the health insurance issuer shall ensure that the beneficiary, insured, or enrollee incurs no greater out-of-pocket costs than the beneficiary, insured, or enrollee would have incurred with a participating provider unless the nonparticipating provider or the participating health care facility on behalf of the nonparticipating provider satisfies the notice and consent criteria provided in 42 U.S.C. 300gg-132 and regulations promulgated thereunder. If the notice and consent criteria are not satisfied, then:

(A) any cost-sharing requirements shall be applied as though the health care services had been received from a participating provider;

(B) cost sharing shall be calculated based on the recognized amount for the health care services; and

(C) in no event shall the beneficiary, insured, enrollee, or any group policyholder or plan sponsor be liable to or billed by the health insurance issuer, the nonparticipating provider, or the participating health care facility for any amount beyond the cost sharing calculated in accordance with this subsection with respect to the health care services delivered.

(b-10) Coverage for ground ambulance services provided by nonparticipating ground ambulance service providers.

(1) Any group or individual policy of accident and

health insurance amended, delivered, issued, or renewed on or after January 1, 2027 shall provide coverage for both emergency ground ambulance service and urgent ground ambulance service.

(2) Beginning on January 1, 2027, when a beneficiary, insured, or enrollee receives emergency ground ambulance services or urgent ambulance services from a nonparticipating ground ambulance service provider, the health insurance issuer shall ensure that the beneficiary, insured, or enrollee shall incur no greater out-of-pocket costs than the beneficiary, insured, or enrollee would have incurred with a participating ground ambulance provider. Any cost-sharing requirements shall be applied as though the emergency ground ambulance services or urgent ground ambulance services had been received from a participating ground ambulance service provider. Except as otherwise provided in State or federal law, cost sharing shall be calculated based on the lesser of the policy's copayment or coinsurance for an emergency room visit or 10% of the recognized amount. For purposes of this subsection, the recognized amount shall be calculated as provided for in paragraph (3) of this subsection. Except as otherwise provided for in State or federal law, if the cost sharing for the same item or service furnished by a participating ground ambulance provider would have been a flat-dollar copayment, that amount shall be the

cost-sharing amount unless the nonparticipating ground ambulance provider has billed a lesser total amount.

(3) Upon reasonable demand by a nonparticipating ground ambulance service provider and after subtracting the beneficiary's, insured's, or enrollee's cost sharing amount, a health insurance issuer shall pay the nonparticipating ground ambulance service provider as follows:

(A) for nonparticipating ground ambulance service providers subject to a unit of local government that has jurisdiction over where the service was provided, a rate that is equal to the rate established or approved by the governing body of the local government having jurisdiction for that area or subarea; or

(B) for nonparticipating ground ambulance service providers that are not subject to the jurisdiction of a unit of local government, a rate that is equal to the lesser of (i) the negotiated rate between the nonparticipating ground ambulance service provider and the health insurance issuer; (ii) 85% of the nonparticipating ground ambulance service provider's billed charges; or (iii) the average gross charge rate in effect for the date of service in question for a base charge and, if applicable, a loaded mileage charge, the nonparticipating ground ambulance service provider has filed with the Department of Public

Health in accordance with subsection (b-15).

By accepting the payment from the health insurance issuer, the nonparticipating ground ambulance service provider shall not seek any payment from the beneficiary, insured, or enrollee for any amount that exceeds the deductible, coinsurance, or copay for services provided to the beneficiary, insured, or enrollee.

(b-15) Beginning on October 1, 2026, and each October 1 thereafter, each nonparticipating ground ambulance service provider shall file annually with the Department of Public Health, in the form and manner prescribed by the Department of Public Health, its average gross charge rates and any other information required by the Department of Public Health, by rule, for each of the following ground ambulance charge descriptions, as applicable: (1) basic life support, urgent base; (2) basic life support, emergency base; (3) advanced life support, urgent, level 1 base; (4) advanced life support, emergency, level 1 base; (5) advanced life support, emergency, level 2 base; (6) specialty care transport base; (7) emergency response, evaluation without transport base; (8) emergency response, treatment without transport base; (9) emergency response, paramedic intercept base; and (10) loaded mileage, per loaded mile charge for each of the applicable base charge descriptions services. The Department of Public Health shall publish the submitted rate information by January 1, 2027 and

every January 1 thereafter. The Department of Public Health may request information from ground ambulance service providers and health insurance issuers regarding factors contributing to the network status of the ground ambulance service providers. The Department of Public Health may, upon the submission of rate information, assess a fee to each ground ambulance service provider that shall not exceed the administrative costs to complete the Department of Public Health's obligations in this subsection. The Department of Public Health may also request information from nationally recognized organizations that provide data on health care costs. The Department of Insurance shall direct the health insurance issuer to the location in which the information reported to the Department of Public Health is stored.

(c) Notwithstanding any other provision of this Code, except when the notice and consent criteria are satisfied for the situation in paragraph (2) of subsection (b-5), any benefits a beneficiary, insured, or enrollee receives for services under the situations in subsection (b), ~~or~~ (b-5), (b-10), or (b-15) are assigned to the nonparticipating providers, nonparticipating ground ambulance service provider, or the facility acting on their behalf. Upon receipt of the provider's bill or facility's bill, the health insurance issuer shall provide the nonparticipating provider, nonparticipating ground ambulance service provider, or the facility with a written explanation of benefits that specifies

the proposed reimbursement and the applicable deductible, copayment, or coinsurance amounts owed by the insured, beneficiary, or enrollee. The health insurance issuer shall pay any reimbursement subject to this Section directly to the nonparticipating provider, nonparticipating ground ambulance service provider, or the facility.

(d) For bills assigned under subsection (c), the nonparticipating provider or the facility may bill the health insurance issuer for the services rendered, and the health insurance issuer may pay the billed amount or attempt to negotiate reimbursement with the nonparticipating provider or the facility. Within 30 calendar days after the provider or facility transmits the bill to the health insurance issuer, the issuer shall send an initial payment or notice of denial of payment with the written explanation of benefits to the provider or facility. If attempts to negotiate reimbursement for services provided by a nonparticipating provider do not result in a resolution of the payment dispute within 30 days after receipt of written explanation of benefits by the health insurance issuer, then the health insurance issuer or nonparticipating provider or the facility may initiate binding arbitration to determine payment for services provided on a per-bill or batched-bill basis, in accordance with Section 300gg-111 of the Public Health Service Act and the regulations promulgated thereunder. The party requesting arbitration shall notify the other party arbitration has been initiated and

state its final offer before arbitration. In response to this notice, the nonrequesting party shall inform the requesting party of its final offer before the arbitration occurs. Arbitration shall be initiated by filing a request with the Department of Insurance.

(e) The Department of Insurance shall publish a list of approved arbitrators or entities that shall provide binding arbitration. These arbitrators shall be American Arbitration Association or American Health Lawyers Association trained arbitrators. Both parties must agree on an arbitrator from the Department of Insurance's or its approved entity's list of arbitrators. If no agreement can be reached, then a list of 5 arbitrators shall be provided by the Department of Insurance or the approved entity. From the list of 5 arbitrators, the health insurance issuer can veto 2 arbitrators and the provider or facility can veto 2 arbitrators. The remaining arbitrator shall be the chosen arbitrator. This arbitration shall consist of a review of the written submissions by both parties. The arbitrator shall not establish a rebuttable presumption that the qualifying payment amount should be the total amount owed to the provider or facility by the combination of the issuer and the insured, beneficiary, or enrollee. Binding arbitration shall provide for a written decision within 45 days after the request is filed with the Department of Insurance. Both parties shall be bound by the arbitrator's decision. The arbitrator's expenses and fees,

together with other expenses, not including attorney's fees, incurred in the conduct of the arbitration, shall be paid as provided in the decision.

(f) (Blank).

(g) Section 368a of this Act shall not apply during the pendency of a decision under subsection (d). Upon the issuance of the arbitrator's decision, Section 368a applies with respect to the amount, if any, by which the arbitrator's determination exceeds the issuer's initial payment under subsection (c), or the entire amount of the arbitrator's determination if initial payment was denied. Any interest required to be paid to a provider under Section 368a shall not accrue until after 30 days of an arbitrator's decision as provided in subsection (d), but in no circumstances longer than 150 days from the date the nonparticipating facility-based provider billed for services rendered.

(h) Nothing in this Section shall be interpreted to change the prudent layperson provisions with respect to emergency services under the Managed Care Reform and Patient Rights Act.

(i) Nothing in this Section shall preclude a health care provider from billing a beneficiary, insured, or enrollee for reasonable administrative fees, such as service fees for checks returned for nonsufficient funds and missed appointments.

(j) Nothing in this Section shall preclude a beneficiary, insured, or enrollee from assigning benefits to a

nonparticipating provider when the notice and consent criteria are satisfied under paragraph (2) of subsection (b-5) or in any other situation not described in subsection (b) or (b-5).

(k) Except when the notice and consent criteria are satisfied under paragraph (2) of subsection (b-5), if an individual receives health care services under the situations described in subsection (b) or (b-5), no referral requirement or any other provision contained in the policy or certificate of coverage shall deny coverage, reduce benefits, or otherwise defeat the requirements of this Section for services that would have been covered with a participating provider. However, this subsection shall not be construed to preclude a provider contract with a health insurance issuer, or with an administrator or similar entity acting on the issuer's behalf, from imposing requirements on the participating provider, participating emergency facility, or participating health care facility relating to the referral of covered individuals to nonparticipating providers.

(l) Except if the notice and consent criteria are satisfied under paragraph (2) of subsection (b-5), cost-sharing amounts calculated in conformity with this Section shall count toward any deductible or out-of-pocket maximum applicable to in-network coverage.

(m) The Department has the authority to enforce the requirements of this Section in the situations described in subsections (b) and (b-5), and in any other situation for

which 42 U.S.C. Chapter 6A, Subchapter XXV, Parts D or E and regulations promulgated thereunder would prohibit an individual from being billed or liable for emergency services furnished by a nonparticipating provider or nonparticipating emergency facility or for non-emergency health care services furnished by a nonparticipating provider at a participating health care facility.

(n) This Section does not apply with respect to air ambulance ~~or ground ambulance~~ services. This Section does not apply to any policy of excepted benefits or to short-term, limited-duration health insurance coverage.

(o) A home rule unit may not regulate payments for ground ambulance service in a manner inconsistent with this Section. This subsection is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State.

(Source: P.A. 102-901, eff. 7-1-22; 102-1117, eff. 1-13-23; 103-440, eff. 1-1-24.)

Section 99. Effective date. This Act takes effect upon becoming law.