

# What Constitutes a Medical Emergency?

The “prudent layperson” standard is a generally accepted principle in the health care industry that applies to emergency medical care. This standard was created to protect consumers from high medical costs that arise from emergency situations, allowing them to be charged at in-network rates. However, insurance companies have been reluctant to apply this standard for care issued at freestanding emergency centers (FECs). By not providing usual and customary reimbursement rates, insurance providers violate the intent of the medical community, and legislators who turned the prudent layperson standard into law.

## ACEP’s Position on “Prudent Layperson”

In 1994, the American College of Emergency Physicians (ACEP) adopted a definition of emergency medicine policy statement that reads as follows:

Emergency services are those health care services provided to evaluate and treat medical conditions of recent onset and severity that would lead a prudent layperson, possessing an average knowledge of medicine and health, to believe that urgent and/or unscheduled care is required.

This prudent layperson standard addresses issues such as prior authorization and denials of coverage for emergency care, and discourages health plans from developing their own lists of “appropriate” emergency medical conditions. This standard defends the rights of patients to have access to emergency care when they believe their symptoms warrant it.

Patients who conclude they have emergency medical conditions belong in an emergency department, not disputing insurance coverage with their health plan. ACEP then developed a state legislative advocacy strategy to urge states to adopt this standard for access to emergency medical services.



## Who is TAFEC?

TAFEC is a member-based association representing FECs in Texas. The association works with state leaders to ensure the fair regulation and growth of this industry, as well as raising public awareness of the industry and promoting an overall understanding of the unique benefits of freestanding emergency centers.

TAFEC represents over 175 facilities across the state of Texas. As the organization continues to grow, the mission remains the same – provide a platform from which FECs can speak as a united group to promote the FEC industry.

TAFEC

208 West 14th Street | Austin, Texas 78701  
512.658.1990 | [www.tafec.org](http://www.tafec.org)

# The “Prudent Layperson” Standard

The Texas Department of Insurance states that insurance companies are required to pay emergency facilities “at the insured’s in-network benefit level” for all services. Additionally, the Patient Protection and Affordable Care Act added numerous patient protections that require health plans covering emergency services to provide such coverage without need for prior authorization, regardless of the participating status of the provider, at the in-network level.

Furthermore, health plans are required to pay for emergency visits for medical situations in which an average layperson believes his or her health is threatened. The final diagnosis should not influence whether the insurer pays for the emergency room visit,

and insurers cannot legally apply the claim towards the out-of-network benefits. Despite the aforementioned legislation, some insurance companies fail to make appropriate payments for emergency services and/or honor claims as provided by Section 1301.155. Although overall cost of the visit is comparable to a traditional hospital ER, the claim is processed differently for FECs. Health plans are not upholding the “prudent layperson” standard for emergency care issued in an FEC setting. Health plans must be held accountable to follow the laws adopted by Texas’ elected officials. The practice of issuing lower reimbursement rates for FECs is unlawful and must be addressed to provide consistency for emergency care providers and to protect patients from overbilling.

## Texas Statute

Texas adopted this prudent layperson definition in 1997 through Senate Bills 385. Section 1301.155 of the Texas Insurance Code is the state statute that references the “prudent layperson standard” and governs how insurance should be applied for emergency care.

### Sec. 1301.155. EMERGENCY CARE.

(a) In this section, “emergency care” means health care services provided in a hospital emergency facility, freestanding emergency medical care facility, or comparable emergency facility to evaluate and stabilize a medical condition of a recent onset and severity, including severe pain, that would lead a prudent layperson possessing an average knowledge of medicine and health to believe that the person’s condition, sickness, or injury is of such a nature that failure to get immediate medical care could result in:

1. placing the person’s health in serious jeopardy;
2. serious impairment to bodily functions;
3. serious dysfunction of a bodily organ or part;
4. serious disfigurement; or
5. in the case of a pregnant woman, serious jeopardy to the health of the fetus.

(b) If an insured cannot reasonably reach a preferred provider, an insurer shall provide reimbursement for the following emergency care services at the preferred level of benefits until the insured can reasonably be expected to transfer to a preferred provider:

1. a medical screening examination or other evaluation required by state or federal law to be provided in the emergency facility of a hospital that is necessary to determine whether a medical emergency condition exists;
2. necessary emergency care services, including the treatment and stabilization of an emergency medical condition; and
3. services originating in a hospital emergency facility or freestanding emergency medical care facility following treatment or stabilization of an emergency medical condition.

