

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**

A Bill

ACT 505 OF 1995
SENATE BILL 299

4 **By: Senators Gwatney, Canada, Walters, Everett, Mahony, Boozman, Jeffries, and Hunter**

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For An Act To Be Entitled

8 "AN ACT TO ENSURE CONSUMER CHOICE OF HEALTH CARE PROVIDER;
9 AND FOR OTHER PURPOSES."

10

Subtitle

11

12 "TO ENSURE CONSUMER CHOICE OF HEALTH
13 CARE PROVIDER."

14

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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17 SECTION 1. This act may be cited as the "Patient Protection Act of
18 1995."

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20 SECTION 2. The General Assembly finds that patients should be given the
21 opportunity to see the health care provider of their choice. In order to
22 assure the citizens of the state of Arkansas the right to choose the provider
23 of their choice, it is the intent of the General Assembly to provide the
24 opportunity of providers to participate in health benefit plans.

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26 SECTION 3. As used in this act:

27 (a) "Copayment" means a type of cost sharing whereby insured or covered
28 persons pay a specified predetermined amount per unit of service or percentage
29 of health care costs with their *health care insurer* paying the remainder of
30 the charge. The copayment is incurred at the time the service is rendered.
31 The copayment may be a fixed or variable amount.

32 (b) "Health benefit plan" means any entity or program that provides
33 reimbursement, including capitation, for health care services, except and
34 excluding any entity or program that provides reimbursement and benefits
35 pursuant to Amendment 26 to the Constitution of the State of Arkansas, Act 796
36 of 1993, or the Public Employee Workers_ Compensation Act, and rules,

1 regulations and schedules adopted thereunder.

2 (c) "Health care provider" means those individuals or entities licensed
3 by the state of Arkansas to provide health care services limited to the
4 following: physicians and surgeons, *(M.D.'s and D.O.'s)*, podiatrists,
5 chiropractors, physical therapists, speech pathologists, audiologists,
6 dentists, optometrists, hospitals, hospital based services, psychologists,
7 licensed professional counselors, respiratory therapists, pharmacists,
8 occupational therapists and long-term care facilities, home health care and
9 hospice care, licensed ambulatory surgery centers, *and rural health clinics.*

10 (d) "Health care services" means services and products provided by a
11 health care provider within the scope of the provider_s license.

12 (e) *"Health care insurer" means any entity, including but not limited*
13 *to insurance companies, hospital and medical services corporations, health*
14 *maintenance organizations, preferred provider organizations, physician*
15 *hospital organizations, third-party administrators, and prescription benefit*
16 *management companies authorized to administer, offer or provide health benefit*
17 *plans, policies, subscriber contracts or any other contract of similar nature*
18 *which indemnify or compensate health care providers for the provision of*
19 *health care services.*

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21 SECTION 4. (a) A health benefit plan, health insurance plan or policy,
22 employee benefit plan or health maintenance organization shall not, directly
23 or indirectly:

24 (1) Impose a monetary advantage or penalty under a health benefit plan
25 that would affect a beneficiary_s choice among those health care providers who
26 participate in the health benefit plan according to the terms offered.
27 Monetary advantage or penalty includes higher copayment, a reduction in
28 reimbursement for services, or promotion of one health care provider over
29 another by these methods; or

30 (2) Impose upon a beneficiary of health care services under a health
31 benefit plan any copayment, fee or condition that is not equally imposed upon
32 all beneficiaries in the same benefit category, class or copayment level under
33 that health benefit plan when the beneficiary is receiving services from a
34 participating health care provider pursuant to that health benefit plan.

35 (3) Prohibit or limit a health care provider that is qualified under

1 Section 3(c) and is willing to accept the plan_s operating terms and
2 conditions, its schedule of fees, covered expenses, utilization regulations
3 and quality standards, the opportunity to participate in that plan.

4 (b) Nothing in this act shall prevent a health benefit plan from
5 instituting measures designed to maintain quality and to control costs,
6 including but not limited to the utilization of a health care provider to
7 coordinate health care services, as long as such measures are imposed equally
8 on all providers in the same class.

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10 SECTION 5. Nothing in this act shall be construed to require any health
11 care insurer or health benefit plan to cover any specific health care service.
12 Provided, however, no condition or measure shall have the effect of excluding
13 any type or class of provider qualified under Section 4(a)(3) to provide that
14 service.

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16 SECTION 6. Any person adversely affected by a violation of this act may
17 sue in a court of competent jurisdiction for injunctive relief against the
18 health care insurer and, upon prevailing, shall, in addition to such relief,
19 recover damages not less than one thousand dollars (\$1,000), attorney fees and
20 costs.

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22 SECTION 7. Any provision in a health benefit plan which is executed,
23 delivered or renewed, or otherwise contracts for provision of services in this
24 state that is contrary to this act shall, to the extent of the conflict, be
25 void.

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27 SECTION 8. It is a violation of this act for any health care insurer or
28 other person or entity to provide any health benefit plan providing for health
29 care services to residents of this state that does not conform to this act,
30 but nothing in this act shall constitute a violation on the basis of actions
31 taken by the health benefit plan to maintain quality, enforce utilization
32 regulations, and to control costs.

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34 SECTION 9. All provisions of this act of a general and permanent nature
35 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code

1 Revision Commission shall incorporate the same in the Code.

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3 SECTION 10. If any provision of this act or the application thereof to
4 any person or circumstance is held invalid, such invalidity shall not affect
5 other provisions or applications of the act which can be given effect without
6 the invalid provision or application, and to this end the provisions of this
7 act are declared to be severable.

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9 SECTION 11. All laws and parts of laws in conflict with this act are
10 hereby repealed.

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12 SECTION 12. In the event any portion of this act is found to be in
13 violation of federal law or in conflict therewith, or held to be
14 unconstitutional, that portion shall hereby be repealed and all other portions
15 of this act shall remain in force.

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/s/Gwatney et al

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APPROVED: 3-1-95

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