

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001
4

A Bill

Act 1063 of 2001
SENATE BILL 716

5 By: Senator Wilkins
6
7

For An Act To Be Entitled

9 AN ACT TO AMEND VARIOUS PROVISIONS OF CHAPTER 86 OF
10 TITLE 23 FOR GROUP AND BLANKET ACCIDENT AND HEALTH
11 INSURANCE; AND FOR OTHER PURPOSES.
12

Subtitle

13 AN ACT TO AMEND VARIOUS PROVISIONS OF
14 CHAPTER 86 OF TITLE 23 FOR GROUP AND
15 BLANKET ACCIDENT AND HEALTH INSURANCE.
16
17
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. The title to Chapter 86 of Title 23 of the Arkansas Code is
22 amended to read as follows:

23 Chapter 86. Group and Blanket ~~Disability~~ Accident and Health Insurance
24

25 SECTION 2. Arkansas Code 23-86-101 is amended to read as follows:

26 23-86-101 . Blanket ~~disability~~ accident and health insurance -
27

Defini tion.

28 Blanket ~~disability~~ accident and health insurance is declared to be that
29 form of ~~disability~~ accident and health insurance covering groups of persons
30 as enumerated in one (1) of the following subdivisions:

31 (1) Under a policy or contract issued to any common carrier or
32 to any operator, owner, or lessee of a means of transportation, who or which
33 shall be deemed the policyholder, covering a group defined as all persons or
34 all persons of a class who may become passengers on the common carrier or
35 such means of transportation;

36 (2) Under a policy or contract issued to an employer, who shall

1 be deemed the policyholder, covering all employees, dependents, or guests,
 2 defined by reference to specified hazards incident to the activities or
 3 operations of the employer or any class of employees, dependents, or guests
 4 similarly defined;

5 (3) Under a policy or contract issued to a school or other
 6 institution of learning, camp, or sponsor thereof; or to the head or
 7 principal thereof, who or which shall be deemed the policyholder, covering
 8 students or campers. Supervisors and employees may be included;

9 (4) Under a policy or contract issued in the name of any
 10 religious, charitable, recreational, educational, or civic organization,
 11 which shall be deemed the policyholder, covering participants in activities
 12 sponsored by the organization;

13 (5) Under a policy or contract issued to a sports team or
 14 sponsors thereof, which shall be deemed the policyholder, covering members,
 15 officials, and supervisors;

16 (6) Under a policy or contract issued in the name of any
 17 volunteer fire department, first aid, or other such volunteer group, or
 18 agency having jurisdiction thereof, which shall be deemed the policyholder,
 19 covering all of the members of the fire department or group; or

20 (7) Under a policy or contract issued to cover any other risk or
 21 class of risks which, in the discretion of the commissioner, may be properly
 22 eligible for blanket ~~disability~~ accident and health insurance. The
 23 discretion of the Insurance Commissioner may be exercised on an individual
 24 risk basis or class of risks, or both.

25
 26 SECTION 3. Arkansas Code 23-86-102 is amended to read as follows:

27 23-86-102. Blanket ~~disability~~ accident and health insurance - Required
 28 provisions.

29 Any insurer authorized to write ~~disability~~ accident and health
 30 insurance in this state shall have the power to issue blanket ~~disability~~
 31 accident and health insurance. No blanket policy may be issued or delivered
 32 in this state unless a copy of the form shall have been filed in accordance
 33 with § 23-79-109. Every blanket policy shall contain provisions which in the
 34 opinion of the Insurance Commissioner are at least as favorable to the
 35 policyholder and the individual insured as the following:

36 (1) A provision that the policy and the application shall

1 constitute the entire contract between the parties and that all statements
2 made by the policyholder shall, in absence of fraud, be deemed
3 representations and not warranties, and that no such statements shall be used
4 in defense to a claim under the policy, unless it is contained in a written
5 application;

6 (2) A provision that written notice of sickness or of injury
7 must be given to the insurer within twenty (20) days after the date when such
8 sickness or injury occurred. Failure to give notice within the time shall
9 not invalidate or reduce any claim if it shall be shown not to have been
10 reasonably possible to give such notice and that notice was given as soon as
11 was reasonably possible;

12 (3) A provision that the insurer will furnish to the
13 policyholder such forms as are usually furnished by it for filing proof of
14 loss. If the forms are not furnished before the expiration of fifteen (15)
15 days after the giving of the notice, the claimant shall be deemed to have
16 complied with the requirements of the policy as to proof of loss upon
17 submitting within the time fixed in the policy for filing proof of loss,
18 written proof covering the occurrence, character, and extent of the loss for
19 which claim is made;

20 (4) A provision that in the case of claim for loss of time for
21 disability, written proof of the loss must be furnished to the insurer within
22 thirty (30) days after the commencement of the period for which the insurer
23 is liable, and the subsequent written proofs of the continuance of such
24 disability must be furnished to the insurer at such intervals as the insurer
25 may reasonably require, and that in the case of claim for any other loss,
26 written proof of the loss must be furnished to the insurer within ninety (90)
27 days after the date of loss. Failure to furnish proof within the time shall
28 not invalidate or reduce any claim if it shall be shown not to have been
29 reasonably possible to furnish the proof and that the proof was furnished as
30 soon as was reasonably possible;

31 (5) A provision that all benefits payable under the policy other
32 than benefits for loss of time will be payable immediately upon receipt of
33 due written proof of the loss, and that, subject to due proof of loss, all
34 accrued benefits payable under the policy for loss of time will be paid not
35 later than at the expiration of each period of thirty (30) days during the
36 continuance of the period for which the insurer is liable, and that any

1 balance remaining unpaid at the termination of the period will be paid
 2 immediately upon receipt of the proof;

3 (6) A provision that the insurer, at its own expense, shall have
 4 the right and opportunity to examine the person of the insured when and so
 5 often as it may reasonably require during the pendency of claim under the
 6 policy and also the right and opportunity to make an autopsy in case of death
 7 where it is not prohibited by law;

8 (7) A provision that no action at law or in equity shall be
 9 brought to recover under the policy prior to the expiration of sixty (60)
 10 days after written proof of loss has been furnished in accordance with the
 11 requirements of the policy and that no such action shall be brought after the
 12 expiration of three (3) years after the time written proof of loss is
 13 required to be furnished; and

14 (8) In any contract that contains a provision whereby coverage
 15 of a dependent in a family group terminates at a specified age, there shall
 16 also be a provision that coverage of an unmarried dependent who is incapable
 17 of sustaining employment by reason of mental retardation or physical
 18 disability, who became so incapacitated prior to the attainment of age
 19 nineteen (19) and who is chiefly dependent upon the employee for support and
 20 maintenance, shall not terminate but coverage shall continue so long as the
 21 contract remains in force and so long as the dependent remains in such
 22 condition. At the request and expense of the insurer, proof of the incapacity
 23 or dependency must be furnished to the insurer by the policyholder. In no
 24 event shall this requirement preclude eligible dependents under Acts 1975,
 25 No. 649, § 5, as amended, regardless of age. If the incapacity or dependency
 26 is thereafter removed or terminated, the policyholder shall so notify the
 27 insurer.

28
 29 SECTION 4. Arkansas Code 23-86-103 is amended to read as follows:

30 23-86-103. Blanket ~~disability~~ accident and health insurance -
 31 Application and certificates not required.

32 An individual application shall not be required from a person covered
 33 under a blanket ~~disability~~ accident and health policy or contract, nor shall
 34 it be necessary for the insurer to furnish each person a certificate.

35
 36 SECTION 5. Arkansas Code 23-86-104 is amended to read as follows:

1 23-86-104. Blanket ~~disability~~ accident and health insurance - Payment
2 of benefits.

3 (a)(1) All benefits under any blanket ~~disability~~ accident and health
4 policy shall be payable to the person insured, to his designated
5 beneficiaries, or to his estate.

6 (2) However, if the person insured is a minor or mental
7 incompetent, the benefits may be made payable to his parent, guardian, or
8 other person actually supporting him. If the entire cost of the insurance has
9 been borne by the employer, the benefits may be made payable to the employer.

10 (b)(1) However, the policy may provide that all or any portion of any
11 indemnities provided by the policy on account of hospital, nursing, medical,
12 or surgical services may, at the insurer's option, be paid directly to the
13 hospital or person rendering the services, but the policy may not require
14 that the service be rendered by a particular hospital or person.

15 (2) Payment so made shall discharge the insurer's obligation
16 with respect to the amount of insurance paid.

17
18 SECTION 6. Arkansas Code 23-86-106 is amended to read as follows:

19 23-86-106. Group ~~disability~~ accident and health insurance - Definition.

20 Group ~~disability~~ accident and health insurance is declared to be that
21 form of ~~disability~~ accident and health insurance covering groups of persons
22 as defined in this section, with or without one (1) or more members of their
23 families or one (1) or more of their dependents, or covering one (1) or more
24 members of the families or one (1) or more dependents of the groups of
25 persons, and issued upon the following basis:

26 (1)(A) Under a policy issued to an employer or trustees of a
27 fund established by an employer, who shall be deemed the policyholder,
28 insuring employees of the employer for the benefit of persons other than the
29 employer.

30 (B) The term "employees" as used in subdivision (1) of
31 this section shall be deemed to include the officers, managers, and employees
32 of the employer, the individual proprietor or partner if the employer is an
33 individual proprietor or partnership, the officers, managers, and employees
34 of subsidiary or affiliated corporations, the individual proprietors,
35 partners, and employees of individuals and firms, if the business of the
36 employer and the individual or firm is under common control through stock

1 ownership, contract, or otherwise.

2 (C) The term "employees" as used in subdivision (1) of
3 this section may include retired employees.

4 (D) A policy issued to insure employees of a public body
5 may provide that the term "employees" shall include elected or appointed
6 officials.

7 (E) The policy may provide that the term "employees" shall
8 include the trustees or their employees, or both, if their duties are
9 principally connected with the trusteeship;

10 (2) Under a policy issued to an association, including a labor
11 union, which shall have a constitution and bylaws and which has been
12 organized and is maintained in good faith for purposes other than that of
13 obtaining insurance or insuring members, employees, or employees of members
14 of the association for the benefit of persons other than the association or
15 its officers or trustees. The term "employees" as used in this subdivision
16 may include retired employees;

17 (3)(A) Under a policy issued to the trustees of a fund
18 established by two (2) or more employers in the same or related industry or
19 by one (1) or more labor unions or by one (1) or more employers and one (1)
20 or more labor unions or by an association as defined in subdivision (2) of
21 this section, who shall be deemed the policyholder, to insure employees of
22 the employers or members of the unions or of the association, or employees of
23 members of the association, for the benefit of persons other than the
24 employers or the unions or the association.

25 (B) The term "employees" as used in subdivision (3) of
26 this section may include the officers, managers, and employees of the
27 employer and the individual proprietor or partners if the employer is an
28 individual proprietor or partnership.

29 (C) The term "employees" as used in subdivision (3) of
30 this section may include retired employees.

31 (D) The policy may provide that the term "employees" shall
32 include the trustees or their employees, or both, if their duties are
33 principally connected with such trusteeship;

34 (4) Under a policy issued to any person or organization to which
35 a policy of group life insurance may be issued or delivered in this state to
36 insure any classes of individuals that could be insured under the group life

1 policy, and in accord with appropriate provisions of chapter 16 of Acts 1959,
 2 No. 148 [repealed];

3 (5) Under a policy issued to cover any other substantially
 4 similar group which, in the discretion of the Insurance Commissioner, may be
 5 subject to the issuance of a group ~~disability~~ accident and health policy or
 6 contract.

7
 8 SECTION 7. Arkansas Code 23-86-107 is amended to read as follows:

9 23-86-107. Group ~~disability~~ accident and health insurance - ~~Section 23-~~
 10 ~~83-123 applicable~~ Requires authorized insurer.

11 ~~Section 23-83-123 is applicable to group disability insurance contracts~~
 12 ~~covering persons resident in this state.~~ (a) All group accident and health
 13 insurance placed by an employer on employees who are residents of this state
 14 shall be placed by the employer with an insurer authorized to transact
 15 insurance in this state.

16 (b) This section shall not apply to group insurance lawfully placed in
 17 an insurer transacting insurance as a surplus line insurer under Chapter 65
 18 of Title 23.

19
 20 SECTION 8. Arkansas Code 23-86-108 is amended to read as follows:

21 23-86-108. Group ~~disability~~ accident and health insurance - Required
 22 provisions.

23 Each group ~~disability~~ accident and health insurance policy shall
 24 contain in substance the following provisions:

25 (1) A provision that, in the absence of fraud, all statements
 26 made by applicants or the policyholder or by an insured person shall be
 27 deemed representations and not warranties and that no statement made for the
 28 purpose of effecting insurance shall void the insurance or reduce benefits
 29 unless contained in a written instrument signed by the policyholder of the
 30 insured person, a copy of which has been furnished to the policyholder or to
 31 the person or his beneficiary;

32 (2) A provision that the insurer will furnish to the
 33 policyholder for delivery to each employee or member of the insured group a
 34 statement in summary form of the essential features of the insurance coverage
 35 of the employee or member and to whom benefits thereunder are payable. If
 36 dependents are included in the coverage, only one (1) certificate need be

1 issued for each family unit;

2 (3) A provision that to the group originally insured may be
 3 added from time to time eligible new employees or members or dependents, as
 4 the case may be, in accordance with the terms of the policy;

5 (4) In any contract that contains a provision whereby coverage
 6 of a dependent in a family group terminates at a specified age, there shall
 7 also be a provision that coverage of an unmarried dependent who is incapable
 8 of sustaining employment by reason of mental retardation or physical
 9 disability, who became so incapacitated prior to the attainment of age
 10 nineteen (19) years and who is chiefly dependent upon the employee for
 11 support and maintenance, shall not terminate but coverage shall continue so
 12 long as the coverage of the employee or member remains in force and so long
 13 as the dependent remains in such condition. At the request and expense of
 14 the insurer, proof of the incapacity or dependency must be furnished to the
 15 insurer by the policyholder, except in no event shall this requirement
 16 preclude eligible dependents under Acts 1975, No. 649, § 5, as amended,
 17 regardless of age. If the incapacity or dependency is thereafter removed or
 18 terminated, the policyholder shall so notify the insurer;

19 (5)(A) No policy or contract of group ~~disability~~ accident and
 20 health insurance, including contracts issued by hospital and medical service
 21 corporations which provides coverage for any of the following services when
 22 delivered on an inpatient basis shall hereafter be sold, delivered, or issued
 23 for delivery or offered for sale in this state unless the identical coverage
 24 for such services is provided when delivered on an outpatient basis:

- 25 (i) Laboratory and pathological tests;
- 26 (ii) X rays;
- 27 (iii) Chemotherapy;
- 28 (iv) Radiation treatment; and
- 29 (v) Renal dialysis.

30 (B) However, the coverage required by ~~subdivision~~
 31 subsection (5)(A) of this section shall not be required where any
 32 policyholder or contract holder shall reject the coverage in writing.

33 (C) The definition of the services referred to in
 34 ~~subdivision~~ subsection (5) of this section shall be the same as found in §
 35 23-85-133.

36 (D) All existing group contracts, including existing group

1 contracts issued by hospital and medical service corporations, shall conform
 2 to the provisions of ~~subdivision~~ subsection (5) of this section upon the
 3 first anniversary of the issue date, after March 12, 1981;

4 (6) A provision that:

5 (A) All benefits payable under the policy other than
 6 benefits for loss of time will be payable immediately upon receipt of written
 7 proof of such loss;

8 (B) Subject to proof of loss, all accrued benefits payable
 9 under the policy for loss of time will be paid not later than at the
 10 expiration of each period of thirty (30) days during the continuance of the
 11 period for which the insurer is liable; and

12 (C) Any balance remaining unpaid at the termination of
 13 that period will be paid immediately upon receipt of due proof; and

14 (7)(A) Every insurer, hospital or medical service corporation,
 15 fraternal benefit society, self-funded health care plan, or health
 16 maintenance organization providing replacement coverage, with respect to
 17 group ~~disability~~ accident and health benefits within a period of sixty (60)
 18 days from the date of discontinuance of a prior plan, shall immediately cover
 19 all employees and dependents:

20 (i) If each employee or dependent was validly
 21 covered under the previous plan at the date of the discontinuance;

22 (ii) If each employee or dependent is a member of
 23 the class of individuals eligible for coverage under the succeeding carrier's
 24 plan, regardless of any of the plan's limitations or exclusions relating to
 25 "actively at work" or hospital confinement; and

26 (iii) Only if the group ~~disability~~ accident and
 27 health benefits were provided to a group consisting of more than fifteen (15)
 28 members.

29 (B) The succeeding carrier shall be entitled to deduct
 30 from its benefits any benefits payable by the previous carrier pursuant to an
 31 extension of benefits provision.

32 (C) No provision in a succeeding carrier's plan of
 33 replacement coverage which would operate to reduce or exclude benefits, on
 34 the basis that the condition giving rise to benefits preexisted the effective
 35 date of the succeeding carrier's plan, shall be applied with respect to those
 36 employees and dependents validly insured under the previous carrier's policy

1 on the date of discontinuance if benefits for the condition would have been
 2 payable under the previous carrier's plan.

3 (D) The provisions of this section shall apply upon the
 4 issuance of an insurance policy or health care plan:

5 (i) To a group whose benefits had previously been
 6 self-insured;

7 (ii) To a self-insurer providing coverage to a group
 8 which had been previously covered by an insurer; and

9 (iii) To a group which had previously been covered
 10 by an insurer.

11
 12 SECTION 9. Arkansas Code 23-86-109 is amended to read as follows:

13 23-86-109. Group ~~disability~~ accident and health insurance - Optional
 14 continuation of benefit provisions.

15 Any group ~~disability~~ accident and health policy which contains
 16 provisions for the payment by the insurer of benefits for expenses incurred
 17 on account of hospital, nursing, medical, or surgical services for members of
 18 the family or dependents of a person in the insured group may provide for the
 19 continuation of the benefit provisions, or any parts thereof, after the death
 20 of the person in the insured group.

21
 22 SECTION 10. Arkansas Code 23-86-110 is amended to read as follows:

23 23-86-110. Group ~~disability~~ accident and health insurance -
 24 Administration of benefits.

25 (a)(1) All group ~~disability~~ accident and health carriers including
 26 hospital and medical service corporations shall be subject to the "primary"
 27 and "secondary" carrier rules and regulations promulgated by the Insurance
 28 Commissioner.

29 (2) The secondary carrier shall administer benefits on a timely
 30 basis.

31 (b) This section shall be applicable to all group contracts of
 32 ~~disability~~ accident and health insurance sold, delivered or issued for
 33 delivery, renewed, or offered for sale in this state, including those issued
 34 by hospital and medical service corporations, except group contracts for
 35 employees whose employer pays one hundred percent (100%) of the premiums.

36

SECTION 11. Arkansas Code 23-86-111 is amended to read as follows:

23-86-111. Group ~~disability~~ accident and health insurance - Payment of benefits where other like insurance exists.

(a) No contract of group ~~disability~~ accident and health insurance or ~~health~~ coverage sold, delivered or issued for delivery, renewed, or offered for sale in this state by an insurer, hospital and medical service corporation, or health maintenance organization, directly or indirectly providing indemnity, services, health care services, or cash to an individual as a result of hospitalization, medical or surgical treatment, or dental care, shall contain any provision for the denial or reduction of benefits because of the existence of other like insurance except to the extent that the aggregate benefits with respect to the covered medical expenses incurred under the contract and all other like insurance with other insurers, hospital and medical service corporations, or health maintenance organizations exceed all covered medical expenses incurred. The term "other like insurance" may include group or blanket ~~disability~~ accident and health insurance or group coverage provided by health maintenance organizations, hospital and medical service corporations, government insurance plans, except Medicaid, union welfare plans, employer or employee benefit organizations, or workers' compensation insurance or no-fault automobile coverage provided for or required by any statute.

(b)(1) No group ~~disability~~ accident and health insurance policy providing disability income coverage sold, delivered or issued for delivery, renewed, or offered for sale in this state shall provide for reduction in the amount of the disability benefits payable to the insured to the extent of and because of the existence of other such coverage, unless the policy provides a minimum amount payable, regardless of the reduction, of fifty dollars (\$50.00) per month.

(2) "Other such coverage" for which a reduction may be effected includes:

(A) Governmental programs such as federal social security, Arkansas Public Employees' Retirement System, the State Workers' Compensation System, and all other government-sponsored, mandatory plans or programs that provide for disability benefit coverage;

(B) Disability or pension income coverages as established by the Insurance Commissioner through implementing rules and regulations; and

1 (C) Such other programs, coverages, or permissible
 2 reductions as the commissioner may establish through rules and regulations.

3 (3) The amount of any such reduction shall not be increased with
 4 any increase in the level of federal social security benefits payable which
 5 becomes effective after a claim commences.

6 (4) The commissioner may also issue rules and regulations to
 7 implement this section and § 23-86-110, including, but not limited to, the
 8 nature and timing of proofs of eligibility for federal social security
 9 benefits.

10 (c) This section shall be applicable to all group contracts of
 11 ~~disability~~ accident and health insurance sold, delivered or issued for
 12 delivery, renewed, or offered for sale in this state, except group contracts
 13 for employees whose employer pays one hundred percent (100%) of the premiums.
 14

15 SECTION 12. Arkansas Code 23-86-112 is amended to read as follows:

16 23-86-112. Group ~~disability~~ accident and health insurance - Direct
 17 payment of hospital or medical services.

18 (a) Any group ~~disability~~ accident and health policy may, on request by
 19 the group policyholder, provide that all or any portion of any indemnities
 20 provided by any policy on account of hospital, nursing, medical, or surgical
 21 services may, at the insurer's option, be paid directly to the hospital or
 22 person rendering such services; but the policy may not require that the
 23 service be rendered by a particular hospital or person.

24 (b) Payment so made shall discharge the insurer's obligation with
 25 respect to the amount of insurance paid.
 26

27 SECTION 13. Arkansas Code 23-86-113 is amended to read as follows:

28 23-86-113. Minimum benefits for mental illness in group ~~disability~~
 29 accident and health policies or subscriber's contracts.

30 (a) Unless refused in writing, every group ~~disability~~ accident and
 31 health policy or group contract of hospital and medical service corporations
 32 issued or renewed after July 1, 1983, providing hospitalization or medical
 33 benefits to Arkansas residents for conditions arising from mental illness
 34 shall, on and after July 1, 1983, provide the following minimum benefits:

35 (1) In the case of benefits based upon confinement as an
 36 inpatient in a hospital, psychiatric hospital, or outpatient psychiatric

1 center licensed by the Department of Health or a community mental health
 2 center certified by the Division of Mental Health Services of the Department
 3 of Human Services the benefits shall be as defined in subsection (b) of this
 4 section;

5 (2) In the case of benefits provided for partial hospitalization
 6 in a hospital, psychiatric hospital, or outpatient psychiatric center
 7 licensed by the Department of Health or a community mental health center
 8 certified by the Division of Mental Health Services of the Department of
 9 Human Services as defined in subsection (b) of this section; for the purpose
 10 of this section, "partial hospitalization" means continuous treatment for at
 11 least four (4) hours, but not more than sixteen (16) hours in any twenty-four
 12 (24) hour period; and

13 (3) In the case of outpatient benefits, the benefits shall cover
 14 services furnished by:

15 (A) A hospital, a psychiatric hospital, or an outpatient
 16 psychiatric center licensed by the Department of Health;

17 (B) A physician licensed under the Medical Practices Act,
 18 § 17-95-201 et seq.;

19 (C) A psychologist licensed under § 17-97-201 et seq.; or

20 (D) A community mental health center or other mental
 21 health clinic certified by the Division of Mental Health Services of the
 22 Department of Human Services to furnish mental health services as defined in
 23 subsection (b) of this section.

24 (b) The insurer or hospital and medical service corporation may
 25 establish a copayment requirement for mental illness benefits paid for
 26 inpatient, partial hospitalization, or outpatient care described in
 27 subsection (a) of this section, which may or may not differ from the
 28 copayment requirements for any other condition or illness, except that
 29 copayment requirements for mental illness shall not exceed a twenty percent
 30 (20%) copayment requirement.

31 (c)(1) The For accident and health insurance sold to employers of
 32 fifty (50) or fewer employees, the insurer or hospital and medical service
 33 corporation shall not impose limits on benefits under subsection (a) of this
 34 section with regard to deductible amounts, lifetime maximum payments,
 35 payments per outpatient visit, or payments per day of partial hospitalization
 36 which differ from benefits for any other condition or illness, provided such

1 insurer or hospital and medical service corporation may impose an annual
2 maximum benefit payable, which shall not be less than seven thousand five
3 hundred dollars (\$7,500) per calendar year.

4 (2) For accident and health insurance sold to employers of
5 fifty-one (51) or more employees, the insurer or hospital and medical service
6 corporation shall not impose limits on benefits under subsection (a) of this
7 section with regard to deductible amounts, lifetime maximum payments,
8 payments per outpatient visit, or payments per day of partial hospitalization
9 which differ from benefits for any other condition or illness, provided such
10 insurer or hospital and medical service corporation may impose an annual
11 maximum of eight (8) inpatient/partial hospitalization days together with
12 forty (40) outpatient visits.

13 (d) No person shall disclose mental health history, diagnosis, or
14 treatment services information received in an initial application for
15 coverage or subsequent claims for benefits to any person, group,
16 organization, or governmental agency, without written consent of the insured,
17 except for purposes of:

18 (1) Obtaining professional review and judgments of quality and
19 appropriateness of treatment rendered;

20 (2) Litigation proceedings involving the insured and when
21 ordered by a court;

22 (3) Reinsurance, when required;

23 (4) Applying over-insurance provisions or for purposes of
24 claiming benefits for services on behalf of the insured; or

25 (5) Underwriting applications for insurance coverage.

26 (e) Nothing in this section shall be construed to prohibit an insurer,
27 hospital and medical service corporations, health care plan, health
28 maintenance organization, or other person providing ~~disability~~ accident and
29 health insurance or medical benefits to Arkansas residents from issuing or
30 continuing to issue ~~a disability~~ an accident and health insurance benefit
31 plan, policy, or contract which provides benefits greater than the minimum
32 benefits required to be made available under this section or from issuing any
33 plans, policies, or contracts which provide benefits which are generally more
34 favorable to the insured than those required to be made available under this
35 section.

36 (f) The requirements of this section with respect to a group or

1 blanket ~~disability~~ accident and health insurance benefit plan, policy, or
 2 subscriber contract shall be satisfied if the coverage specified is made
 3 available to the master policyholder of the plan, policy, or contract.

4 (g)(1)(A) Every insurer or hospital and medical service corporation
 5 which issues a group ~~disability~~ accident and health insurance policy,
 6 contract, or agreement in this state which provides for mental health
 7 coverage shall offer coverage for the payment of services rendered by
 8 licensed professional counselors.

9 (B) Such offer shall be made either at the time of
 10 application for, or upon the first renewal of, such policy, contract, or
 11 agreement after April 1, 1995.

12 (C) If such offer is accepted, the amount paid for
 13 services provided by licensed professional counselors shall be subject to the
 14 same limitations as set forth in the policy for mental health coverage.

15 (2) Nothing in this subsection shall be deemed to expand the
 16 scope of the practice of licensed professional counselors currently licensed
 17 by the Arkansas Board of Examiners in Counseling and possessing the
 18 qualifications set forth in § 17-27-301 et seq., or other applicable laws.

19
 20 SECTION 14. Arkansas Code 23-86-114 is amended to read as follows:

21 23-86-114. Group ~~disability~~ accident and health insurance -
 22 Continuation of coverage beyond termination of employment, change in marital
 23 status, etc.

24 (a) Every group ~~disability~~ accident and health insurance policy,
 25 contract, or certificate providing hospital, surgical, or major medical
 26 coverage, other than accident only or specified disease policies, shall
 27 contain a provision that any certificate holder, member, or spouse whose
 28 coverage under the policy would otherwise terminate due to termination of
 29 employment or membership or a change in marital status may continue coverage
 30 under the policy for themselves and their eligible dependents as provided in
 31 this section.

32 (b) The continued coverage need not include benefits for dental care,
 33 vision services, or prescription drug expenses.

34 (c)(1) Continuation of coverage shall be available only to individuals
 35 who have been insured continuously under the group policy during the three-
 36 month period prior to the termination of employment membership or change in

1 marital status.

2 (2) Continuation of coverage shall not be available to an
3 individual who is eligible for:

4 (A) Federal Medicare coverage; or

5 (B)(i) Full coverage under any other group ~~disability~~
6 accident and health policy or contract.

7 (ii) This coverage must provide benefits for all
8 preexisting conditions to be considered full coverage.

9 (iii) Accordingly, under this subdivision, an
10 individual may continue his or her previous group coverage until all
11 preexisting conditions are covered or would be covered under another group
12 policy or contract or until termination pursuant to subsection (f) of this
13 section or pursuant to the applicable provisions of federal law.

14 (d) An individual who wishes to continue coverage must request
15 continuation in writing not later than ten (10) days after the termination of
16 employment or membership or the change in marital status.

17 (e) An individual who requests continuation of coverage must pay the
18 premium required by the policyholder on a monthly basis and in advance.
19 Payments shall be made in accordance with the group policy.

20 (f) Continuation of coverage shall end upon the earliest of the
21 following dates:

22 (1) One hundred twenty (120) days after continuation of coverage
23 began;

24 (2) The end of the period for which the individual made a timely
25 contribution;

26 (3) The contribution due date following the date the individual
27 becomes eligible for Medicare;

28 (4) The date on which the policy is terminated or the group
29 withdraws from the plan. However, if the group policy is replaced,
30 continuation shall continue under the new coverage.

31 (g) At the termination of the continued coverage, an individual shall
32 be offered the conversion policy under the group policy.

33 (h) Individuals choosing to utilize the conversion privilege under the
34 group policy may do so and thereby waive their right to continuation of
35 coverage.

36 (i) This section shall not be applicable to health care plans in which

1 the employer is self-insured.

2
3 SECTION 15. Arkansas Code 23-86-115 is amended to read as follows:

4 23-86-115. Group ~~disability~~ accident and health insurance - Entitlement
5 to conversion policy upon termination of group policy.

6 (a)(1) Every group policy, contract, or certificate of ~~disability~~
7 accident and health insurance delivered or issued for delivery in this state
8 which provides hospital, surgical, or major medical coverage on an expense-
9 incurred basis, other than coverage limited to expenses from accidents or
10 specified diseases, shall provide that an employee, member, or covered
11 dependent whose insurance under the group policy has been terminated for any
12 reason, including the discontinuance of the group policy in its entirety,
13 shall be entitled to have issued to him by the insurer a policy of ~~disability~~
14 accident and health insurance referred to in this section as a conversion
15 policy.

16 (2) An employee, member, or dependent shall not be entitled to a
17 conversion policy if the termination of the group policy, contract, or
18 certificate was a result of his failure to pay any required contribution or
19 if the terminated policy is replaced by similar coverage within thirty-one
20 (31) days.

21 (3) An individual wishing to exercise his or her conversion
22 privilege must apply for the conversion policy in writing not later than
23 thirty (30) days after the termination of the group coverage.

24 (b)(1) The conversion policy shall provide coverage equal to or
25 greater than the minimum standards established by the Insurance Commissioner.
26 All conversion policies shall contain a wording in bold print that "the
27 benefits in this policy do not necessarily equal or match those benefits
28 provided in your previous group policy".

29 (2) The conversion policy shall not exclude coverage for
30 pregnancy or other illness or injury on the grounds of a preexisting
31 condition provided that the combination of time served under the group and
32 the conversion policy equals or exceeds any waiting periods under the group
33 policy or contract. Moreover, the conversion policy shall include benefits
34 for maternity coverage for any pregnancies in existence at the time of the
35 conversion.

36 (c)(1) The insurer shall not be required to offer the conversion

1 policy to any individual who is eligible for:

2 (A) Federal medicare coverage; or

3 (B) Full coverage under any other group ~~disability~~
 4 accident and health policy or contract. This coverage must provide benefits
 5 for all preexisting conditions to be considered full coverage.

6 (2) Accordingly, under this subsection, an individual may
 7 convert to a conversion policy and remain covered by that policy until all
 8 preexisting conditions are covered or would be covered under another group
 9 policy or contract.

10 (d) This section shall not be applicable to self-insured plans.

11 (e)(1)(A) The initial premium for the conversion policy for the first
 12 twelve (12) months and subsequent renewal premiums shall be determined in
 13 accordance with premium rates applicable to individually underwritten
 14 standard risks for the age and class of risk of each person to be covered
 15 under the conversion policy and for the type and amount of insurance
 16 provided.

17 (B) The experience under conversion policies shall not be
 18 an acceptable basis for establishing rates for conversion policies.

19 (2) For purposes of subdivision (e)(1) of this section:

20 (A) The phrase "premium rates applicable to individually
 21 underwritten standard risks" means the premium charged to individuals who
 22 qualify for coverage without modification, determined from a rate table based
 23 on aggregate individually underwritten policy experience;

24 (B) "Aggregate individually underwritten policy
 25 experience" means the policy experience is drawn from a mature combination of
 26 newly selected insureds and insureds for whom selection effects no longer
 27 exist; and

28 (C) "Class" means any actuarially determined
 29 characteristic except health status or individual claims experience.

30 (3) If an insurer experiences incurred losses which exceed
 31 earned premiums for a period of two (2) successive years on conversion
 32 policies which have been in force for at least one (1) year, the insurer may
 33 file with the commissioner amended renewal rates for the subsequent year
 34 which will produce a loss ratio of not less than one hundred percent (100%).

35 (4)(A) Even though a renewal premium is established in
 36 accordance with subdivision (e)(3) of this section, a holder of the

1 conversion policy shall not be required to pay the full renewal premium until
 2 the beginning of the policy's fourth year.

3 (B) The premium for the second policy year shall be the
 4 initial premium plus thirty-three and one-third percent (33 1/3%) of the
 5 difference between the initial premium and the renewal premium in effect on
 6 the policy's first anniversary date.

7 (C) The premium for the third policy year shall be the
 8 initial premium plus sixty-six and two-thirds percent (66 2/3%) of the
 9 difference between the initial premium and the renewal premium in effect on
 10 the policy's second anniversary date.

11 (D) The premium for the fourth year shall be one hundred
 12 percent (100%) of the renewal premium in effect on the policy's third
 13 anniversary date.

14 (5) This subsection shall be applicable to any conversion policy
 15 issued after March 22, 1995.

16
 17 SECTION 16. Arkansas Code 23-86-116(a) is amended to read as follows:

18 (a) Every group ~~disability~~ accident and health insurance policy,
 19 contract, or certificate that provides coverage for hospital or medical
 20 services or expenses shall provide that the insurer shall continue its
 21 obligation for benefits under the policy or contract for any person insured
 22 under the policy or contract who is hospitalized on the date of termination
 23 if the policy or contract is terminated and replaced by a group health
 24 insurance policy or contract issued by another insurer or by a self-funded
 25 health care plan.

26
 27 SECTION 17. Arkansas Code 23-86-117(a) is amended to read as follows:

28 (a) ~~As of January 1, 1996, all~~ All disability accident and health
 29 insurers transacting business in this state shall use Form HCFA 1500 and Form
 30 UB-92/HCFA 1450 or in the claim format required by the Health Insurance
 31 Portability and Accountability Act of 1996 ("HIPAA") as the standard claim
 32 forms until and unless the Insurance Commissioner prescribes otherwise.

33
 34 SECTION 18. Arkansas Code 23-86-118 is amended to read as follows:
 35 23-86-118. In vitro fertilization coverage required.

36 (a) All ~~disability~~ accident and health insurance companies doing

1 business in this state shall include, as a covered expense, in vitro
2 fertilization.

3 (b) The Insurance Commissioner, pursuant to the applicable provisions
4 of the Arkansas Insurance Code, § 23-60-101 et seq., may suspend or revoke
5 the certificate of authority of any insurance company failing to comply with
6 the provisions of this section.

7 (c) After conducting appropriate studies and public hearings, the
8 commissioner shall establish minimum and maximum levels of coverage to be
9 provided by the ~~disability~~ accident and health insurance companies.

10 (d) Coverage required under this section shall include services
11 performed at a medical facility, licensed or certified by the Department of
12 Health, those performed at a facility certified by the department which
13 conforms to the American College of Obstetricians and Gynecologists
14 guidelines for in vitro fertilization clinics, or those performed at a
15 facility certified by the department which meets the American Fertility
16 Society minimal standards for programs of in vitro fertilization.

17

18 SECTION 19. Arkansas Code 23-86-119(a) is amended to read as follows:

19 (a) Any insurer issuing or delivering group accident and health
20 insurance policies in this state must provide to a policyholder with more
21 than ninety-nine (99) insured employees under a comprehensive health
22 insurance policy the following information for the most recent twelve-month
23 period or for the entire period of coverage, whichever is shorter:

- 24 (1) Claims incurred by month;
25 (2) Premiums paid by month;
26 (3) Number of insureds to include dependents by month; and
27 (4) Claims exceeding ten thousand dollars (\$10,000) on any
28 individual with diagnosis during the same period.

29

30 SECTION 20. Arkansas Code 23-86-120(a)(1) is amended to read as
31 follows:

32 (a)(1) Every accident and health insurance company, hospital service
33 corporation, health maintenance organization, or other health insurance
34 provider in the State of Arkansas shall offer to each master group contract
35 holder, coverage for hospice facilities and hospice programs as defined under
36 § 20-7-117.

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SECTION 21. Arkansas Code 23-86-202(12) is amended to read as follows:

(12) "Small employer" means any person, firm, corporation, partnership, or association actively engaged in business who, on at least fifty percent (50%) of its working days during the preceding year, employed no less than two (2) nor more than twenty-five (25) eligible employees. In determining the number of eligible employees, companies which are affiliated companies or which are eligible to file a combined tax return for purposes of state taxation shall be considered one (1) employer;

SECTION 22. Arkansas Code 23-86-203(a) is amended to read as follows:

(a) Except as provided in subsection (b) of this section, the provisions of this subchapter apply to any health benefit plan which provided coverage to ~~one (1)~~ two (2) or more employees of a small employer.

SECTION 23. Arkansas Code 23-86-302(d)(1) is amended to read as follows:

(1) The provisions of this subchapter shall be applicable to all ~~disability~~ accident and health insurers, health maintenance organizations, hospital and medical service corporations, and fraternal benefit societies which are licensed and authorized by the Insurance Commissioner to transact business in the State of Arkansas.

APPROVED: 3/26/2001