

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

A Bill

Act 909 of 2001
SENATE BILL 351

4
5 By: Senator Wilkins
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For An Act To Be Entitled

8
9 AN ACT TO AMEND VARIOUS PROVISIONS OF CHAPTER 85 OF
10 TITLE 23 REGARDING INDIVIDUAL ACCIDENT AND HEALTH
11 INSURANCE; AND FOR OTHER PURPOSES.
12

Subtitle

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14 AN ACT TO AMEND VARIOUS PROVISIONS OF
15 CHAPTER 85 OF TITLE 23 REGARDING
16 INDIVIDUAL ACCIDENT AND HEALTH
17 INSURANCE.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. The title to Chapter 85 of Title 23 of the Arkansas Code is
23 amended to read as follows:

24 ~~DISABILITY INSURANCE~~ ACCIDENT AND HEALTH INSURANCE
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26 SECTION 2. Arkansas Code 23-85-101(a) is amended to read as follows:

27 (a) ~~Disability insurance~~ Accident and health insurance on a franchise
28 plan is declared to be that form of ~~disability insurance~~ accident and health
29 insurance issued to:

30 (1) Five (5) or more employees of any corporation, copartnership,
31 or individual employer or any governmental corporation, agency, or department
32 thereof; or

33 (2) Ten (10) or more members, employees, or employees of members
34 of any trade or professional association or of a labor union or of any other
35 association having had an active existence for at least two (2) years where
36 the association or union has a constitution or bylaws and is formed in good

1 faith for purposes other than that of obtaining insurance; where such persons,
 2 with or without their dependents, are issued the same form of an individual
 3 policy varying only as to amounts and kinds of coverage applied for by the
 4 persons under an arrangement whereby the premiums on the policies may be paid
 5 to the insurer periodically by the employer, with or without payroll
 6 deductions, or by the association for its members, or by some designated
 7 person acting on behalf of the employer or association or union.

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 9 SECTION 3. Arkansas Code 23-85-102 is amended to read as follows:
 10 23-85-102. Scope.

11 This Chapter 85 governs accident and health insurance policies issued to
 12 individuals and members of their families. Nothing in §§ 23-85-101 - 23-85-
 13 ~~134~~ 137 shall apply to or affect:

- 14 (1) Any policy of liability or workers' compensation insurance
 15 with or without supplementary expense coverage therein;
- 16 (2) Any group or blanket policy;
- 17 (3) Life insurance, endowment, or annuity contracts, or contracts
 18 supplemental thereto which contain only such provisions relating to ~~disability~~
 19 accident and health insurance as:
 - 20 (A) Provide additional benefits in case of death,
 21 dismemberment, or loss of sight by accident; or
 - 22 (B) Operate to safeguard the contracts against lapse or to
 23 give a special surrender value or special benefit or an annuity in the event
 24 that the insured or annuitant becomes totally and permanently disabled, as
 25 defined by the contract or supplemental contract;
- 26 (4) Reinsurance.

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 28 SECTION 4. Arkansas Code 23-85-104 is amended to read as follows:
 29 23-85-104. Form of policy.

30 No policy of ~~disability~~ accident and health insurance shall be delivered
 31 or issued for delivery to any person in this state unless it otherwise
 32 complies with this code and complies with the following:

- 33 (1) The entire money and other considerations for the policy
 34 shall be expressed therein;
- 35 (2) The time when the insurance takes effect and terminates shall
 36 be expressed in the policy;

1 (3) It shall purport to insure only one (1) person, except that a
 2 policy may insure, originally or by subsequent amendment, upon the application
 3 of an adult member of a family who shall be deemed the policyholder, any two
 4 (2) or more eligible members of that family, including husband, wife, or any
 5 other person dependent upon the policyholder;

6 (4) The style, arrangement, and overall appearance of the policy
 7 shall give no undue prominence to any portion of the text. ~~Every printed~~ In
 8 printed forms, every portion of the text of the policy and of any endorsements
 9 or attached papers shall be plainly printed in light-faced type of a style in
 10 general use, the size of which shall be uniform and not less than ten (10)
 11 point with a lower case unspaced alphabet length not less than one hundred
 12 twenty (120) point. The appearance of text in forms developed for electronic
 13 transmission shall comply with rules and regulations developed by the
 14 commissioner. The text shall include all printed matter except the name and
 15 address of the insurer, name or title of the policy, the brief description, if
 16 any, and captions and subcaptions;

17 (5) The exceptions and reductions of indemnity shall be set forth
 18 in the policy and, other than those contained in §§ 23-85-106 - 23-85-126 and
 19 23-85-128, shall be printed, at the insurer's option, either included with the
 20 benefit provision to which they apply, or under an appropriate caption such as
 21 "Exceptions," or "Exceptions and Reductions," except that if an exception or
 22 reduction specifically applies only to a particular benefit of the policy, a
 23 statement of the exception or reduction shall be included with the benefit
 24 provision to which it applies;

25 (6) Each form, including riders and endorsements, shall be
 26 identified by a form number in the lower left-hand corner of the first page;

27 (7) The policy shall contain no provision purporting to make any
 28 portion of the charter, rules, constitution, or bylaws of the insurer a part
 29 of the policy unless the portion is set forth in full in the policy, except in
 30 the case of the incorporation of, or reference to, a statement of rates or
 31 classification of risk, or short-rate table filed with the Insurance
 32 Commissioner.

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 34 SECTION 5. Arkansas Code 23-85-105(a) is amended to read as follows:

35 (a)(1) Except as provided in subsection (b) of this section, each
 36 accident and health policy delivered or issued for delivery to any person in

1 this state shall contain the provisions specified in §§ 23-85-106 - 23-85-117
 2 in the words in which the provisions appear.

3 (2) However, the insurer may, at its option, substitute for one
 4 (1) or more of the provisions corresponding provisions of different wording
 5 approved by the Insurance Commissioner which are in each instance not less
 6 favorable in any respect to the insured or the beneficiary. Each provision
 7 shall be preceded individually by the applicable caption shown, or at the
 8 option of the insurer, by the appropriate individual or group captions or
 9 subcaptions as the commissioner may approve.

10 (3) For the purpose of protecting the public against
 11 misrepresentations and misleading representations regarding the benefits
 12 provided in any policy of ~~disability~~ accident and health insurance, the
 13 commissioner is directed to prescribe minimum benefit provisions which shall
 14 be included in and made a part of every policy of ~~disability~~ accident and
 15 health insurance sold or offered for sale in this state.

16
 17 SECTION 6. Arkansas Code 23-85-128(a) is amended to read as follows:

18 (a) ~~Disability~~ Accident and health insurance policies in which the
 19 insurer reserves the right to refuse renewal on an individual basis shall
 20 provide in substance in a provision thereof, in an endorsement thereon, or
 21 rider attached thereto that, subject to the right to terminate the policy for
 22 nonpayment of premium when due, the right to refuse renewal may not be
 23 exercised so as to take effect before the renewal date occurring on or after
 24 the next policy anniversary, or in the case of lapse and reinstatement, at the
 25 renewal date occurring on or after the next anniversary of the last
 26 reinstatement. The provision, endorsement, or rider shall also state that any
 27 refusal of renewal shall be without prejudice to any claim originating while
 28 the policy is in force.

29
 30 SECTION 7. Arkansas Code 23-85-131(b)(1) is amended to read as follows:

31 (b)(1) In any ~~disability~~ accident and health insurance contract that
 32 contains a provision whereby coverage of a dependent in a family group
 33 terminates at a specified age, there shall also be a provision that coverage
 34 of an unmarried dependent who is incapable of sustaining employment by reason
 35 of mental retardation or physical disability, who became so incapacitated
 36 prior to the attainment of the age of nineteen (19) years and who is chiefly

1 dependent upon the policyholder for support and maintenance, shall not
 2 terminate but coverage shall continue so long as the contract remains in force
 3 and so long as the dependent remains in such condition.

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 5 SECTION 8. Arkansas Code 23-85-132(a) & (b) are amended to read as
 6 follows:

7 (a) No contract of individual ~~disability~~ accident and health insurance
 8 or health coverage sold, delivered, or issued for delivery or offered for sale
 9 in this state by an insurer, hospital and medical service corporation, or
 10 health maintenance organization, directly or indirectly providing indemnity,
 11 services, health care services, or cash to an individual as a result of
 12 hospitalization, medical or surgical treatment, or dental care shall contain a
 13 provision reducing the benefit which would otherwise be payable to the
 14 individual in the absence of other insurance or health coverage if the
 15 reduction of benefits is due solely to the existence of one (1) or more
 16 additional contracts providing benefits to that individual, unless the
 17 reduction complies with coordination of benefit rules and regulations adopted
 18 by the Insurance Commissioner.

19 (b) No contract of individual ~~disability~~ accident and health insurance
 20 sold, delivered, or issued for delivery or offered for sale in this state
 21 providing disability income coverage shall contain any provision for the
 22 denial or reduction of benefits because of the existence of other insurance,
 23 except as provided in § 23-85-122 or any coverages approved by the
 24 commissioner pursuant thereto and except that the benefits may be reduced to
 25 offset disability income benefits payable under the federal Social Security
 26 Act.

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 28 SECTION 9. Arkansas Code 23-85-133(a)(1), concerning required
 29 outpatient services coverage, is amended to read as follows:

30 (a)(1) No policy or contract of ~~disability~~ accident and health
 31 insurance, including contracts issued by hospital and medical service
 32 corporations, which provides coverage for any of the following services when
 33 delivered on an inpatient basis, shall be sold, delivered, or issued for
 34 delivery or offered for sale in this state unless the identical coverage for
 35 the following services is provided when delivered on an outpatient basis:

- 36 (A) Laboratory and pathological tests;

- 1 (B) X rays;
- 2 (C) Chemotherapy;
- 3 (D) Radiation treatment; and
- 4 (E) Renal dialysis.

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6 SECTION 10. Arkansas Code 23-85-134 is amended to read as follows:

7 23-85-134. Refund of unearned premiums upon death of insured.

8 (a) Upon the death of an insured, the proceeds payable to the insured
 9 or his estate under the policy of individual ~~disability~~ accident and health
 10 insurance, delivered or issued for delivery in this state after June 17, 1981,
 11 shall include premiums paid, for ~~disability~~ accident and health insurance
 12 coverage for the insured, for any period beyond the end of the policy month in
 13 which the death occurred.

14 (b) Unearned premiums shall be paid in lump sum on a date no later than
 15 (30) days after the proof of the insured's death has been furnished to the
 16 insurer.

17 (c) This section shall be applicable to all individual contracts of
 18 ~~disability~~ accident and health insurance including individual contracts issued
 19 by hospital and medical service corporations.

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21 SECTION 11. Arkansas Code 23-85-136(a) is amended to read as follows:

22 (a) ~~As of January 1, 1996, a~~ All ~~disability~~ accident and health insurers
 23 transacting business in this state shall use Form HCFA 1500 and Form UB-
 24 92/HCFA 1450, or the claim format required by the Health Insurance Portability
 25 and Accountability Act of 1996 ("HIPAA"), as the standard claim forms until
 26 and unless the Insurance Commissioner prescribes otherwise.

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28 SECTION 12. Arkansas Code 23-85-137(a)-(c) are amended to read as
 29 follows:

30 (a) All ~~disability~~ accident and health insurance companies doing
 31 business in this state shall include, as a covered expense, in vitro
 32 fertilization.

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

1 (c) After conducting appropriate studies and public hearings, the
2 Insurance Commissioner shall establish minimum and maximum levels of coverage
3 to be provided by the ~~disability~~ accident and health insurance companies.
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6 APPROVED: 3/19/2001
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