

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas  
2 81st General Assembly  
3 Regular Session, 1997  
4

As Engrossed: H2/25/97 H3/6/97 H3/20/97

# A Bill

ACT 1020 OF 1997  
HOUSE BILL 1525

5 By: Representatives Stalnaker, Angel, Bennett, Ferguson, Ferrell, Flanagan, George, Hale, Hunton, Ingram, Johnson, McGee,  
6 Malone, Pappas, Roberts, Schexnayder, Judy Smith, Trammell, Vess, Walker, Wilkins, Willems, *Joe Hudson, Jeffress, and Shepherd*  
7 By: Senators Bradford, Argue, Bearden, Edwards, Everett, Mahony, Ross, Walker, Walters, Boozman, and Roebuck

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## For An Act To Be Entitled

11 "THE ARKANSAS MENTAL HEALTH PARITY ACT"

12  
13

### Subtitle

14 "THE ARKANSAS MENTAL HEALTH PARITY ACT"

15

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

17

18 SECTION 1. Short Title.

19 This act shall be known and may be cited as the "Arkansas Mental Health  
20 Parity Act."

21

22 SECTION 2. Legislative findings and intent.

23 It is the intent of this state that insurance coverage for mental  
24 illnesses and the mental health treatment of those with developmental  
25 disorders shall be as available and at parity with that for other medical  
26 illnesses.

27

28 SECTION 3. Definitions.

29 As used in this act:

30 (1) "Commissioner" means the Insurance Commissioner of the State  
31 of Arkansas.

32 (2) "Financial requirements" means co-payments, deductibles,  
33 out-of-network charges, out-of-pocket contributions or fees, annual limits,  
34 lifetime aggregate limits imposed on individual patients, and other patient  
35 cost sharing amounts.

36 (3) "Health benefit plan" means any group or blanket plan, policy

1 or contract for health care services issued or delivered in this state by  
2 health care insurers, including indemnity and managed care plans, but  
3 excluding plans providing health care services to state employees or pursuant  
4 to Arkansas Constitution, Article 5, Section 32, as amended, the Workers  
5 Compensation Law, A.C.A. §§ 11-9-101, et seq., and the Public Employees  
6 Workers Compensation Act, A.C.A. §§ 21-5-601, et seq.;

7 (4) "Health care insurer" means any insurance company, hospital  
8 and medical services corporation, or health maintenance organization issuing  
9 or delivering health benefit plans in this state and subject to any the  
10 following laws:

11 (A) the Arkansas Insurance Code, A.C.A. §§ 23-60-101, et  
12 seq.;

13 (B) A.C.A. §§ 23-75-101, et seq. pertaining to hospital and  
14 medical service corporations;

15 (C) A.C.A. § 23-76-101, et seq. pertaining to health  
16 maintenance organizations; and

17 (D) any successor law of the foregoing.

18 (5) "Mental illnesses" and "developmental disorders" mean those  
19 illnesses and disorders listed in the International Classification of Diseases  
20 Manual and the Diagnostic and Statistical Manual of Mental Disorders.

21 (6) "Carve-out arrangement" means an arrangement in which a health  
22 care insurer contracts with a separate person or entity to arrange for the  
23 delivery of specific types of health care benefits under a health benefit  
24 plan.

25 (7) "Person" or "entity" means and includes, individually and  
26 collectively, any individual, corporation, partnership, firm, trust,  
27 association, voluntary organization, or any other form of business enterprise  
28 or legal entity.

29 (8) "Small employer" means any person or entity actively engaged  
30 in business who, on at least fifty percent (50%) of its working days during  
31 the preceding year, employed no more than fifty (50) eligible employees.

32

33 SECTION 4. Parity Requirements.

34 (a) Except as provided in Section 8, every health benefit plan shall  
35 provide medical coverage for the diagnosis and mental health treatment of  
36 mental illnesses and the mental health treatment of those with developmental

1 disorders.

2 (b) A health benefit plan shall provide benefits for diagnosis and  
3 mental health treatment of mental illnesses and developmental disorders under  
4 the same terms and conditions as provided for covered benefits offered under  
5 the health benefit plan for the treatment of other medical illnesses or  
6 conditions. There shall be no differences in the health benefit plan in regard  
7 to any of the following:

8 (1) the duration or frequency of coverage;

9 (2) the dollar amount of coverage; or

10 (3) financial requirements.

11 (c) Nothing in this act shall be construed:

12 (1) as requiring equal coverage between treatments for a mental  
13 illness or a developmental disorder with coverage for preventive care.

14 (2) as prohibiting a health care insurer from:

15 (A) negotiating separate reimbursement rates and service  
16 delivery systems, including, but not limited to, a carve-out arrangement;

17 (B) managing the provision of mental health benefits for  
18 mental illnesses and the mental health treatment of those with developmental  
19 disorders by common methods used for other medical conditions, including, but  
20 not limited to, pre-admission screening, prior authorization of services, or  
21 other mechanisms designed to limit coverage of services for mental illnesses  
22 and developmental disorders to those that are deemed medically necessary;

23 (C) Limiting covered services to those authorized by the  
24 health insurance policy, provided that such limitations are made in accordance  
25 with this act;

26 (D) Using separate but equal cost-sharing features for  
27 mental illnesses or developmental disorders as for other medical illness; or

28 (E) Using a single lifetime or annual dollar limit as  
29 applicable to other medical illness.

30 (3) As including a Medicare or Medicaid plan or contract or any  
31 privatized risk or demonstration program for Medicare or Medicaid coverage.

32

33 SECTION 5. Medical necessity.

34 This act shall not be construed as prohibiting a health benefit plan  
35 from excluding coverage for diagnosis and treatment of mental illnesses and  
36 developmental disorders when the diagnosis and treatment are medically

1 unnecessary, provided that the medical necessity determination is made in  
2 accordance with generally accepted standards of the medical profession and  
3 other applicable laws and regulations.

4 The term "medical necessity" as applied to benefits for mental illnesses  
5 and developmental disorders means:

6 (1) reasonable and necessary for the diagnosis or treatment of a mental  
7 illness, or to improve or to maintain or to prevent deterioration of  
8 functioning resulting from such illness or developmental disorder;

9 (2) furnished in the most appropriate and least restrictive setting in  
10 which services can be safely provided;

11 (3) the most appropriate level or supply of service which can safely be  
12 provided; and

13 (4) could not have been omitted without adversely affecting the  
14 individual's mental and/or physical health or the quality of care rendered.

15

16 SECTION 6. Permitted provisions.

17 (a) A health care insurer may at the insurer's option provide coverage  
18 for a health service, such as intensive case management, community residential  
19 treatment programs, or social rehabilitation programs, which is used in the  
20 treatment of mental illnesses or developmental disorders, but is generally not  
21 used for other injuries, illnesses, and conditions, as long as the other  
22 requirements of this act are met.

23 (b) Health care insurers providing chemical dependency treatment or  
24 educational remediation may, but are not required to, comply with to the terms  
25 of this act in regard to such treatment or remediation.

26 (c) A health care insurer may provide coverage for a health service,  
27 including, but not limited to, physical rehabilitation or durable medical  
28 equipment, which generally is not used in the diagnosis or treatment of  
29 serious mental illnesses, but is used for other injuries, illnesses, and  
30 conditions, as long as the other requirements of this act are met.

31

32 SECTION 7. Applicability.

33 (a) On or after the effective date of this act, this act shall apply to  
34 health benefit plans on the plans anniversary or start date, but in no event  
35 later than one (1) year after the effective date of this act.

36 (b) If a health benefit plan provides coverage or benefits to an

1 Arkansas resident, the plan shall be deemed to be delivered in this state  
2 within the meaning of this act, regardless of whether the health care insurer  
3 or other entity that provides the coverage is located within or outside of  
4 Arkansas.

5

6 SECTION 8. Exclusions.

7 This act shall not apply to:

8 (1) Dental insurance plans;

9 (2) Vision insurance plans;

10 (3) Specified-disease insurance plans;

11 (4) Accidental injury insurance plans;

12 (5) Long-term care plans;

13 (6) Disability income plans;

14 (7) Individual health benefit plans, provided that health care insurer's  
15 shall offer individuals the option of purchasing a plan that, other than being  
16 optional, meets all the other requirements of this act;

17 (8) Health benefit plans for small employers, provided that health care  
18 insurer's shall offer purchasers the option of purchasing a plan that, other  
19 than being optional, meets all the other requirements of this act; and

20 (9) Medicare Supplement plans, as subject to Section 1882 (g) (1) of  
21 the federal Social Security Act [42 U.S.C. § 1395ss].

22

23 SECTION 9. Increased Cost Exemption.

24 This act shall not apply with respect to a health benefit plan if the  
25 application of this act to such plan will result in an increase in the cost  
26 under the plan of at least one and one-half (1.5) percent. The commissioner  
27 shall develop regulations to implement this exemption, and in doing so, may  
28 look for guidance in the regulations promulgated by the federal Department of  
29 Health and Human Services in implementing the federal Mental Health Parity  
30 Act, P.L. 104-204, Sec. 712(c )(2).

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32 SECTION 10. Regulations.

33 The commissioner shall enforce this act and shall promulgate necessary  
34 rules and regulations for carrying out this act.

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1 SECTION 11. Enforcement.

2 The commissioner shall have all the powers to enforce this act as are  
3 granted to the commissioner elsewhere in the Arkansas Insurance Code, A.C.A.  
4 §§ 23-60-101, et seq.

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6 SECTION 12. All provisions of this act of a general and permanent  
7 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
8 Code Revision Commission shall incorporate the same in the Code.

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10 SECTION 13. If any provision of this act or the application thereof to  
11 any person or circumstance is held invalid, such invalidity shall not affect  
12 other provisions or applications of the act which can be given effect without  
13 the invalid provision or application, and to this end the provisions of this  
14 act are declared to be severable.

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16 SECTION 14. All laws and parts of laws in conflict with this act are  
17 hereby repealed.

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/s/Rep. Stalnaker et al

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APPROVED:4-02-97

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