

State of Arkansas

77th General Assembly

Regular Session, 1989

A Bill

HOUSE BILL

1561

By: Representative Wilson

For An Act To Be Entitled

"AN ACT TO IMPOSE LIABILITIES AND FINANCIAL RESPONSIBILITY
FOR INJURIES TO PATIENTS CONSEQUENT TO REVIEW DECISIONS BY
THIRD PARTY PAYORS".

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

SECTION 1. Title. This act shall be known and may be cited as the
"Third Party Payor Responsibility Act".

SECTION 2. Purpose. The legislature hereby finds and declares that:

(a) Third party payor requirements such as preadmission certification,
utilization restrictions, and length of stay limitations, all as a condition
of payment, may serve as a barrier between the insured or beneficiary and his
physician, in that treatment decisions may be unduly influenced by payment
considerations rather than medical necessity;

(b) Third party payor requirements for prior and concurrent approval of
medical and surgical services should be reasonable, both in scope and in
application; and

(c) Insureds or beneficiaries injured as a result of unreasonable
requirements or their application should have recourse against such third
party payors.

SECTION 3. Liability.

(a) Where the contract between an insurer, nonprofit hospital service
plan, health care service plan, health maintenance organization, or
self-insurer and the insured is issued or delivered in this state and contains
a provision whereby in nonemergency cases, the insured is required to be
prospectively evaluated through a prehospital admission certification,

pre-in-patient service eligibility program, or any similar preutilization review or screening procedure prior to the delivery or contemplated hospitalization, in-patient or out-patient health care, or medical services which are prescribed or ordered by a duly licensed physician who possesses admitting and clinical staff privileges at a health care facility, the insurer, nonprofit hospital service plan, health care service plan, health maintenance organization, third party administrator, independent contractor, self-insurer or utilization review committee shall be held liable to any beneficiary covered by such contract for injury incurred or resulting from decisions which result in unreasonable delay, reduction, or denial of medically necessary services or care as recommended by a duly licensed physician.

(b) The damages shall be limited to the injuries which are the result of the unreasonable delay, reduction or denial together with reasonable attorney's fees and court costs.

(c) Any requirement that the insured be prospectively evaluated through a prehospital admission certification, pre-in-patient service eligibility program, or any similar preutilization review or screening procedure shall be inapplicable to any emergency determined as such by the attending physician in his medical judgment.

(d) Any entity designed as a "utilization and quality control peer review organization" pursuant to 42 U.S.C. §1320c-1 shall be held liable to any beneficiary whose care or treatment is required to be scrutinized or reviewed by the review organization, for injury incurred or resulting from the review organization's unreasonable delay, reduction, or denial of medically necessary services or care as recommended by a duly licensed physician.

SECTION 4. All provisions of this Act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

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

SECTION 6. Emergency. It has been found and declared by the General Assembly of Arkansas that third party payor requirements such as preadmission certification, utilization restrictions and length of stay limitations may serve as a barrier between the patient and necessary medical care or the delay of such which threatens the public health and welfare. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety, shall take effect and be enforced from the day of its approval.

