

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

HOUSE BILL 1742

5 By: Representatives Bentley, Richmond, Sullivan
6

For An Act To Be Entitled

8 AN ACT TO ESTABLISH THE SHORT-TERM, LIMITED-DURATION
9 INSURANCE ACT; TO REGULATE SHORT-TERM, LIMITED-
10 DURATION INSURANCE; AND FOR OTHER PURPOSES.
11

Subtitle

12
13 TO ESTABLISH THE SHORT-TERM, LIMITED-
14 DURATION INSURANCE ACT.
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code § 23-79-503(13)(B), concerning the definition
21 of "health insurance" used in the Comprehensive Health Insurance Pool Act, is
22 amended to read as follows:

23 (B) "Health insurance" does not include long-term care,
24 disability income, ~~short-term, accident~~ accident-only, dental-only, vision-
25 only, fixed indemnity, limited-benefit, or credit insurance, coverage issued
26 as a supplement to liability insurance, insurance arising out of workers'
27 compensation or similar law, automobile medical-payment insurance, or
28 insurance under which benefits are payable with or without regard to fault
29 and that is statutorily required to be contained in any liability insurance
30 policy or equivalent self-insurance;
31

32 SECTION 2. Arkansas Code § 23-79-503(16), concerning the definition of
33 "individual health insurance coverage" used in the Comprehensive Health
34 Insurance Pool Act, is amended to read as follows:

35 (16) "Individual health insurance coverage" means health
36 insurance coverage offered to individuals in the individual market ~~but does~~



1 ~~not include short term, limited duration insurance;~~

2
 3 SECTION 3. Arkansas Code § 23-79-607 is amended to read as follows:
 4 23-79-607. Applicability – Exceptions.

5 This subchapter ~~shall~~ does not apply to:

- 6 (1) Long-term care plans;
- 7 (2) Disability income plans;
- 8 (3) ~~Short-term nonrenewable individual health insurance policies~~
 9 ~~that expire after six (6) months;~~
- 10 ~~(4)~~ (4) Medical payments under homeowner or automobile insurance
 11 policies; ~~and~~ or
- 12 ~~(5)~~(4) Workers' compensation insurance.

13
 14 SECTION 4. Arkansas Code § 23-86-120(c), concerning hospice care
 15 coverage for terminally ill patients, is amended to read as follows:

16 (c) This section does not apply to contracts or policies providing
 17 disability income insurance, specified disease insurance, hospital indemnity
 18 insurance, long-term care insurance, ~~short-term limited duration insurance,~~
 19 ~~accident-only~~ accident-only insurance, Medicare supplement insurance, or ~~all~~
 20 other supplemental insurance.

21
 22 SECTION 5. Arkansas Code § 23-86-121(a), concerning coverage for
 23 anesthesia and hospitalization for dental procedures, is amended to read as
 24 follows:

25 (a) As used in this section, "health benefit plan" means any policy,
 26 contract, or agreement offered by an insurance company, health maintenance
 27 organization, or hospital and medical service corporation to provide,
 28 reimburse, or pay for healthcare services, but does not include the
 29 following:

- 30 (1) Workers' compensation coverage;
- 31 (2) Self-funded or self-insured health plans, unless the plan is
 32 established or maintained for employees of a governmental or church entity;
- 33 (3) Health plans covering specific diseases other than dental
 34 plans;
- 35 (4) Hospital indemnity insurance;
- 36 (5) Long-term care insurance;

- 1 (6) ~~Short-term limited duration insurance;~~
- 2 ~~(7) Accident-only~~ Accident-only insurance;
- 3 ~~(8)(7)~~ Medicare supplement insurance; or
- 4 ~~(9)(8)~~ Other supplemental insurance.

5

6 SECTION 6. Arkansas Code § 23-99-705(a), concerning the exceptions to
7 the grievance systems and quality assessment and improvement systems, is
8 amended to read as follows:

9 (a) This subchapter ~~shall~~ does not apply to disability income,
10 specified disease, Medicare supplement, hospital indemnity, accident-only
11 policies, long-term care, ~~short-term limited duration insurance, and all or~~
12 other supplemental insurance products issued by health carriers.

13

14 SECTION 7. Arkansas Code Title 23 is amended to add an additional
15 chapter to read as follows:

16

17 CHAPTER 104 – ARKANSAS SHORT-TERM, LIMITED DURATION INSURANCE ACT

18

19 23-104-101. Title.

20 This chapter shall be known and may be cited as the "Arkansas Short-
21 Term, Limited-Duration Insurance Act".

22

23 23-104-102. Legislative findings and intent.

24 (a) The General Assembly finds that:

25 (1) On August 3, 2018, the United States Department of the
26 Treasury, the United States Department of Labor, and the United States
27 Department of Health and Human Services collectively issued the final rule
28 amending the definition of "short-term, limited-duration insurance" for
29 purposes of its exclusion from the definition of "individual health insurance
30 coverage" in order to lengthen the maximum duration of short-term, limited-
31 duration insurance to provide consumers more affordable choices for health
32 care;

33 (2) Short-term, limited-duration insurance is a type of health
34 insurance coverage that is primarily designed to fill gaps in coverage that
35 may occur when an individual is transitioning from one (1) plan or coverage
36 to another plan or coverage, such as in between jobs;

1 (3) This type of coverage is exempt from the definition of
 2 "individual health insurance coverage" under the Patient Protection and
 3 Affordable Care Act, Pub. L. No. 111-148, and is not subject to the
 4 provisions of the Patient Protection and Affordable Care Act, Pub. L. No.
 5 111-148, that apply to the individual market;

6 (4) The Patient Protection and Affordable Care Act, Pub. L. No.
 7 111-148, created an imposition of an individual shared-responsibility payment
 8 in 26 U.S.C. § 5000A, as it existed on January 1, 2019, that required an
 9 individual who did not maintain minimal essential coverage, to be assessed a
 10 penalty on his or her federal tax returns;

11 (5) Pursuant to the Tax Cuts and Jobs Act, Pub. L. No. 115-97,
 12 the individual shared-responsibility payment was reduced to zero dollars
 13 (\$0.00) effective for months beginning after December 31, 2018;

14 (6) Short-term, limited-duration insurance plans add an
 15 affordable option for Arkansas consumers;

16 (7) Access to these plans has become increasingly important as
 17 premiums have escalated for individual market plans and affordable choices
 18 for individuals and families have dwindled; and

19 (8) Arkansas consumers need greater access to information and
 20 disclosures regarding the limitations of short-term, limited-duration
 21 insurance plans in order to make the best financial choice for their health
 22 insurance needs.

23 (b) It is the intent of the General Assembly that this chapter promote
 24 and emphasize the compelling state interest in maintaining a viable and
 25 orderly private sector market for short-term, limited-duration insurance in
 26 this state.

27
 28 23-104-103. Definitions.

29 As used in this chapter:

30 (1) "Benefits" means benefits mandated under the Arkansas
 31 Insurance Code, limited to:

32 (A) Medical and surgical treatments and procedures
 33 included in mastectomy coverage under § 23-99-405;

34 (B) Coverage for diabetes treatment under § 23-79-601 et
 35 seq.;

36 (C) Medically necessary foods under § 23-79-703;

- 1 (D) Gastric pacemakers under § 23-99-419;
- 2 (E) Coverage for loss or impairment of speech or hearing
- 3 under § 23-79-130;
- 4 (F) Prostate cancer screening under § 23-79-1303;
- 5 (G) Orthotic and prosthetic devices or services under §
- 6 23-99-417;
- 7 (H) Coverage for reconstructive surgery and related
- 8 medical care for craniofacial anomalies under § 23-79-1501 et seq.;
- 9 (I) Telemedicine services under § 23-79-1601 et seq.;
- 10 (J) Coverage for medical treatment of musculoskeletal
- 11 disorders under § 23-79-150; and
- 12 (K) Hearing aids under § 23-79-1402;

13 (2) "Issuer" means an insurer authorized by the State Insurance
 14 Department to provide short-term, limited-duration insurance in this state,
 15 including without limitation:

- 16 (A) An insurance company;
- 17 (B) A medical services plan;
- 18 (C) A hospital plan;
- 19 (D) A hospital medical service corporation;
- 20 (E) A health maintenance organization;
- 21 (F) A fraternal benefits society; and
- 22 (G) Any other entity providing insurance subject to the
- 23 insurance laws of this state;

24 (3) "Notice" means a prominently displayed statement in a
 25 contract with an insurer and in any application materials provided in
 26 connection with enrollment in short-term, limited-duration insurance
 27 coverage; and

28 (4) "Short-term, limited-duration insurance" means health
 29 insurance coverage provided under a contract with an issuer that has:

30 (A) An expiration date specified in the contract that is
 31 less than twelve (12) months after the original effective date of the
 32 contract; and

33 (B) A duration of no longer than thirty-six (36) months in
 34 total, taking into account renewals or extensions.

35
 36 23-104-104. Short-term, limited-duration insurance policies.

1 A short-term, limited-duration insurance policy sold by an issuer in
2 this state shall have an expiration date specified in the contract that is
3 less than twelve (12) months after the original effective date of the
4 contract and has a duration of no longer than thirty-six (36) months in
5 total, taking into account renewals or extensions.

6
7 23-104-105. Mandated and other benefits.

8 (a) At a minimum, a short-term, limited-duration insurance policy sold
9 by an issuer in this state shall offer benefits.

10 (b) An issuer that is selling a short-term, limited-duration insurance
11 policy in this state may offer coverage for medical conditions, treatments,
12 or services that are in addition to the benefits mandated by this chapter.

13
14 23-104-106. Notice.

15 (a) An issuer of a short-term, limited-duration insurance policy sold
16 in this state that has a coverage start date on or after October 1, 2019,
17 shall provide notice to the consumer in the policy contract and in any
18 application materials provided in connection with enrollment containing the
19 following language in at least 14-point type:

20 “This coverage is not required to comply with certain federal market
21 requirements for health insurance, principally those contained in the
22 Affordable Care Act. Be sure to check your policy carefully to make sure you
23 are aware of any exclusions or limitations regarding coverage of preexisting
24 conditions or health benefits, such as hospitalization, emergency services,
25 maternity care, preventive care, prescription drugs, and mental health and
26 substance use disorder services. Your policy might also have lifetime and
27 annual dollar limits on health benefits. If this coverage expires or you
28 lose eligibility for this coverage, you might have to wait until an open
29 enrollment period to get other health insurance coverage.”

30 (b) The Insurance Commissioner shall review and approve the notice
31 required under subsection (a) of this section.

32
33 23-104-107. Rules.

34 (a) The Insurance Commissioner may promulgate rules that are necessary
35 to implement this chapter.

36 (b)(1) When adopting the initial rules to implement this chapter, the

1 final rule shall be filed with the Secretary of State for adoption under §
2 25-15-204(f):

3 (A) On or before January 1, 2020; or

4 (B) If approval under § 10-3-309 has not occurred by
5 January 1, 2020, as soon as practicable after approval under § 10-3-309.

6 (2) The commissioner shall file the proposed rule with the
7 Legislative Council under § 10-3-309(c) sufficiently in advance of January 1,
8 2020, so that the Legislative Council may consider the rule for approval
9 before January 1, 2020.

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12 SECTION 8. DO NOT CODIFY. EFFECTIVE DATE. This act is effective on
13 and after October 1, 2019.