

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

A Bill

ACT 958 OF 1997
HOUSE BILL 1805

4
5 By: Representative Newman
6
7

For An Act To Be Entitled

8
9 "AN ACT TO AMEND ARKANSAS CODE § 23-76-118 TO PROVIDE
10 PROTECTION FOR HEALTH MAINTENANCE ORGANIZATION (HMO)
11 ENROLLEES IN THE EVENT OF HMO INSOLVENCY; AND FOR OTHER
12 PURPOSES."
13

Subtitle

14
15 "TO PROVIDE PROTECTION FOR HMO ENROLLEES
16 IN THE EVENT OF HMO INSOLVENCY"
17

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

20 Section 1. Arkansas Code 23-76-118 is hereby amended to read as follows:
21 "§ 23-76-118. Protection against insolvency.

22 (a) ~~Each health maintenance organization shall furnish a surety bond in~~
23 ~~an amount satisfactory to the commissioner or deposit with the commissioner~~
24 ~~cash or securities acceptable to him in at least the same amount as a~~
25 ~~guarantee that the obligations to the enrollees will be performed.~~

26 ~~_____ (b) The commissioner may waive this requirement whenever satisfied that~~
27 ~~the assets of the organization or its contracts with insurers, hospital or~~
28 ~~medical service corporations, governments, or other organizations are~~
29 ~~sufficient to reasonably assure the performance of its obligations.~~

30 (1) Deposit requirements - All health maintenance organizations
31 authorized to transact business in this state, shall deposit through the
32 commissioner securities eligible for deposit under §23-63-903 which at all
33 times shall have a par or market value of not less than three hundred thousand
34 dollars (\$300,000), with the exception of limited benefit health maintenance
35 organizations whose security deposit shall not be less than one hundred
36 thousand dollars (\$100,000). The commissioner shall also be authorized to

1 require a special surplus deposit for the benefit of enrollees from each
2 health maintenance organization.

3 (2) All deposits made through the commissioner and held in this
4 state shall be subject to the applicable provisions of §§23-63-903 -
5 23-63-907, 23-63-910 and 23-63-911 which refer to administration of deposits.

6 (3) A health maintenance organization, excluding limited benefit
7 health maintenance organizations, that is in operation on the effective date
8 of this section shall make a deposit equal to one hundred fifty thousand
9 dollars (\$150,000). In the second year, the amount of the additional deposit
10 for a health maintenance organization that is in operation on the effective
11 date of the section shall be equal to one hundred fifty thousand dollars
12 (\$150,000), for a total of three hundred thousand dollars (\$300,000). A
13 limited benefit health maintenance organization that is in operation on the
14 effective date of this section shall make a deposit equal to seventy-five
15 thousand dollars (\$75,000). In the second year, the amount of the additional
16 deposit for a limited benefit health maintenance organization that is in
17 operation on the effective date of this section shall be equal to twenty-five
18 thousand dollars (\$25,000) for a total of one hundred thousand dollars
19 (\$100,000).

20 (4) The deposit shall be an admitted asset of the health
21 maintenance organization in the determination of net worth.

22 (5) The deposit shall be used to protect the interests of the
23 health maintenance organization's enrollees and to assure continuation of
24 health care services to enrollees of a health maintenance organization that is
25 in rehabilitation or conservation. The commissioner may use the deposit for
26 administrative costs directly attributable to a receivership or liquidation.
27 If the health maintenance organization is placed in receivership or
28 liquidation, the deposit shall be an asset subject to the provisions of
29 §§23-68-101 et seq., the Uniform Liquidation Act.

30 (b)(1) Hold Harmless - Every contract between a health maintenance
31 organization and a participating provider of health care services shall be in
32 writing and shall set forth that in the event the health maintenance
33 organization fails to pay for health care services as set forth in the
34 contract, the subscriber or enrollee shall not be liable to the provider for
35 any sums owed by the health maintenance organization.

36 (2) In the event that the participating provider contract has not

1 been reduced to writing as required by this subsection or that the contract
 2 fails to contain the required prohibition, the participating provider shall
 3 not collect or attempt to collect from the subscriber or enrollee sums owed by
 4 the health maintenance organization.

5 (3) No participating provider, or the provider's agent, trustee or
 6 assignee, may maintain an action at law against a subscriber or enrollee to
 7 collect sums owed by the health maintenance organization.

8 (4) Participating provider means a provider as defined in
 9 §23-76-102 who, under an express or implied contract with the health
 10 maintenance organization or with its contractor or subcontractor, has agreed
 11 to provide health care services to enrollees with an expectation of receiving
 12 payment, other than copayment or deductible, directly or indirectly from the
 13 health maintenance organization.

14 (c)(1) Continuation of Benefits - The commissioner shall require that
 15 each health maintenance organization have a plan for handling insolvency which
 16 allows for continuation of benefits for the duration of the contract period
 17 for which premiums have been paid and continuation of benefits to members who
 18 are confined on the date of insolvency in an inpatient facility until their
 19 discharge or expiration of benefits. In considering such a plan, the
 20 commissioner may require:

21 (A) Insurance to cover the expenses to be paid where date
 22 of services precedes the premium paid for it.

23 (B) Provisions in provider contracts that obligate the
 24 provider to provide services for the duration of the period after the health
 25 maintenance organization's insolvency for which premium payment has been made
 26 and until the enrollees' discharge from inpatient facilities;

27 (C) Insolvency reserves;

28 (D) Acceptable letters of credit; and

29 (E) Any other arrangements to assure that benefits are
 30 continued as specified above."

31

32 SECTION 2. All provisions of this Act of a general and permanent
 33 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
 34 Code Revision Commission shall incorporate the same in the Code.

35

36 SECTION 3. If any provision of this Act or the application thereof to

1 any person or circumstance is held invalid, such invalidity shall not affect
2 other provisions or application of the Act which can be given effect without
3 the invalid provision or application, and to this end the provisions of the
4 Act are declared to be severable.

5

6 SECTION 4. All laws and parts of laws in conflict with this Act are
7 hereby repealed.

8

9

10

APPROVED:3-31-97

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35