

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.

Act 422 of the Regular Session

As Engrossed: H2/10/05 S2/21/05

A Bill

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005

HOUSE BILL 1181

4
5 By: Representatives Bond, *Bolin, Lamoureux*
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8 **For An Act To Be Entitled**

9 AN ACT TO REGULATE HEALTH INSURERS' RECOUPMENT OF
10 HEALTH CARE PROVIDER CLAIMS; AND FOR OTHER
11 PURPOSES.
12

13 **Subtitle**

14 TO REGULATE HEALTH INSURERS' RECOUPMENT
15 OF HEALTH CARE PROVIDER CLAIMS.
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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20 SECTION 1. Arkansas Code Title 23 is amended to add an additional
21 chapter to read as follows:

22 Chapter 104 -- Health Care Insurers.

23 Subchapter 1 - Audits of Medical Providers.

24 23-104-101. Definitions.

25 As used in this subchapter:

26 (1) "Covered person" means a person on whose behalf a health
27 care insurer offering health insurance coverage is obligated to pay benefits
28 or provide services;

29 (2) "Health care insurer" means an entity subject to the
30 insurance laws of this state or the jurisdiction of the Insurance
31 Commissioner that contracts or offers to contract to provide health insurance
32 coverage, including, but not limited to, an insurance company, a health
33 maintenance organization, or a hospital medical service corporation;

34 (3) "Health care provider" means any person or entity providing:

35 (A) Medical, pharmacy, optometric, or dental care;



1 (B) Hospitalization; or

2 (C) Any other services and goods used for the purpose or
3 incidental to the purpose of preventing, alleviating, curing, or healing
4 human illness or injury;

5 (4)(A) "Health insurance coverage" means benefits consisting of
6 medical, pharmacy, optometric, or dental care, hospitalization, or other
7 goods or services for the purpose of preventing, alleviating, curing, or
8 healing human illness provided, directly or indirectly, through insurance,
9 reimbursement, or otherwise, including items and services paid for under any
10 policy, certificate, or agreement offered by a health care insurer.

11 (B) "Health insurance coverage" does not include policies
12 or certificates covering only accident, credit, disability income, long-term
13 care, hospital indemnity, Medicare supplemental policy as defined in 42
14 U.S.C. § 1395ss(g)(1), a specified disease, other limited benefit health
15 insurance, automobile medical payment insurance, or claims under the Workers'
16 Compensation Law, § 11-9-101 et seq., Public Employees Workers' Compensation
17 Act, § 21-5-601 et seq., or the Arkansas Comprehensive Health Insurance Pool
18 Act, § 23-79-501 et seq.; and

19 (5) "Recoupment" means any action or attempt by a health care
20 insurer to recover or collect payments already made to a health care provider
21 with respect to a claim:

22 (A) By reducing other payments currently owed to the
23 health care provider;

24 (B) By withholding or setting off the amount against
25 current or future payments to the health care provider;

26 (C) By demanding payment back from a health care provider
27 for a claim already paid; or

28 (D) In any other manner that reduces or affects the future
29 claim payments to the health care provider.

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32 23-104-102. Time for recoupment.

33 (a) Except in cases of fraud committed by the health care provider, a
34 health care insurer may only exercise recoupment from a provider during the
35 eighteen-month period after the date that the health care insurer paid the
36 claim submitted by the health care provider.

1 (b)(1) A health care insurer that exercises recoupment under this
2 section shall give the health care provider a written or electronic statement
3 specifying the basis for the recoupment.

4 (2) The statement shall contain, at a minimum, the information
5 required by § 23-104-104.

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7 23-104-103. Persons not covered.

8 (a) If a health care insurer determines that payment was made for
9 services not covered under the covered person's health insurance coverage,
10 the health care insurer shall give written notice to the health care provider
11 of its intent to exercise recoupment and may:

12 (1) Request a refund from the health care provider; or

13 (2) Make a recoupment of the payment from the health care
14 provider in accordance with § 23-104-104.

15 (b)(1) Except in the case of fraud committed by the health care
16 provider or as provided in subdivision (b)(2) of this section, subsection (a)
17 of this section shall not apply if a health care provider or other party on
18 its behalf verified from the health care insurer or its agent that an
19 individual was a covered person and if the health care provider in good faith
20 provided services to the individual in reliance on the verification.

21 (2) A health care insurer has one hundred twenty (120) days from
22 the date of payment to notify the provider of a verification error and the
23 fact that services rendered will not be covered if the error was made in good
24 faith at the time of the verification.

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26 23-104-104. Recoupments – Required disclosures.

27 If a health care insurer exercises recoupment, then the health care
28 insurer shall provide the health care provider written documentation that
29 specifies the:

30 (1) Amount of the recoupment;

31 (2) Covered person's name to whom the recoupment applies;

32 (3) Patient identification number;

33 (4) Date or dates of service;

34 (5) Service or services on which the recoupment is based;

35 (6) Pending claims being recouped or future claims that will be
36 recouped; and

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(7) Specific reason for the recoupment.

23-104-105. Penalties.

The failure to comply with any provision of this subchapter shall be deemed an unfair trade practice under the Trade Practices Act, § 23-66-201 et seq. and may be punished by the fines and penalties established under §§ 23-66-210, 23-60-108, and 23-66-215.

23-104-106. Rules and regulations.

The Insurance Commissioner shall adopt rules and regulations by January 1, 2006, to ensure compliance with this subchapter.

23-104-107. No waiver of provisions.

The provisions of this subchapter shall not be waived, voided, or nullified by contract.

/s/ Bond

APPROVED: 03/02/2005

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