State of Arkansas
88th General Assembly
Regular Session, 2011

# A Bill

HOUSE BILL 1814

By: Representative Hyde
By: Senator Teague

## For An Act To Be Entitled

AN ACT TO ENFORCE THE RULE-MAKING AUTHORITY OF THE INSURANCE COMMISSIONER IN THE CONSTRUCTION OF INSURANCE POLICIES; AND FOR OTHER PURPOSES.

## Subtitle

TO ENFORCE THE RULE-MAKING AUTHORITY OF THE INSURANCE COMMISSIONER IN THE CONSTRUCTION OF INSURANCE POLICIES.

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

SECTION 1. Arkansas Code § 23-79-119 is amended to read as follows:

23-79-119. Construction of policies.

(a) Every insurance contract shall be construed according to the entirety of its terms and conditions as set forth in the policy and as amplified, extended, or modified by any rider, endorsement, or application made a part of the policy.

(b) All insurance contracts ~~which~~ that are issued for specific terms and ~~which~~ that may be renewed for subsequent terms at the option of the insured or the insurer shall be construed from and after their respective dates of renewal as being new contracts to the extent of having incorporated therein all applicable public policy ~~which~~ that by statute or regulation may have become applicable to ~~such~~ those contracts in the interval between:

(1) Original issuance or last renewal; and

(2) The renewal following the newly applicable statement of public policy.

(c)(1) Except as provided in this ~~subsection~~ section, a health insurance issuer that provides individual health insurance coverage for major medical benefits to an individual shall renew or continue in force ~~such~~ that coverage at the option of the individual.

(2) General Exceptions. A health insurance issuer may nonrenew or discontinue health insurance coverage providing major medical benefits for an individual in the individual market based ~~only~~ on only one (1) or more of the following:

(A) Nonpayment of the Premium. The individual has failed to pay premiums or contributions ~~in accordance with~~ under the terms of the health insurance coverage or the issuer has not received timely premium payments;

(B) Fraud. The individual has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage;

(C) Termination of the Plan. The issuer is ceasing to offer major medical coverage in the individual market ~~in accordance with~~ under applicable state or federal law;

(D) Movement Outside the Service Area. In the case of a health insurance issuer that offers health insurance for major medical coverage in the market through a network plan, the individual no longer resides, lives, or works in the service area~~,~~ or in an area for which the issuer is authorized to do business, but only if the individual major medical coverage is terminated under this subdivision (c)(2)(D) uniformly without regard to any health-status related factor of covered individuals; and

(E) Association Membership Ceases. In the case of health insurance for major medical coverage that is made available in the individual market only through one (1) or more bona fide associations, the membership of the individual in the association, as the basis on which the coverage is provided, ceases but only if ~~such~~ the major medical coverage is terminated under this subdivision (c)(2)(E) uniformly without regard to any health status-related factor of covered individuals.

(3) Requirements for Uniform Termination of Coverage - Particular Type of Coverage Not Offered. In the case in which an insurer decides to discontinue offering a particular type of health insurance providing major medical coverage offered to the individual market, coverage

of ~~such~~ this type may be discontinued by the issuer only if:

(A) The issuer provides to each covered individual with coverage of this type in the market notice of the discontinuation at least ninety (90) days ~~prior to~~ before the date of the discontinuation of the coverage;

(B) The issuer offers to each individual in the individual market with coverage of this type the option to purchase any other individual health ~~issuance~~ insurance coverage currently being offered by the issuer for individuals in the market; and

(C) In exercising the option to discontinue coverage of this type~~,~~ and in offering the option of coverage under subdivision (c)(3)(B) of this section, the issuer acts uniformly without regard to any health status-related factor of enrolled individuals or individuals who may become eligible for the coverage.

(4) Discontinuance of Such Coverage - In General. Subject to ~~the provisions of~~ this ~~subsection~~ section, in any case in which a health insurance issuer elects to discontinue offering all health insurance providing major medical coverage in the individual market in this state, health insurance coverage may be discontinued by the issuer only if the issuer provides to the Insurance Commissioner and to each individual notice of ~~such~~ the discontinuance at least one hundred eighty (180) days ~~prior to~~ before the date of expiration of the coverage.

(5) Prohibition on Market Reentry. In the case of a discontinuation in the individual market under this ~~subsection~~ section, the issuer may not provide for the issuance of any health insurance providing major medical coverage in the market and state involved during the five-year period beginning on the date of the discontinuation of the last health insurance coverage not so renewed.

(6) Exception for Uniform Modification of Coverage. At the time of coverage renewal, a health insurance issuer may modify the health insurance providing major medical coverage for a policy form offered to individuals in the individual market so long as the modification is consistent with state law and effective on a uniform basis among all individuals with that policy form.

(7) Application to Coverage Offered Only Through Associations. In applying this ~~subsection~~ section in the case of health insurance providing

major medical coverage that is made available by a health insurance issuer in the individual market ~~only~~ through only one (1) or more associations, a reference to an "individual" ~~is deemed to include~~ includes a reference to such an association of which the individual is a member.

(8) For purposes of this ~~subsection~~ section, the terms or phrases "health insurance issuer", "health insurance coverage" or "coverage", "Insurance Commissioner", "network plan", "health status-related factor", "bona fide association", "individual market", and "eligible individual" shall ~~be defined pursuant to the definitions contained~~ have the same meaning as defined in § 23-86-303.

(d) The commissioner may promulgate rules that are necessary to implement and enforce this section for the protection of policyholders.

**APPROVED: 03/31/2011**