

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

A Bill

HOUSE BILL 1964

5 By: Representative Gonzales
6

For An Act To Be Entitled

8 AN ACT TO REGULATE DURABLE MEDICAL EQUIPMENT
9 AGREEMENTS; AND FOR OTHER PURPOSES.
10

Subtitle

11 TO REGULATE DURABLE MEDICAL EQUIPMENT
12 AGREEMENTS.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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19 SECTION 1. Arkansas Code Title 4, Chapter 88, Subchapter 1, is amended
20 to add an additional section to read as follows:

21 4-88-117. Durable medical equipment.

22 (a) As used in this section, "durable medical equipment" means a good
23 that qualifies for insurance reimbursement and requires a referral or
24 prescription of a licensed physician or a licensed advanced practice
25 registered nurse.

26 (b) A person shall not represent or advertise that a consumer's health
27 insurance, health benefit plan, Medicare, or Medicaid will cover any portion
28 of the cost of durable medical equipment unless a licensed physician or a
29 licensed advanced practice registered nurse has made a referral for or
30 prescribed the durable medical equipment for the consumer before an agreement
31 to purchase durable medical equipment is executed between a consumer and
32 seller of the durable medical equipment.

33 (c) Notwithstanding any provision of this section, a provision in an
34 agreement to purchase durable medical equipment does not violate this section
35 if the consumer has signed a conspicuous waiver that contains no other
36 information or agreements and clearly states that the consumer understands



1 that Medicare, Medicaid, a health benefit plan, a health insurance plan, or
 2 any other insurance plan may only cover the cost of the durable medical
 3 equipment upon approval by the consumer's licensed physician or licensed
 4 advanced practice registered nurse.

5 (d)(1) If an agreement to purchase durable medical equipment contains
 6 a provision that violates this section, the agreement to purchase durable
 7 medical equipment is void.

8 (2) If an agreement to purchase durable medical equipment is
 9 voided under subdivision (d)(1) of this section, a consumer may receive full
 10 reimbursement for the durable medical equipment.

11 (3) If a consumer seeks reimbursement for a transaction, the
 12 consumer shall return the durable medical equipment upon the request of the
 13 seller of the durable medical equipment and at the expense of the seller of
 14 the durable medical equipment.

15 (e)(1) A transaction for durable medical equipment shall have a
 16 thirty-day return policy.

17 (2) Durable medical equipment may be returned for any reason.

18 (3) Notification of a return of durable medical equipment:

19 (A) Shall be given by the consumer within thirty (30) days
 20 of the agreement to purchase durable medical equipment; and

21 (B) May be given to the seller of the durable medical
 22 equipment in writing or over the telephone.

23 (4)(A) A seller of durable medical equipment shall not deny a
 24 reimbursement for durable medical equipment because the durable medical
 25 equipment has not been returned.

26 (B) However, a consumer shall be permitted to return the
 27 durable medical equipment at the expense of the seller of the durable medical
 28 equipment within a reasonable amount of time after notification of the
 29 return.

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 32 **APPROVED: 4/16/19**