

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 950 of the Regular Session

1 State of Arkansas  
2 87th General Assembly  
3 Regular Session, 2009  
4

As Engrossed: H3/17/09

**A Bill**

HOUSE BILL 2244

5 By: Representative Maloch  
6  
7

**For An Act To Be Entitled**

9 AN ACT TO PROVIDE HEALTH BENEFIT COVERAGE FOR AN  
10 ORTHOTIC DEVICE, AN ORTHOTIC SERVICE, A  
11 PROSTHETIC DEVICE, AND A PROSTHETIC SERVICE UNDER  
12 THE ARKANSAS HEALTH CARE CONSUMER ACT, § 23-99-  
13 401 ET SEQ.; AND FOR OTHER PURPOSES.  
14

**Subtitle**

15 TO PROVIDE HEALTH BENEFIT COVERAGE FOR  
16 AN ORTHOTIC DEVICE, AN ORTHOTIC SERVICE,  
17 A PROSTHETIC DEVICE, AND A PROSTHETIC  
18 SERVICE.  
19  
20  
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
23

24 SECTION 1. Arkansas Code § 23-99-403 is amended to read as  
25 follows:

26 23-99-403. Definitions.

27 As used in this subchapter:

28 (1) "Acute condition" means a medical condition, illness, or  
29 disease having a short and relatively severe course;

30 (2) "Commissioner" means the Insurance Commissioner;

31 (3) "Covered person" means a person on whose behalf the health  
32 care insurer issuing or delivering the health benefit plan is obligated to  
33 pay benefits pursuant to the health benefit plan;

34 (4) (A) "Health benefit plan" means any individual, blanket, or  
35 group plan, policy, or contract for health care services issued or delivered



1 by a health care insurer in this state, including indemnity and managed care  
 2 plans and including self-insured governmental and church plans as defined in  
 3 29 U.S.C. § 1002(32), but excluding plans providing health care services  
 4 pursuant to Arkansas Constitution, Article 5, § 32, the Workers' Compensation  
 5 Law, § 11-9-101 et seq., and the Public Employee Workers' Compensation Act,  
 6 § 21-5-601 et seq.

7 (B) "Health benefit plan" does not include an accident-  
 8 only, specified disease, hospital indemnity, long-term care, disability  
 9 income, or other limited-benefit health insurance policy;

10 (5) "Health care insurer" or "insurer" means any insurance  
 11 company, hospital and medical service corporation, or health maintenance  
 12 organization issuing or delivering health benefit plans in this state and  
 13 subject to the following laws:

14 (A) The Arkansas Insurance Code;

15 (B) Section 23-76-101 et seq., pertaining to health  
 16 maintenance organizations;

17 (C) Section 23-75-101 et seq., pertaining to hospital and  
 18 medical service corporations; and

19 (D) Any successor laws of the foregoing;

20 (6) "Managed care plan" means a health benefit plan that either  
 21 requires a covered person to use, or creates incentives, including financial  
 22 incentives, for a covered person to use, participating providers;

23 (7)(A) "Orthotic device" means an external device that is:

24 (i) Intended to restore physiological function or  
 25 cosmesis to a patient; and

26 (ii) Custom-designed, fabricated, assembled, fitted,  
 27 or adjusted for the patient using the device prior to or concurrent with the  
 28 delivery of the device to the patient.

29 (B) "Orthotic device" does not include a cane, a crutch, a  
 30 corset, a dental appliance, an elastic hose, an elastic support, a fabric  
 31 support, a generic arch support, a low-temperature plastic splint, a soft  
 32 cervical collar, a truss, or other similar device that:

33 (i) Is carried in stock and sold without therapeutic  
 34 modification by a corset shop, department store, drug store, surgical supply  
 35 facility, or similar retail entity; and

36 (ii) Has no significant impact on the neuromuscular,

1 musculoskeletal, or neuromusculoskeletal functions of the body;

2 (8) "Orthotic service" means the evaluation and treatment of a  
3 condition that requires the use of an orthotic device;

4 ~~(7)~~(9) "Participating provider" means a provider who or ~~which~~  
5 that has agreed to provide health care services to covered persons with an  
6 expectation of receiving payment, other than coinsurance, copayments, or  
7 deductibles, directly or indirectly from the health care insurer;

8 ~~(8)~~(10) "Person" or "entity" means and includes, individually  
9 and collectively, any individual, corporation, partnership, firm, trust,  
10 association, voluntary organization, or any other form of business enterprise  
11 or legal entity. ~~"Entity" shall have the same meaning;~~

12 ~~(9)~~(11) "Policyholder" means the employer, union, individual, or  
13 other person or entity that purchases ~~the~~, issues, or sponsors a health  
14 benefit plan;

15 (12)(A) "Prosthetic device" means an external device that is:

16 (i) Intended to replace an absent external body part  
17 for the purpose of restoring physiological function or cosmesis to a patient;  
18 and

19 (ii) Custom-designed, fabricated, assembled, fitted,  
20 or adjusted for the patient using the device prior to or concurrent with  
21 being delivered to the patient.

22 (B) "Prosthetic device" does not include an artificial  
23 eye, an artificial ear, a dental appliance, a cosmetic device such as  
24 artificial eyelashes or wigs, a device used exclusively for athletic  
25 purposes, an artificial facial device, or other device that does not have a  
26 significant impact on the neuromuscular, musculoskeletal, or  
27 neuromusculoskeletal functions of the body;

28 (13) "Prosthetic service" means the evaluation and treatment of  
29 a condition that requires the use of a prosthetic device;

30 ~~(10)~~(14) "Specialty" means a provider's particular area of  
31 specialty within his or her licensed scope of practice; and

32 ~~(11)~~(15) "Type" of provider means the licensed scope of  
33 practice.

34  
35 SECTION 2. Arkansas Code Title 23, Chapter 99, Subchapter 4 is amended  
36 to add an additional section to read as follows:

1           23-99-417. Coverage required for orthotic devices, orthotic services,  
2 prosthetic devices, and prosthetic services.

3           (a)(1) Subject to subdivision (a)(2) of this section and subsections  
4 (b) and (c) of this section, a health benefit plan that is issued for  
5 delivery, delivered, renewed, or otherwise contracted for in this state shall  
6 provide coverage for eligible charges within limits of coverage that are no  
7 less than eighty percent (80%) of Medicare allowables as defined by the  
8 Center for Medicare Medicaid Services, Healthcare Common Procedure Coding  
9 System as of January 1, 2009, or as of a later date if adopted by rule of the  
10 Insurance Commissioner for:

- 11                   (A) An orthotic device;  
12                   (B) An orthotic service;  
13                   (C) A prosthetic device, and  
14                   (D) A prosthetic service.

15           (2) This section does not require coverage for an orthotic device, an  
16 orthotic service, a prosthetic device, or a prosthetic service for a  
17 replacement that occurs more frequently than one (1) time every three (3)  
18 years unless medically necessary or indicated by other coverage criteria.

19           (b)(1) Eligible charges and limits of or exclusions from coverage  
20 under subsection (a) of this section shall be based on medical necessity or  
21 the health benefit plan's coverage criteria for other medical services, which  
22 may include without limitation:

23                   (A) The information and recommendation from the treating  
24 physician in consultation with the insured; and

25                   (B) The results of a functional limit test.

26           (2) As used in this section, "functional limit test" includes  
27 without limitation the insured's:

28                   (A) Medical history, including prior use of orthotic  
29 devices or prosthetic devices if applicable;

30                   (B) Current condition, including the status of the  
31 musculoskeletal system and the nature of other medical problems; and

32                   (C) Desire to:

33                           (i) Ambulate with respect to lower-limb orthotic  
34 devices or prosthetic devices; or

35                           (ii) Maximize upper-limb function with respect to  
36 upper-limb orthotic devices or prosthetic devices.

