

1 State of Arkansas As Engrossed: S3/13/19 S3/20/19
2 92nd General Assembly **A Bill**
3 Regular Session, 2019

SENATE BILL 512

4
5 By: Senator Bledsoe
6 By: Representative D. Ferguson

7
8 **For An Act To Be Entitled**

9 AN ACT TO PROVIDE FOR THE ASSIGNMENT OF BENEFITS TO A
10 HEALTHCARE PROVIDER; AND FOR OTHER PURPOSES.

11
12
13 **Subtitle**

14 TO PROVIDE FOR THE ASSIGNMENT OF BENEFITS
15 TO A HEALTHCARE PROVIDER.

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

19
20 SECTION 1. Arkansas Code Title 23, Chapter 99, is amended to add an
21 additional subchapter to read as follows:

22 Subchapter 12 – Assignment of Benefits

23
24 23-99-1201. Definitions.

25 As used in this subchapter:

26 (1) "Contracting entity" means a healthcare insurer or any
27 subcontractor, affiliate, or other entity that contracts directly or
28 indirectly with a healthcare provider for the delivery of healthcare services
29 to enrollees;

30 (2) "Enrollee" means a person who is entitled to receive
31 healthcare services under the terms of a health benefit plan;

32 (3)(A) "Health benefit plan" means a plan, policy, contract,
33 certificate, agreement, or other evidence of coverage for healthcare services
34 offered or issued by a healthcare insurer in this state.

35 (B) "Health benefit plan" does not include:

36 (i) A disability income plan;



- 1 (ii) A credit insurance plan;
2 (iii) Insurance coverage issued as a supplement to
3 liability insurance;
4 (iv) Medical payments under an automobile or
5 homeowners insurance plan;
6 (v) A health benefit plan provided under Arkansas
7 Constitution, Article 5, § 32, the Workers' Compensation Law, § 11-9-101 et
8 seq., or the Public Employee Workers' Compensation Act, § 21-5-601 et seq.;
9 (vi) A plan that provides only indemnity for
10 hospital confinement;
11 (vii) An accident-only plan;
12 (viii) A specified disease plan;
13 (ix) A long-term-care insurance plan;
14 (x) A dental-only plan; or
15 (xi) A vision-only plan;

16 (4) "Healthcare contract" means a contract entered into,
17 materially amended, or renewed between a contracting entity and a healthcare
18 provider for the delivery of healthcare services to enrollees;

19 (5)(A) "Healthcare insurer" means an entity that is subject to
20 state insurance regulation and provides health insurance in this state.

21 (B) "Healthcare insurer" includes:

- 22 (i) An insurance company;
23 (ii) A health maintenance organization;
24 (iii) A hospital and medical service corporation;
25 (iv) A risk-based provider organization; and
26 (v) A sponsor of a nonfederal self-funded
27 governmental plan;

28 (6) "Healthcare provider" means a person or entity that is
29 licensed, certified, or otherwise authorized by the laws of this state to
30 provide healthcare services;

31 (7) "Healthcare services" means services or goods provided for
32 the purpose of preventing, diagnosing, treating, alleviating, relieving,
33 curing, or healing human illness, disease, condition, disability, or injury;

34 (8) "Out-of-network provider" means a healthcare provider that
35 provides healthcare services to an enrollee but is not a participating
36 provider;

1 (9) "Participating provider" means a healthcare provider that
2 has a healthcare contract with a contracting entity to provide healthcare
3 services to enrollees with the expectation of receiving payment either
4 directly from the contracting entity or from a healthcare insurer affiliated
5 with the contracting entity; and

6 (10) "Payor" means a contracting entity or healthcare insurer
7 responsible for payment for healthcare services provided to an enrollee under
8 the terms of a healthcare contract or a health benefit plan.

9
10 23-99-1202. Assignment of benefits.

11 (a) An enrollee, through an assignment of benefits, may assign to a
12 healthcare provider the enrollee's right to receive reimbursement for any
13 healthcare service rendered by a healthcare provider regardless of whether
14 the healthcare provider is a participating provider or an out-of-network
15 provider.

16 (b)(1) A healthcare provider that is provided an assignment of
17 benefits by an enrollee under this section shall provide notice to the payor
18 of the assignment of benefits with a claim for payment for healthcare
19 services provided to an enrollee.

20 (2) If the healthcare provider providing notice to the payor is
21 an out-of-network provider, the notice shall be accompanied by a complete
22 copy of the assignment of benefits bearing the enrollee's signature and the
23 date the assignment was executed.

24 (c)(1) A payor, upon receipt of the claim and notice of the assignment
25 of benefits submitted by the healthcare provider, shall promptly remit
26 payment of the claim directly to the healthcare provider.

27 (2) When payment is made directly to the healthcare provider,
28 the payor shall give written notice of the payment to an enrollee.

29 (3) A violation of subsection (c) of this section is:

30 (A) An unfair trade practice under § 23-66-206; and

31 (B) Subject to the Trade Practices Act, § 23-66-201 et
32 seq.

33 (d)(1)(A) If an enrollee executes an assignment of benefits and the
34 healthcare provider submits notice of that assignment of benefits with the
35 healthcare provider's claim for payment under this section, the claim is not
36 paid if payor remits payment of the claim to the enrollee rather than to the

1 healthcare provider.

2 (B) Notwithstanding the incorrect payment of a claim to an
3 enrollee, a payor shall remain liable for remitting payment of the claim to
4 the healthcare provider under the assignment of benefits.

5 (2) If an assignment of benefits has been executed but the payor
6 remits payment of the claim to the enrollee, then the payor shall remit
7 payment of the claim to the healthcare provider under the assignment of
8 benefits within ten (10) days of receiving notice of the incorrect payment
9 from the healthcare provider.

10
11 23-99-1203. Waiver prohibited.

12 (a) This subchapter shall not be waived by contract.

13 (b) A contractual arrangement or actions taken in conflict with this
14 subchapter or that purport to waive any requirement of this subchapter are
15 void.

16
17 23-99-1204. Enforcement.

18 (a) A contracting entity is subject to the Trade Practices Act, § 23-
19 66-201 et seq.

20 (b) The State Insurance Department shall enforce this subchapter.

21
22 23-99-1205. Rules.

23 (a) The Insurance Commissioner shall promulgate rules necessary to
24 ensure compliance with this subchapter.

25 (b)(1) When adopting the initial rules to ensure compliance with this
26 subchapter, the final rule shall be filed with the Secretary of State for
27 adoption under § 25-15-204(f):

28 (A) On or before March 1, 2020; or

29 (B) If approval under § 10-3-309 has not occurred by March
30 1, 2020, as soon as practicable after approval under § 10-3-309.

31 (2) The commissioner shall file the proposed rule with the
32 Legislative Council under § 10-3-309(c) sufficiently in advance of March 1,
33 2020, so that the Legislative Council may consider the rule for approval
34 before March 1, 2020.

35 /s/Bledsoe

36 **APPROVED: 4/5/19**