

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 2236 of the Regular Session

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

As Engrossed: H4/1/05

A Bill

HOUSE BILL 2781

5 By: Representative Elliott
6 By: Senators Steele, Critcher, Whitaker
7

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

10 THE COLORECTAL CANCER ACT OF 2005; AND FOR OTHER
11 PURPOSES.
12

13 **Subtitle**

14 THE COLORECTAL CANCER ACT OF 2005.
15
16

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

19 SECTION 1. Arkansas Code Title 20, Chapter 15, is amended to add an
20 additional subchapter to read as follows:

21 20-15-1701. Title.

22 This subchapter shall be known and may be cited as the "Colorectal
23 Cancer Act of 2005".
24

25 20-15-1702. Findings and purpose.

26 (a) The General Assembly finds that:

27 (1) Colorectal cancer is a significant threat to the health of
28 Arkansas residents;

29 (2) Colorectal cancer is more likely to occur as people get
30 older. More than ninety percent (90%) of people with this disease are
31 diagnosed after age fifty (50);

32 (3) In Arkansas, it is estimated that one thousand six hundred
33 thirty (1,630) new cases of cancer of the colon and rectum will occur in
34 2005;

35 (4) Colorectal cancer exacts an enormous economic toll on our



1 society in direct medical costs and indirect costs, such as lost work due to
2 illness and shortened lives among experienced workers;

3 (5) Colorectal cancer is largely preventable; and

4 (6) Screening for colorectal cancer can identify the precursors
5 of cancer before the disease begins and the precursors can be removed, thus
6 preventing the emergence of any colorectal cancer.

7 (b) This subchapter is intended to reduce the physical and economic
8 burden of colorectal cancer in Arkansas by supporting research and cancer
9 control activities.

10 20-15-1703. Colorectal Cancer Control and Research Program --
11 Demonstration Project.

12 (a) There is established within the Arkansas Cancer Research Center at
13 the University of Arkansas for Medical Sciences in collaboration with the
14 Department of Health a Colorectal Cancer Control and Research Program.

15 (b)(1) The first phase of this program shall be the Colorectal Cancer
16 Control Demonstration Project.

17 (2) The goal of the demonstration project is to:

18 (A) Assess the resources in this state that will enable
19 Arkansas residents to obtain colorectal screening examinations and laboratory
20 tests, to include a fecal occult blood test, double contrast barium enema,
21 flexible sigmoidoscopy, and colonoscopy; and

22 (B) Plan and implement an educational and screening
23 intervention program.

24 (c) The demonstration project shall be established at the Arkansas
25 Cancer Research Center at the University of Arkansas for Medical Sciences and
26 shall consist of the following:

27 (1) An assessment will be made to:

28 (A) Identify the number of facilities in the state that
29 provide double contrast barium enema, flexible sigmoidoscopy, and
30 colonoscopy;

31 (B) Identify physicians, including family practitioners,
32 gastroenterologists, and surgical endoscopists who perform colonoscopy in the
33 state and the regions of the state in which they practice;

34 (C) Evaluate differences in cost across facilities as
35 compared to Medicare payment for procedures; and

36 (D) Identify and evaluate available resources for follow-

1 up diagnostics and treatment as needed;

2 (2)(A) Education and screening intervention to demonstrate the
3 effectiveness of providing education and access to screening in order to
4 increase the number of Arkansas residents who obtain screening.

5 (B)(i) The education and screening intervention segment of
6 the demonstration project will enroll Arkansas residents over fifty (50)
7 years of age from multiple sites who are identified as having the highest
8 colorectal cancer incidence and mortality in each of the five (5) regions of
9 the state through the Department of Health's Hometown Health Initiative.

10 (ii) The number of individuals to be enrolled shall
11 be determined by the extent of funding available.

12 (iii) The project segment will study three (3)
13 approaches to education and screening as follows:

14 (a) Provision of an educational intervention
15 designed to teach the individual about the need to seek screening;

16 (b) Provision of access to screening with no
17 educational intervention; and

18 (c) Provision of educational intervention and
19 access together.

20 (iv)(a) Access to screening may include payment
21 vouchers for those patients determined to be underinsured or uninsured.

22 (b) The vouchers shall be redeemable by
23 project participants for screening services obtained through participating
24 physicians in each of the five (5) regions; and

25 (3)(A) Evaluation at the end of the demonstration period by
26 project leaders to identify the program's effectiveness in increasing the
27 number of individuals who obtained screening for colorectal cancer.

28 (B) The program evaluation information, coupled with the
29 results of the assessment of screening resources in this state, will help to
30 establish strategies for meeting the long-term goal under subsection (d) of
31 this section.

32 (d)(1) The Colorectal Cancer Control and Research Program will build
33 on the results of the demonstration program to meet the long-term goal of the
34 program.

35 (2) The long-term goal of the Colorectal Cancer Control and
36 Research Program is to reduce the physical and economic burden of colorectal

1 cancer in this state by:

2 (A) Supporting research efforts into the cause, cure,
3 treatment, early detection, and prevention of colorectal cancer and the
4 survivorship of individuals diagnosed with colorectal cancer;

5 (B) Supporting research and educational activities that
6 will inform the public of the value of colorectal cancer screening and will
7 result in improved methods to promote screening and early detection;

8 (C) Supporting policy research to review and analyze long-
9 term successes and future opportunities for reducing the burden of colorectal
10 cancer through legislation;

11 (D) Providing for the full continuum of care, prevention,
12 early detection, diagnosis, treatment, and cure of colorectal cancer; and

13 (E)) Requiring providers to offer a wide range of
14 colorectal cancer screening options.

15 (e)(1) The program shall provide for the full continuum of care,
16 prevention, early detection, diagnosis, treatment, cure of colorectal
17 cancer, and survivorship.

18 (2) The program shall be administered to provide:

19 (A) Colorectal cancer education and awareness to promote
20 prevention and early detection;

21 (B) Colorectal cancer surveillance activities across the
22 state;

23 (C) Screening for colorectal cancer with special focus on
24 persons fifty (50) years of age and older and persons at high risk for
25 colorectal cancer;

26 (D) After-screening, medical referrals, and financial
27 assistance for services necessary to follow up abnormal screening exams;

28 (E) Necessary advocacy and financial assistance to ensure
29 the persons obtain necessary treatment if a positive diagnosis is made; and

30 (F) Obtain information from health care insurers and
31 providers concerning the extent of colorectal cancer screening, treatment,
32 and insurance coverage.

33
34 SECTION 2. Arkansas Code Title 23, Chapter 79, is amended to add an
35 additional subchapter to read as follows:

36 23-79-1101. Definitions.

1 As used in this subchapter:

2 (1) "Covered person" means a person who is and continues to
3 remain eligible for coverage under a health care policy and is covered under
4 a health care policy;

5 (2)(A) "Health care policy" means:

6 (i) An individual or group health insurance policy
7 providing coverage on an expense-incurred basis;

8 (ii) An individual or group service or indemnity type
9 contract issued by a nonprofit corporation;

10 (iii) An individual or group service contract issued by a
11 health maintenance organization;

12 (iv) A group accident and sickness insurance policy issued
13 by a fraternal benefit society, a nonprofit hospital service corporation, a
14 nonprofit medical service corporation, a group health care plan, a health
15 maintenance organization, or any similar entity; and

16 (v) A policy issued by or in connection with:

17 (a) The Arkansas medical assistance program and its
18 contracted insurers, whether providing services on a managed-care or fee-for-
19 service basis;

20 (b) The state employees' and public school teachers'
21 health insurance programs;

22 (c) A self-insured group arrangement to the extent
23 not preempted by federal law; and

24 (d) A managed health care delivery entity of any
25 type or description.

26 (B) "Health care policy" does not include an accident-
27 only, specified disease, hospital indemnity, Medicare supplement, long-term
28 care, disability income, or other limited benefit health insurance policy;
29 and

30 (3) "Persons at high risk for colorectal cancer" means:

31 (A) Individuals over fifty (50) years of age or who face a
32 high risk for colorectal cancer because of:

33 (i) The presence of polyps on a previous
34 colonoscopy, barium enema, or flexible sigmoidoscopy;

35 (ii) Family history of colorectal cancer in close
36 relatives of parents, brothers, sisters, or children;

1 (iii) Genetic alterations of hereditary nonpolyposis
2 colon cancer or familial adenomatous polyposis;

3 (iv) Personal history of colorectal cancer,
4 ulcerative colitis, or Crohn's disease; or

5 (v) The presence of any appropriate recognized gene
6 markers for colorectal cancer or other predisposing factors; and

7 (B) Any additional or expanded definition of "persons at
8 high risk for colorectal cancer" as recognized by medical science and
9 determined by the Director of the Department of Health in consultation with
10 the University of Arkansas for Medical Sciences.

11
12 23-79-1102. Coverage - Applicability.

13 (a) A health care policy subject to this subchapter executed,
14 delivered, issued for delivery, continued, or renewed in this state on or
15 after August 1, 2005, shall include colorectal cancer examinations and
16 laboratory tests within the policy's coverage.

17 (b) The coverage shall include colorectal cancer examinations and
18 laboratory tests for:

19 (1) Covered persons who are fifty (50) years of age or older;

20 (2) Covered persons who are less than fifty (50) years of age
21 and at high risk for colorectal cancer according to American Cancer Society
22 colorectal cancer screening guidelines as they existed on January 1, 2005;
23 and

24 (3) Covered persons experiencing the following symptoms of
25 colorectal cancer as determined by a physician licensed under the Arkansas
26 Medical Practices Act, §§ 17-95-201 et seq., 17-95-301 et seq., and 17-95-401
27 et seq.:

28 (A) Bleeding from the rectum or blood in the stool; or

29 (B) A change in bowel habits, such as diarrhea,
30 constipation, or narrowing of the stool, that lasts more than five (5) days.

31 (c) After August 1, 2005, each employer that offers a health care
32 policy to employees shall offer all eligible employees at the time of hiring
33 or health care policy renewal a policy that includes colorectal cancer
34 examinations and laboratory tests within the coverage of the employee's
35 health care policy.

36 (d)(1) The colorectal screening shall involve an examination of the

1 entire colon, including:

2 (A) The following examinations or laboratory tests, or

3 both:

4 (i) An annual fecal occult blood test utilizing the
5 take-home multiple sample method, or an annual fecal immunochemical test in
6 conjunction with a flexible sigmoidoscopy every five (5) years;

7 (ii) A double-contrast barium enema every five (5)
8 years; or

9 (iii) A colonoscopy every ten (10) years; and

10 (B) Any additional medically recognized screening tests
11 for colorectal cancer required by the Director of the Department of Health,
12 determined in consultation with appropriate health care organizations.

13 (2) The covered person shall determine the choice of screening
14 strategies in consultation with a health care provider.

15 (3) Colorectal screening examinations shall be according to the
16 choices and frequency provided by this subsection (d) for all other covered
17 persons.

18 (e) Screenings shall be limited to the following guidelines for the
19 management or subsequent need for follow-up colonoscopy:

20 (1) If the initial colonoscopy is normal follow-up is
21 recommended in ten (10) years;

22 (2) For individuals with one (1) or more neoplastic polyps,
23 adenomatous polyps, assuming that the initial colonoscopy was complete to the
24 cecum and adequate preparation and removal of all visualized polyps follow-up
25 is recommended in three (3) years;

26 (3) If single tubular adenoma of less than one centimeter (< 1
27 cm) is found follow-up is recommended in five (5) years; and

28 (4) For patients with large sessile adenomas greater than three
29 centimeters (> 3 cm), especially if removed in piecemeal fashion, follow-up
30 is recommended in six (6) months or until complete polyp removal is verified
31 by colonoscopy.

32
33 23-79-1103. Certain activities not prohibited.

34 (a) This subchapter does not prohibit the issuance of policies that
35 provide benefits greater than those required by § 23-79-1102 or more
36 favorable to the insured than those required by § 23-79-1102.

1 (b) This subchapter does not prohibit the payment of different levels
2 of benefits or from having differences in coinsurance percentages applicable
3 to benefit levels for services provided by preferred and nonpreferred
4 providers as otherwise authorized by law relating to preferred provider
5 arrangements.

6
7 23-79-1104. Exclusions and reductions -- Benefits subject to annual
8 deductible and co-insurance.

9 (a) Except as provided in subsection (b) of this section, the coverage
10 offered under § 23-79-1102 may contain any exclusions, reductions, or other
11 limitations approved by the Insurance Commissioner concerning coverages,
12 deductibles, or coinsurance provisions.

13 (b) The benefits provided in this subchapter shall be subject to the
14 same annual deductible or coinsurance established for all other covered
15 benefits within a health care policy.

16
17 23-79-1105. Coverage by participating providers -- Selection criteria
18 and utilization protocols -- Maximum benefits -- Exclusions.

19 (a)(1) This subchapter does not require and shall not be construed to
20 require the coverage of services by providers who are not designated as
21 covered providers or that are not selected as a participating provider by a
22 group health benefit plan or insurer having a participating network of
23 service providers.

24 (2) This subchapter does not expand the list or designation of
25 participating providers as specified in any health benefit plan.

26 (b) Insurers or other issuers of any health benefit plan covered by
27 this subchapter may continue to establish and apply selection criteria and
28 utilization protocols for health care providers including:

29 (1) The designation of types of providers for which coverage is
30 provided; and

31 (2) Credentialing criteria used in the selection of providers.

32 (c) A health care policy that provides coverage for the services
33 offered under this subchapter may contain provisions for maximum benefits and
34 coinsurance limitations, deductibles, exclusions, and utilization review
35 protocols to the extent that the provisions are not inconsistent with the
36 requirements of this subchapter.

1
2 23-79-1106. Additional benefit costs.

3 The issuer of a health care policy shall conform its policies,
4 contracts, or certificates issued on or after August 1, 2005, and may adjust
5 its premium cost to reflect the additional benefit cost.

6
7 23-79-1107. Cost-sharing.

8 (a) To encourage colorectal cancer screenings, patients and health
9 care providers may not be required to meet burdensome criteria or overcome
10 significant obstacles to obtain coverage.

11 (b) An individual shall not be required to pay an additional
12 deductible or coinsurance for testing that is greater than an annual
13 deductible or coinsurance established for similar benefits.

14 (c) If the program or contract does not cover a similar benefit, a
15 deductible or coinsurance may not be set at a level that materially
16 diminishes the value of the colorectal cancer benefit required under this
17 subchapter.

18 (d) Reimbursement to health care providers for colorectal cancer
19 screenings provided under this section shall be equal to or greater than
20 reimbursement to health care providers under Medicare, Title XVII of the
21 Social Security Act, 42 U.S.C. § 1395 et seq., as it existed on January 1,
22 2005.

23
24 23-79-1108. Referrals to participating providers.

25 A health care policy is not required to provide a referral under this
26 subchapter to a nonparticipating health care provider unless the plan or
27 carrier does not have a participating health care provider that is available
28 and accessible to administer the screening, examination, or treatment of
29 colorectal cancer.

30
31 23-79-1109. Payment of nonparticipating providers.

32 If a health care policy refers an individual under this subchapter to a
33 nonparticipating health care provider, then services provided under the
34 approved screening exam or resulting treatment, if any, shall be provided at
35 no additional cost to the individual beyond what the individual would
36 otherwise pay to a participating health care provider.

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SECTION 3. EMERGENCY CLAUSE. It is hereby found and determined that colorectal cancer is a leading cause of death among Arkansas residents; that this number of deaths will increase as our population grows older; that colorectal cancer is a preventable disease; that information barriers result in Arkansas residents being unaware of the risk of colorectal cancer or the value of screening, prevention, and early detection; that financial barriers prevent some Arkansas residents from taking advantage of screening; and that there is a lack of funding to provide for screening, diagnostic, and treatment services for persons at risk of colorectal cancer. Therefore, this act being necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after August 1, 2005.

/s/ Elliott

APPROVED: 4/13/2005

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