

INTERIM STUDY PROPOSAL 2009-204

State of Arkansas
87th General Assembly
Fiscal Session, 2010

A Bill

MGF/KSW
HOUSE BILL

By: Representatives Glidewell, Greenberg

Filed with: Arkansas Legislative Council
pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

AN ACT TO ENSURE FREEDOM OF CHOICE IN HEALTH CARE
FOR ALL ARKANSANS; TO PREVENT INVOLUNTARY
ENROLLMENTS IN HEALTH CARE INSURANCE PROGRAMS;
AND FOR OTHER PURPOSES.

Subtitle

AN ACT TO ENSURE FREEDOM OF CHOICE IN
HEALTH CARE FOR ALL ARKANSANS; AND TO
PREVENT INVOLUNTARY ENROLLMENTS IN
HEALTH CARE INSURANCE PROGRAMS.

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

SECTION 1. Arkansas Code Title 23, Chapter 86, Subchapter 1 is amended
to add an additional section to read as follows:

23-86-122. Health Care Freedom Act.

(a) This section shall be known and may be cited as the "Health Care
Freedom Act".

(b) As used in this section:

(1)(A) "Direct payment" means payment for lawful health care
services without a public or private third party paying for any portion of
the service.

(B) "Direct payment" includes payments by an employer for
lawful health care services for an individual;

1 (2) "Health care system" means a public or private entity that
2 enrolls individuals for, manages or processes individual claims for, or
3 manages or processes payment, in full or in part, for health care services or
4 health care data or health care information for its participants;

5 (3) "Lawful health care services" means any health-related
6 service or treatment to the extent that the service or treatment is permitted
7 or not prohibited by law or rule that may be provided by an individual or a
8 business otherwise permitted to offer such services; and

9 (4) "Penalties or fines" means a civil or criminal penalty or
10 fine, a tax, a salary or wage withholding or surcharge, or a fee with a
11 similar effect that is used to punish or discourage the exercise of rights
12 protected under this section under a law or a rule adopted by an agency
13 established, created, or controlled by a governmental entity.

14 (c) A law or rule shall not compel, directly or indirectly, an
15 individual, an employer, or a health care provider to participate in any
16 health care system.

17 (d)(1) An individual or an employer may make direct payment for lawful
18 health care services and shall not be required to pay penalties or fines for
19 making direct payment for lawful health care services.

20 (2) A health care provider may accept direct payment for lawful
21 health care services and shall not be required to pay penalties or fines for
22 accepting direct payment from an individual or an employer for lawful health
23 care services.

24 (e) Subject to reasonable and necessary rules that do not
25 substantially limit an individual's options, the purchase or sale of health
26 insurance in private health care systems shall not be prohibited by law or
27 rule.

28 (f) This section does not affect:

29 (1) The health care services a health care provider or hospital
30 is required to perform or provide;

31 (2) Which health care services are permitted by law; or

32 (3) The terms or conditions of any health care system to the
33 extent that those terms and conditions do not have the effect of punishing an
34 individual or an employer for making direct payment for lawful health care
35 services or a health care provider or hospital for accepting direct payment
36 from an individual or an employer for lawful health care services.

REVISED 12/30/2009;

I.S.P. 2009-204

1 Filed Date: 12/17/2009 By: MGF\KSW