As Engrossed: 3/23/93

State of Arkansas
79th General Assembly
Regular Session, 1993
By: Senator Gwatney

A Bill

SENATE BILL 697

For An Act To Be Entitled

"AN ACT TO ESTABLISH ACCESS FOR EVERY ARKANSAS CITIZEN TO A CHILDREN_S BASIC PRIMARY AND PREVENTIVE BENEFIT HEALTH CARE INSURANCE POLICY; AND FOR OTHER PURPOSES."

Subtitle

"AN ACT TO ESTABLISH ACCESS FOR EVERY ARKANSAS CITIZEN TO A CHILDREN_S BASIC PRIMARY AND PREVENTIVE BENEFIT HEALTH CARE INSURANCE POLICY."

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

SECTION 1. Purpose. To provide access to affordable basic primary and preventive health care for all children in the State of Arkansas. It is intended that this result will be reached by authorizing the development and sale by all authorized disability insurers, health maintenance organizations, or self-insured employer groups, either as a separate policy or as a rider to an existing major medical disability policy, policies or riders which provide for children_s basic primary and preventative benefits without the added cost of required mandated benefits and to authorize the *Arkansas Insurance Commissioner*, which shall be hereafter referred to as "Task Force", to develop the benefit structure, price, and marketing requirements for such policies.

SECTION 2. Definitions. As used in this act:

(1) "Commissioner" shall mean the Arkansas Insurance Commissioner;

(2) "Insured" shall mean any individual or group insured under a policy, rider, or certificate issued pursuant to the laws of this State, or covered under an employer_s self-funded plan, or any individual desiring to purchase a "children_s basic primary and preventative benefit policy" for any

dependent child whether or not such individual is currently covered under an existing policy or health care plan;

(3) "Insurer" means an insurer, health maintenance organization, hospital or medical services corporation, or self-funded employer offering a minimum basic benefit policy pursuant to this act;

(4) "Loss Ratio" means the percentage derived by dividing incurred claims (both reported and not reported) by total premiums earned;

(5) "Permitted Coverages" shall mean health or hospitalization coverage under a policy issued pursuant to this act;

(6) "Children_s Basic Primary and Preventative Benefit Policy" shall mean a policy, rider, or subscription contract which an insurer, shall offer to an insured, pursuant to the provisions of this act;

(7) "Children_s Preventive Health Care Service" means physician-delivered or physician-supervised services for eligible dependents from birth through age sixteen (16), with periodic physical examinations including medical history, physical examination, developmental assessment, anticipatory guidance and appropriate immunizations and laboratory tests, in keeping with prevailing medical standards for the purposes of this section.

SECTION 3. Issuance of Children_s Basic Primary and Preventative Benefit Policy.

Insurers are hereby authorized to issue Children_s Basic Primary and Preventative Benefit policies or riders pursuant to and in compliance with the provisions of this act to insureds as defined by this act. This act shall apply only to those children_s basic primary and preventative benefit policies or riders issued under this act and regulations issued by the Commissioner pursuant to the authority of this act. Nothing in this act shall be deemed to add to, detract from, or in any manner apply to policies, subscription contracts, benefits, or related activities under any other statutory, or regulatory authorities.

SECTION 4. *Regulatory Authority*

(a) The commissioner shall have the authority to promulgate a regulation applicable to policies issued pursuant to this act, which establishes provisions for required benefits, benefit reimbursement levels,

loss ratios, excluded benefits, deductible amounts, co-payment levels, preexisting conditions limitations, maximum annual and life time benefits, limitations on qualified buyers, marketing standards and disclosure standards, and any other provision necessary to implementation of this act.

(b) The Insurance Task Force of the Arkansas Health Care Access Council or its successor organization may submit recommendations concerning provisions contained in any regulation issued by the Commissioner pursuant to subsection (a) above.

(c) The commission may accept, reject, or modify, any part or all of the recommendations of the Insurance Task Force of the Arkansas Health Care Access Council.

SECTION 5. DISCRETIONARY MANAGED CARE PROVIDERS.

(a) The *Commissioner* shall consider for inclusion in any benefit package proscribed pursuant to this act, any or all of the following managed care provisions to control the cost of a policy issued pursuant to this act:

(1) An exclusion for services that are not medically necessary or prescribed by this act;

(2) A provision allowing a preferred panel of providers who have entered into written agreements with the insurer to provide services at specified levels of reimbursement. With the exception of health maintenance organizations, participation in such preferred panel shall be open to all providers licensed to provide the services to be covered. Any such written agreement between a provider and an insurer shall contain a provision under which the parties agree that the insured individual or covered member will have no obligation to make payment for any medical service rendered by the provider that is determined not to be medically necessary; provided, however, that charges for medically necessary services received by the insured which are not covered by the children_s basic primary and preventative benefit policy shall be considered the responsibility of the insured; and

(3) A provision under which any insured who obtains medical services for a non preferred provider shall receive reimbursement only in the amount that would have been received had services been rendered by a preferred provider, less a differential, if any, in an amount to be approved by the Task Force; and

(b) Nothing in this act shall be construed to prohibit an insurer or self-funded employer from including in a children_s basic primary and preventative benefit policy other managed care and cost control provisions which, subject to the approval of the Commissioner, have the potential to control costs in a manner which does not result in inequitable treatment of an insured under this act.

SECTION 6. DISCLOSURE REQUIREMENTS FOR CHILDREN_S MINIMUM BASIC BENEFIT POLICIES.

(a) The *Commissioner* shall have the authority to prescribe any fair and equitable disclosure requirements for the offer and sell of a policy issued pursuant to this act, that the Panel deems necessary for the protection of the insured.

(b) Such requirements shall be included in any regulation adopted pursuant to the requirements of SECTION 4 of this act.

SECTION 7. FORMS, RATES, MARKETING COMMUNICATIONS TO BE FILED WITH AND APPROVED BY THE COMMISSIONER.

All children_s basic primary and preventative benefit policy forms, including applications, enrollment forms, policies, certificates, evidences of coverage, riders, amendments, endorsements, disclosure forms, and marketing communications used in connection with the sale or advertisement of a children_s basic primary and preventative benefit policy shall be submitted to the Commissioner for approval in the same manner as required by Arkansas Code Annotated Section 23-79-109 (a) or Arkansas Code Annotated Section 23-76-112 (a).

SECTION 8. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 9. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this

act are declared to be severable.

SECTION 10. All laws and parts of laws in conflict with this act are hereby repealed.

/s/ Senator Gwatney