

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995

A Bill

HOUSE BILL 1261

4 By: Representatives Mitchell, Bennett, McGee, Curran, Flanagan, Whorton,
5 Willems, Wren, Wilkinson, Horn, Hall, Ferguson and Maddox

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For An Act To Be Entitled

9 "AN ACT TO CREATE, DEFINE, AND ESTABLISH REQUIREMENTS FOR
10 THE POSITION OF PRIMARY EYE CARE PROVIDER IN ALL HEALTH
11 BENEFIT PLANS WHICH COVER, OR MAY COVER, THE PROVISION OF
12 EYE AND/OR VISION CARE BENEFITS; AND FOR OTHER PURPOSES."

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Subtitle

14 "TO CREATE, DEFINE AND ESTABLISH
15 REQUIREMENTS FOR THE POSITION OF PRIMARY
16 EYE CARE PROVIDER IN HEALTH BENEFIT
17 PLANS."
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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22 SECTION 1. This act shall be known and may be cited as the "Primary
23 Eye Care Provider Act."

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25 SECTION 2. As used in this act:

26 (1) "Health benefit plan" means any public or private health plan,
27 program, policy, subscriber agreement or contract implemented in the State of
28 Arkansas which includes or may include payment, reimbursement (including
29 capitation) or financial compensation for provision of eye and/or vision care
30 benefits to covered persons, but does not include workers_ compensation
31 coverage or reimbursement.

32 (2) "Primary eye care provider" means an ophthalmologist or
33 optometrist licensed by the State of Arkansas who has been selected by a
34 person covered by a health benefit plan to provide eye and/or vision care
35 services and who agrees to provide these services in accordance with the

1 terms, conditions, reimbursement rates and standards of quality as set forth
2 within the specific health benefit plan.

3 (3) "Eye and/or vision care benefits" means those services and
4 materials which are provided by a primary eye care provider who is
5 functioning within the scope of his or her license. The conditions imposed
6 by any specific health benefit plan upon the provision of eye and/or vision
7 care benefits shall not:

8 (A) Prohibit the primary eye care provider from providing
9 covered services to covered persons at his or her highest level of licensure
10 and competence at any given time, as determined by his or her respective
11 licensing board; or

12 (B) Require that the primary eye care provider hold hospital
13 staff privileges or include any other condition as a requirement which would
14 have the practical effect of excluding any class of provider from
15 participation in the plan.

16 (4) "Gatekeeper system" means a system of administration used by any
17 health benefit plan in which a primary care provider furnishes basic patient
18 care and coordinates diagnostic testing, indicated treatment, and specialty
19 referral for persons covered by the health benefit plan.

20 (5) "Gatekeeper" means a covered person's primary care provider in a
21 Gatekeeper system.

22 (6) "Health care insurer" means any entity, including but not limited
23 to insurance companies, hospital and medical services corporations, health
24 maintenance organizations, preferred provider organizations, and physician
25 hospital organizations, that is authorized by the State of Arkansas to offer
26 or provide health benefit plans, policies, subscriber contracts, or any other
27 contracts of a similar nature which indemnify or compensate health care
28 providers for the provision of health care services.

29 (7) "Covered persons" means any individual or family who is enrolled
30 in a health benefit plan or policy from a health care insurer and on whose
31 behalf the health care insurer is obligated to pay for or provide eye and/or
32 vision care services.

33 (8) "Covered service" means those health care services including eye
34 and/or vision care services which the health care insurer is obligated to pay
35 for or provide to covered persons under the health benefit plan or policy.

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SECTION 3. A health benefit plan that includes, or may include, eye and/or vision care benefits shall:

(1) Include all primary eye care providers who are selected by covered persons of the plan for the provision of all eye and/or vision care benefits provided by the plan.

(2) Permit any licensed optometrist or ophthalmologist who agrees to abide by the terms, conditions, reimbursement rates and standards of quality of the health benefit plan to serve as a primary eye care provider to any person covered by that plan.

(3) Guarantee that all covered persons who are eligible for eye and/or vision care benefits under a health benefit plan shall have direct access to the primary eye care provider of their choice independent of, and without referral from, any other provider or entity.

(4) Assure that those plans utilizing a gatekeeper system shall designate the primary eye care provider as the gatekeeper, who shall provide basic patient care and coordinate diagnostic testing, indicated treatment, and specialty referral for those covered persons in the provision of eye and/or vision care benefits. *Nothing in this act shall prevent a covered person from having direct access to that person's primary care provider (gatekeeper) for the treatment of eye disease or injury and being reimbursed in accordance with the terms and fee schedule of the health benefit plan. Further, nothing contained in this act, however, shall require payment of the monthly patient management fee by the Arkansas Medicaid program to a Primary Eye Care Provider Gatekeeper.*

(5) Not discriminate between individual providers or classes of providers in the amount of reimbursement, co-payment, or other financial compensation for the same or essentially similar services provided by the health benefit plan.

(6) Not promote or recommend any individual provider or class of providers to a covered person by any method or means.

(7) Assure that all primary eye care providers selected by persons covered by a health benefit plan are included on the list of participating providers of the plan.

(8) Assure that an adequate number of primary eye care providers are

1 included to guarantee reasonable accessibility, timeliness of care,
2 convenience, and continuity of care to covered persons.

3 (9) Make available to covered persons a listing of all primary eye
4 care providers, their practice location and telephone number on a regular,
5 timely basis.

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7 SECTION 4. Nothing in this act shall prevent any person covered by a
8 health benefit plan from receiving emergency eye care nor shall it prevent
9 any person from exercising his or her right to receive treatment from his or
10 her personal doctor *and being reimbursed in accordance with the terms and fee*
11 *schedule of the health benefit plan.*

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13 SECTION 5. *Any person adversely affected by a violation of this act*
14 *may bring action in a court of competent jurisdiction for injunctive relief*
15 *against the health care insurer and upon prevailing, in addition to such*
16 *injunctive relief, shall recover damages not less than one thousand dollars*
17 *(\$1000) plus attorney fees and costs.*

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19 SECTION 6. *Section 9 of Act 515 of 1995 is hereby repealed and Act 515*
20 *shall become effective on July 1, 1995.*

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22 SECTION 7. All provisions of this act of a general and permanent
23 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
24 Code Revision Commission shall incorporate the same in the Code.

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26 SECTION 8. If any provision of this act or the application thereof to
27 any person or circumstance is held invalid, such invalidity shall not affect
28 other provisions or applications of the act which can be given effect without
29 the invalid provision or application, and to this end the provisions of this
30 act are declared to be severable.

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32 SECTION 9. All laws and parts of laws in conflict with this act are
33 hereby repealed. All of the terms and conditions of this act shall remain in
34 effect in their entirety unless and until a section or subsection is
35 specifically cited and repealed by subsequent legislation, or is found to be

1 invalid by a court of competent jurisdiction.

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3 SECTION 10. EMERGENCY CLAUSE. It is hereby found and determined by
4 the Eightieth General Assembly that creation of the position of primary eye
5 care provider in health benefit plans and elimination of any form of
6 discrimination among such providers is in the public interest and should be
7 given effect immediately. Therefore, an emergency is hereby declared to
8 exist and this act being necessary for the preservation of the public peace,
9 health and safety shall be in full force and effect from and after its
10 passage and approval.

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/s/Rep. Mitchell, et al

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As Engrossed: 1/20/95 1/27/95 4/6/95

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