

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

# A Bill

SENATE BILL 299

4 By: Senators Gwatney, Canada, Walters, Everett, Mahony, Boozman, Jeffries,  
5 and Hunter

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7  
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## For An Act To Be Entitled

9 "AN ACT TO ENSURE CONSUMER CHOICE OF HEALTH CARE PROVIDER;  
10 AND FOR OTHER PURPOSES."

11  
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## Subtitle

13 "TO ENSURE CONSUMER CHOICE OF HEALTH  
14 CARE PROVIDER."

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

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18 SECTION 1. This act may be cited as the "Patient Protection Act of  
19 1995."

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21 SECTION 2. The General Assembly finds that patients should be given  
22 the opportunity to see the health care provider of their choice. In order to  
23 assure the citizens of the state of Arkansas the right to choose the provider  
24 of their choice, it is the intent of the General Assembly to provide the  
25 opportunity of providers to participate in health benefit plans.

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27 SECTION 3. As used in this act:

28 (a) "Copayment" means a type of cost sharing whereby insured or  
29 covered persons pay a specified predetermined amount per unit of service or  
30 percentage of health care costs with their *health care insurer* paying the  
31 remainder of the charge. The copayment is incurred at the time the service  
32 is rendered. The copayment may be a fixed or variable amount.

33 (b) "Health benefit plan" means any entity or program that provides  
34 reimbursement, including capitation, for health care services, except and  
35 excluding any entity or program that provides reimbursement and benefits

1 pursuant to Amendment 26 to the Constitution of the State of Arkansas, Act  
2 796 of 1993, or the Public Employee Workers\_ Compensation Act, and rules,  
3 regulations and schedules adopted thereunder.

4 (c) "Health care provider" means those individuals or entities  
5 licensed by the state of Arkansas to provide health care services limited to  
6 the following: physicians and surgeons, (*M.D.'s and D.O.'s*), podiatrists,  
7 chiropractors, physical therapists, speech pathologists, audiologists,  
8 dentists, optometrists, hospitals, hospital based services, psychologists,  
9 licensed professional counselors, respiratory therapists, pharmacists,  
10 occupational therapists and long-term care facilities, home health care and  
11 hospice care, licensed ambulatory surgery centers, *and rural health clinics*.

12 (d) "Health care services" means services and products provided by a  
13 health care provider within the scope of the provider\_s license.

14 (e) *"Health care insurer" means any entity, including but not limited*  
15 *to insurance companies, hospital and medical services corporations, health*  
16 *maintenance organizations, preferred provider organizations, physician*  
17 *hospital organizations, third-party administrators, and prescription benefit*  
18 *management companies authorized to administer, offer or provide health*  
19 *benefit plans, policies, subscriber contracts or any other contract of*  
20 *similar nature which indemnify or compensate health care providers for the*  
21 *provision of health care services.*

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23 SECTION 4. (a) A health benefit plan, health insurance plan or  
24 policy, employee benefit plan or health maintenance organization shall not,  
25 directly or indirectly:

26 (1) Impose a monetary advantage or penalty under a health benefit plan  
27 that would affect a beneficiary\_s choice among those health care providers  
28 who participate in the health benefit plan according to the terms offered.  
29 Monetary advantage or penalty includes higher copayment, a reduction in  
30 reimbursement for services, or promotion of one health care provider over  
31 another by these methods; or

32 (2) Impose upon a beneficiary of health care services under a health  
33 benefit plan any copayment, fee or condition that is not equally imposed upon  
34 all beneficiaries in the same benefit category, class or copayment level  
35 under that health benefit plan when the beneficiary is receiving services

1 from a participating health care provider pursuant to that health benefit  
2 plan.

3       (3) Prohibit or limit a health care provider that is qualified under  
4 Section 3(c) and is willing to accept the plan\_s operating terms and  
5 conditions, its schedule of fees, covered expenses, utilization regulations  
6 and quality standards, the opportunity to participate in that plan.

7       (b) Nothing in this act shall prevent a health benefit plan from  
8 instituting measures designed to maintain quality and to control costs,  
9 including but not limited to the utilization of a health care provider to  
10 coordinate health care services, as long as such measures are imposed equally  
11 *on all providers in the same class.*

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13       SECTION 5. Nothing in this act shall be construed to require any  
14 *health care insurer* or health benefit plan to cover any specific health care  
15 service.  
16 *Provided, however, no condition or measure shall have the effect of excluding*  
17 *any type or class of provider qualified under Section 4(a)(3) to provide that*  
18 *service.*

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20       SECTION 6. *Any person adversely affected by a violation of this act*  
21 *may sue in a court of competent jurisdiction for injunctive relief against*  
22 *the health care insurer and, upon prevailing, shall, in addition to such*  
23 *relief, recover damages not less than one thousand dollars (\$1,000), attorney*  
24 *fees and costs.*

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26       SECTION 7. Any provision in a health benefit plan which is executed,  
27 delivered or renewed, or otherwise contracts for provision of services in  
28 this state that is contrary to this act shall, to the extent of the conflict,  
29 be void.

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31       SECTION 8. It is a violation of this act for any *health care insurer*  
32 or other person or entity to provide any health benefit plan providing for  
33 health care services to residents of this state that does not conform to this  
34 act, but nothing in this act shall constitute a violation on the basis of  
35 actions taken by the health benefit plan to maintain quality, enforce

1 utilization regulations, and to control costs.

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3 SECTION 9. All provisions of this act of a general and permanent  
4 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
5 Code Revision Commission shall incorporate the same in the Code.

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7 SECTION 10. If any provision of this act or the application thereof to  
8 any person or circumstance is held invalid, such invalidity shall not affect  
9 other provisions or applications of the act which can be given effect without  
10 the invalid provision or application, and to this end the provisions of this  
11 act are declared to be severable.

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13 SECTION 11. All laws and parts of laws in conflict with this act are  
14 hereby repealed.

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16 SECTION 12. In the event any portion of this act is found to be in  
17 violation of federal law or in conflict therewith, or held to be  
18 unconstitutional, that portion shall hereby be repealed and all other  
19 portions of this act shall remain in force.

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*/s/Gwatney et al*

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