

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999

A Bill

HOUSE BILL 1352

4
5 By: Representative Wilkins
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For An Act To Be Entitled

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9 "AN ACT TO AMEND ARKANSAS CODE 23-76-119 RELATING TO
10 HEALTH MAINTENANCE ORGANIZATIONS, TO PROVIDE CERTAIN
11 PATIENT PROTECTIONS FOR HEALTH MAINTENANCE
12 ORGANIZATION ENROLLEES; AND FOR OTHER PURPOSES."
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Subtitle

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15 "TO PROVIDE PATIENT PROTECTIONS FOR
16 HEALTH MAINTENANCE ORGANIZATION
17 ENROLLEES."
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Ark. Code Ann. §23-76-119 is hereby amended to read as
23 follows:

24 "(a) No Health Maintenance Organization, or representative thereof, may
25 knowingly cause or knowingly permit the use of advertising which is untrue or
26 misleading, solicitation which is untrue or misleading, or any form of
27 evidence of coverage which is deceptive. For purposes of this chapter:

28 (1) A statement or item of information shall be deemed to be
29 untrue if it does not conform to fact in any respect which is or may be
30 significant to an enrollee of, or person considering enrollment in, a health
31 care plan;

32 (2) A statement or item of information shall be deemed to be
33 misleading, whether or not it may be literally untrue, if, in the total
34 context in which the statement is made or the item of information is
35 communicated, the statement or item of information may be reasonably
36 understood by a reasonable person, not possessing special knowledge regarding

1 health care coverage, as indicating any benefit or advantage or the absence of
2 any exclusion, limitation, or disadvantage of possible significance to an
3 enrollee of, or person considering enrollment in, a health care plan, if the
4 benefit or advantage or absence of limitation, exclusion, or disadvantage does
5 not in fact exist;

6 (3) An evidence of coverage shall be deemed to be deceptive if the
7 evidence of coverage taken as a whole, and with consideration given to
8 typography and format, as well as language, shall be such as to cause a
9 reasonable person, not possessing special knowledge regarding health care
10 plans and evidences of coverage therefor, to expect benefits, services,
11 charges, or other advantages which the evidence of coverage does not provide
12 or which the health care plan issuing the evidence of coverage does not
13 regularly make available for enrollees covered under such evidence of
14 coverage.

15 (b) An enrollee may not be cancelled or nonrenewed except for the
16 failure to pay the charge for the coverage or for such other reasons as may be
17 promulgated by the commissioner.

18 (c) Any Health Maintenance Organization which commits violations of Ark.
19 Code Ann. §23-76-118 (b)(3) with such frequency as to indicate a general
20 business practice shall have committed an unfair claims settlement practice as
21 defined in Ark. Code Ann. §23-66-206 (9).

22 (d) No Health Maintenance Organization shall offer any evidence of
23 coverage, or amendment thereto to any person in this state without also
24 offering to the enrollee an additional option of:

25 (1) A point of service option which provides benefits for covered
26 services through health professionals and providers who are not members of the
27 Health Maintenance Organization's medical provider network;

28 (2) The Health Maintenance Organization shall fully disclose to
29 the enrollee, in clear, understandable language, the terms and conditions of
30 each option, the co-payments or other cost-sharing features of each option and
31 the costs associated with each such option provided by the issuer. The
32 commissioner may promulgate rules regarding presentation of these terms and
33 conditions, including a suggested standard format, to facilitate the
34 comparison by the enrollee of the terms and conditions of each option. The
35 obligation of a Health Maintenance Organization to make the offer described in
36 this section may be satisfied by the Health Maintenance Organization providing

1 to the employer or other plan sponsor presentation materials for dissemination
2 to employees or principal enrollees.

3 (3) The amount of any additional premium required for the options
4 described in subsection (2) may be paid by the purchaser of the health plan or
5 may be paid by the enrollee of such group. Such additional premium, taking
6 into account any co-payments or other cost-sharing features, shall not exceed
7 an amount that is fair and reasonable in relation to the benefits provided, as
8 determined by the Insurance Commissioner, in regulations.

9 (4) Under the option described in subsection (2), the rate of
10 reimbursement for health providers out of the network shall be the same as the
11 rate of reimbursement for non-capitated providers in the network, provided
12 that co-payment, co-insurance and other cost-sharing features may be different
13 for out-of-network providers.

14 (5) A Health Maintenance Organization shall not be required to
15 reimburse an out of network provider for non-emergency services unless such
16 provider:

17 (A) has disclosed to the patient a reasonable range of the
18 total charges for the services being provided; and

19 (B) has advised the patient that the provider may bill the
20 patient for the balance of any charges which are not otherwise reimbursed by
21 the Health Maintenance Organization. If, after request by the patient, the
22 provider fails to disclose a reasonable range of the total of charges for any
23 non-emergency services provided, the patient shall not be liable for such
24 charges.

25 (6) The option described in subsection (2) shall be a part of
26 every contract issued by a Health Maintenance Organization, provided, however,
27 an employer who employs less than twenty-five (25) full time employees may
28 reject the point-of-service option in writing.

29 (e) No managed care plan of the Health Maintenance Organization and the
30 provider shall provide for any financial incentive which compensates
31 a health care provider for providing less than medically necessary and
32 appropriate care to an enrollee. Nothing in this section shall be deemed
33 to prohibit a managed care plan from using a capitated payment arrangement or
34 other risk-sharing arrangement.

35 (f) No health maintenance organization shall provide, directly or
36 indirectly, any financial incentive or disincentive, or grant or deny any

1 special favor or advantage of any kind or nature whatsoever, to any person to
2 encourage or cause early discharge of a hospital inpatient from postpartum
3 care. Notwithstanding the above, this section does not prohibit use of
4 prospective payment systems including, but not limited to, capitation and
5 diagnostic related groupings, that are designed to promote efficiency in
6 appropriate health care delivery.

7 (g) No Health Maintenance Organization shall offer any evidence of
8 coverage, or amendment thereto to any person in this state without also
9 providing in the plan for the continuity of care following a termination of
10 any contract with a participating health care provider:

11 (1) The plan shall provide for continuity of care at the
12 enrollee's option, for a transitional period of up to sixty (60) days from the
13 date the enrollee was notified by the plan of the termination or pending
14 termination. The managed care plan, in consultation with the enrollee and the
15 health care provider, may extend the transitional period if determined to be
16 clinically appropriate. In the case of an enrollee in the second or third
17 trimester of pregnancy at the time of notice of the termination or pending
18 termination, the transitional period shall extend through postpartum care
19 related to the delivery. Any health care service provided under this section
20 shall be covered by the managed care plan under the same terms and conditions
21 as applicable for participating health care providers.

22 (2) If the plan terminates the contract of a participating health
23 care provider for cause, including breach of contract, fraud, criminal
24 activity or posing a danger to an enrollee or the health, safety or welfare of
25 the public as determined by the plan, the plan shall not be responsible for
26 health care services provided to the enrollee following the date of
27 termination.

28 (3) If the plan terminates the contract of a participating primary
29 care provider, the plan shall notify every enrollee served by that provider of
30 the plan's termination of its contract and shall request that the enrollee
31 select another primary care provider.

32 (4) A new enrollee may continue an ongoing course of treatment
33 with a nonparticipating health care provider for a transitional period of up
34 to sixty (60) days from the effective date of enrollment in a managed care
35 plan. The managed care plan, in consultation with the enrollee and the health
36 care provider, may extend this transitional period if determined to be

1 clinically appropriate. In the case of a new enrollee in the second or third
 2 trimester of pregnancy on the effective date of enrollment, the transitional
 3 period shall extend through postpartum care related to the delivery. Any
 4 health care service provided under this section shall be covered by the
 5 managed care plan under the same terms and conditions as applicable for
 6 participating health care providers.

7 (5) A plan may require a nonparticipating health care provider
 8 whose health care services are covered under this section to meet the same
 9 terms and conditions as a participating health care provider.

10 (6) Nothing in this section shall require a managed care plan to
 11 provide health care services that are not otherwise covered under the terms
 12 and conditions of the plan."

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 14 SECTION 2. All provisions of this Act of a general and permanent nature
 15 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
 16 Revision Commission shall incorporate the same in the Code.

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 18 SECTION 3. If any provision of this Act or the application thereof to
 19 any person or circumstance is held invalid, such invalidity shall not affect
 20 other provisions or applications of the Act which can be given effect without
 21 the invalid provision or application, and to this end the provisions of this
 22 Act are declared to be severable.

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 24 SECTION 4. All laws and parts of laws in conflict with this Act are
 25 hereby repealed.

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