

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

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

A Bill

HOUSE BILL 2212

4
5 By: Representatives Faris, Rodgers
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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. Arkansas Code 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 who will not accept the highest charge paid to
14 network providers as payment in full.

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

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

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

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

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

36 (f) No health maintenance organization shall provide, directly or

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

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

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

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

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

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

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

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

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

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

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

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

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