

**Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.**

1 State of Arkansas *As Engrossed: H2/12/01, S3/27/01 S4/4/01*

2 83rd General Assembly

# A Bill

3 Regular Session, 2001

HOUSE BILL 1324

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5 By: Representative R. Smith

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## For An Act To Be Entitled

9 AN ACT TO CLARIFY THAT THE PROHIBITION AGAINST  
10 BALANCE BILLING APPLIES REGARDLESS OF THE  
11 FINANCIAL CONDITION OF A HEALTH MAINTENANCE  
12 ORGANIZATION; AND FOR OTHER PURPOSES.

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## Subtitle

15 AN ACT TO CLARIFY THAT THE PROHIBITION  
16 AGAINST BALANCE BILLING APPLIES  
17 REGARDLESS OF THE FINANCIAL CONDITION OF  
18 A HEALTH MAINTENANCE ORGANIZATION.

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

22

23 SECTION 1. Arkansas Code 23-76-118(b) is amended to read as follows:

24 ~~(b)(1) Hold Harmless. Every contract between a health maintenance~~  
25 ~~organization and a participating provider of health care services shall be in~~  
26 ~~writing and shall set forth that in the event the health maintenance~~  
27 ~~organization fails to pay for health care services as set forth in the~~  
28 ~~contract, the subscriber or enrollee shall not be liable to the provider for~~  
29 ~~any sums owed by the health maintenance organization.~~

30 ~~(2) In the event that the participating provider contract has not~~  
31 ~~been reduced to writing as required by this subsection or that the contract~~  
32 ~~fails to contain the required prohibition, the participating provider shall~~  
33 ~~not collect or attempt to collect from the subscriber or enrollee sums owed by~~  
34 ~~the health maintenance organization.~~

35 ~~(3)(1)(A)~~ No participating provider, or the provider's agent,  
36 trustee or assignee may maintain an action at law against a subscriber or

1 enrollee to collect sums owed by the health maintenance organization; nor make  
 2 any statement, either written or oral, to any subscriber or enrollee that  
 3 makes demand for, or would lead a reasonable person to believe that a demand  
 4 is being made for payment of any amounts owed by the health maintenance  
 5 organization.

6 (B)(i) If a participating provider has a pattern or practice of  
 7 violating this subsection, and continues to violate this subsection after the  
 8 Insurance Commissioner has issued a written warning to the participating  
 9 provider, the Insurance Commissioner may levy a penalty in an amount not less  
 10 than one hundred and fifty dollars (\$150), nor more than one thousand five  
 11 hundred dollars (\$1,500).

12 (ii) Before imposing the penalty, the Insurance Commissioner  
 13 shall send a written notice to the participating provider informing the  
 14 provider of the right to a hearing pursuant to §§ 23-61-303 through 23-61-307.

15 ~~(4)(2)~~ "Participating provider" means a provider as defined in §  
 16 23-76-102(10) who, under an express or implied contract with the health  
 17 maintenance organization or with its contractor or subcontractor, has agreed  
 18 to provide health care services to enrollees with an expectation of receiving  
 19 payment, other than copayment or deductible, directly or indirectly from the  
 20 health maintenance organization.

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 22 SECTION 2. Arkansas Code 23-76-119 is amended by adding an additional  
 23 subsection to read as follows:

24 (c)(1) Hold Harmless. Every contract between a health maintenance  
 25 organization and a participating provider of health care services shall be in  
 26 writing and shall set forth that in the event the health maintenance  
 27 organization fails to pay for health care services as set forth in the  
 28 contract, the subscriber or enrollee shall not be liable to the provider for  
 29 any sums owed by the health maintenance organization.

30 (2) In the event that the participating provider contract has not  
 31 been reduced to writing as required by this subsection or that the contract  
 32 fails to contain the required prohibition, the participating provider shall  
 33 not collect or attempt to collect from the subscriber or enrollee sums owed by  
 34 the health maintenance organization.

35 (3) (A) No participating provider, or the provider's agent,  
 36 trustee or assignee, may maintain an action at law against a subscriber or

1 enrollee to collect sums owed to them by the health maintenance organization;  
 2 nor shall they make any statement, either written or oral, to any subscriber  
 3 or enrollee that makes demand for, or would lead a reasonable person to  
 4 believe that a demand is being made for, payment of any amounts owed by the  
 5 health maintenance organization.

6 (B)(i) If a participating provider has a pattern or practice of  
 7 violating this subsection, and continues to violate this subsection after the  
 8 Insurance Commissioner has issued a written warning to the participating  
 9 provider, the Insurance Commissioner may levy a penalty in an amount not less  
 10 than one hundred and fifty dollars (\$150), nor more than one thousand five  
 11 hundred dollars (\$1,500).

12 (ii) Before imposing the penalty, the Insurance Commissioner  
 13 shall send a written notice to the participating provider informing the  
 14 provider of the right to a hearing pursuant to § 23-61-303 through 23-61-307.

15 (4) "Participating provider" means a provider as defined in § 23-  
 16 76-102(10) who, under an express or implied contract with the health  
 17 maintenance organization or with its contractor or subcontractor, has agreed  
 18 to provide health care services to enrollees with an expectation of receiving  
 19 payment, other than copayment or deductible, directly or indirectly from the  
 20 health maintenance organization.

21  
 22 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the General  
 23 Assembly that some providers in health maintenance organization networks are  
 24 failing to comply with contractual provisions prohibiting the billing of  
 25 enrollees. Therefore, an emergency is declared to exist and this act being  
 26 immediately necessary for the preservation of the public peace, health and  
 27 safety shall become effective on the date of its approval by the Governor. If  
 28 the bill is neither approved nor vetoed by the Governor, it shall become  
 29 effective on the expiration of the period of time during which the Governor  
 30 may veto the bill. If the bill is vetoed by the Governor and the veto is  
 31 overridden, it shall become effective on the date the last house overrides the  
 32 veto.

33 /s/ R. Smith  
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