

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.

State of Arkansas
83rd General Assembly
Regular Session, 2001

A Bill

SENATE BILL 351

By: Senator Wilkins

For An Act To Be Entitled

AN ACT TO AMEND VARIOUS PROVISIONS OF CHAPTER 85 OF
TITLE 23 REGARDING INDIVIDUAL ACCIDENT AND HEALTH
INSURANCE; AND FOR OTHER PURPOSES.

Subtitle

AN ACT TO AMEND VARIOUS PROVISIONS OF
CHAPTER 85 OF TITLE 23 REGARDING
INDIVIDUAL ACCIDENT AND HEALTH
INSURANCE.

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

SECTION 1. The title to Chapter 85 of Title 23 of the Arkansas Code is amended to read as follows:

~~DISABILITY INSURANCE~~ ACCIDENT AND HEALTH INSURANCE

SECTION 2. Arkansas Code 23-85-101(a) is amended to read as follows:

(a) ~~Disability insurance~~ Accident and health insurance on a franchise plan is declared to be that form of ~~disability insurance~~ accident and health insurance issued to:

(1) Five (5) or more employees of any corporation, copartnership, or individual employer or any governmental corporation, agency, or department thereof; or

(2) Ten (10) or more members, employees, or employees of members of any trade or professional association or of a labor union or of any other association having had an active existence for at least two (2) years where the association or union has a constitution or bylaws and is formed in good

1 faith for purposes other than that of obtaining insurance; where such persons,
 2 with or without their dependents, are issued the same form of an individual
 3 policy varying only as to amounts and kinds of coverage applied for by the
 4 persons under an arrangement whereby the premiums on the policies may be paid
 5 to the insurer periodically by the employer, with or without payroll
 6 deductions, or by the association for its members, or by some designated
 7 person acting on behalf of the employer or association or union.

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 9 SECTION 3. Arkansas Code 23-85-102 is amended to read as follows:

10 23-85-102. Scope.

11 This Chapter 85 governs accident and health insurance policies issued to
 12 individuals and members of their families. Nothing in §§ 23-85-101 - 23-85-
 13 ~~131~~ 137 shall apply to or affect:

14 (1) Any policy of liability or workers' compensation insurance
 15 with or without supplementary expense coverage therein;

16 (2) Any group or blanket policy;

17 (3) Life insurance, endowment, or annuity contracts, or contracts
 18 supplemental thereto which contain only such provisions relating to ~~disability~~
 19 accident and health insurance as:

20 (A) Provide additional benefits in case of death,
 21 dismemberment, or loss of sight by accident; or

22 (B) Operate to safeguard the contracts against lapse or to
 23 give a special surrender value or special benefit or an annuity in the event
 24 that the insured or annuitant becomes totally and permanently disabled, as
 25 defined by the contract or supplemental contract;

26 (4) Reinsurance.
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28 SECTION 4. Arkansas Code 23-85-104 is amended to read as follows:

29 23-85-104. Form of policy.

30 No policy of ~~disability~~ accident and health insurance shall be delivered
 31 or issued for delivery to any person in this state unless it otherwise
 32 complies with this code and complies with the following:

33 (1) The entire money and other considerations for the policy
 34 shall be expressed therein;

35 (2) The time when the insurance takes effect and terminates shall
 36 be expressed in the policy;

(3) It shall purport to insure only one (1) person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of a family who shall be deemed the policyholder, any two (2) or more eligible members of that family, including husband, wife, or any other person dependent upon the policyholder;

(4) The style, arrangement, and overall appearance of the policy shall give no undue prominence to any portion of the text. ~~Every printed in printed forms,~~ every portion of the text of the policy and of any endorsements or attached papers shall be plainly printed in light-faced type of a style in general use, the size of which shall be uniform and not less than ten (10) point with a lower case unspaced alphabet length not less than one hundred twenty (120) point. The appearance of text in forms developed for electronic transmission shall comply with rules and regulations developed by the commissioner. The text shall include all printed matter except the name and address of the insurer, name or title of the policy, the brief description, if any, and captions and subcaptions;

(5) The exceptions and reductions of indemnity shall be set forth in the policy and, other than those contained in §§ 23-85-106 - 23-85-126 and 23-85-128, shall be printed, at the insurer's option, either included with the benefit provision to which they apply, or under an appropriate caption such as "Exceptions," or "Exceptions and Reductions," except that if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of the exception or reduction shall be included with the benefit provision to which it applies;

(6) Each form, including riders and endorsements, shall be identified by a form number in the lower left-hand corner of the first page;

(7) The policy shall contain no provision purporting to make any portion of the charter, rules, constitution, or bylaws of the insurer a part of the policy unless the portion is set forth in full in the policy, except in the case of the incorporation of, or reference to, a statement of rates or classification of risk, or short-rate table filed with the Insurance Commissioner.

SECTION 5. Arkansas Code 23-85-105(a) is amended to read as follows:

(a)(1) Except as provided in subsection (b) of this section, each accident and health policy delivered or issued for delivery to any person in

1 this state shall contain the provisions specified in §§ 23-85-106 - 23-85-117
2 in the words in which the provisions appear.

3 (2) However, the insurer may, at its option, substitute for one
4 (1) or more of the provisions corresponding provisions of different wording
5 approved by the Insurance Commissioner which are in each instance not less
6 favorable in any respect to the insured or the beneficiary. Each provision
7 shall be preceded individually by the applicable caption shown, or at the
8 option of the insurer, by the appropriate individual or group captions or
9 subcaptions as the commissioner may approve.

10 (3) For the purpose of protecting the public against
11 misrepresentations and misleading representations regarding the benefits
12 provided in any policy of ~~disability~~ accident and health insurance, the
13 commissioner is directed to prescribe minimum benefit provisions which shall
14 be included in and made a part of every policy of ~~disability~~ accident and
15 health insurance sold or offered for sale in this state.

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17 SECTION 6. Arkansas Code 23-85-128(a) is amended to read as follows:

18 (a) ~~Disability~~ Accident and health insurance policies in which the
19 insurer reserves the right to refuse renewal on an individual basis shall
20 provide in substance in a provision thereof, in an endorsement thereon, or
21 rider attached thereto that, subject to the right to terminate the policy for
22 nonpayment of premium when due, the right to refuse renewal may not be
23 exercised so as to take effect before the renewal date occurring on or after
24 the next policy anniversary, or in the case of lapse and reinstatement, at the
25 renewal date occurring on or after the next anniversary of the last
26 reinstatement. The provision, endorsement, or rider shall also state that any
27 refusal of renewal shall be without prejudice to any claim originating while
28 the policy is in force.

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30 SECTION 7. Arkansas Code 23-85-131(b)(1) is amended to read as follows:

31 (b)(1) In any ~~disability~~ accident and health insurance contract that
32 contains a provision whereby coverage of a dependent in a family group
33 terminates at a specified age, there shall also be a provision that coverage
34 of an unmarried dependent who is incapable of sustaining employment by reason
35 of mental retardation or physical disability, who became so incapacitated
36 prior to the attainment of the age of nineteen (19) years and who is chiefly

dependent upon the policyholder for support and maintenance, shall not terminate but coverage shall continue so long as the contract remains in force and so long as the dependent remains in such condition.

SECTION 8. Arkansas Code 23-85-132(a) & (b) are amended to read as follows:

(a) No contract of individual ~~disability~~ accident and health insurance or health coverage sold, delivered, or issued for delivery or offered for sale in this state by an insurer, hospital and medical service corporation, or health maintenance organization, directly or indirectly providing indemnity, services, health care services, or cash to an individual as a result of hospitalization, medical or surgical treatment, or dental care shall contain a provision reducing the benefit which would otherwise be payable to the individual in the absence of other insurance or health coverage if the reduction of benefits is due solely to the existence of one (1) or more additional contracts providing benefits to that individual, unless the reduction complies with coordination of benefit rules and regulations adopted by the Insurance Commissioner.

(b) No contract of individual ~~disability~~ accident and health insurance sold, delivered, or issued for delivery or offered for sale in this state providing disability income coverage shall contain any provision for the denial or reduction of benefits because of the existence of other insurance, except as provided in § 23-85-122 or any coverages approved by the commissioner pursuant thereto and except that the benefits may be reduced to offset disability income benefits payable under the federal Social Security Act.

SECTION 9. Arkansas Code 23-85-133(a)(1), concerning required outpatient services coverage, is amended to read as follows:

(a)(1) No policy or contract of ~~disability~~ accident and health insurance, including contracts issued by hospital and medical service corporations, which provides coverage for any of the following services when delivered on an inpatient basis, shall be sold, delivered, or issued for delivery or offered for sale in this state unless the identical coverage for the following services is provided when delivered on an outpatient basis:

(A) Laboratory and pathological tests;

- (B) X rays;
- (C) Chemotherapy;
- (D) Radiation treatment; and
- (E) Renal dialysis.

SECTION 10. Arkansas Code 23-85-134 is amended to read as follows:

23-85-134. Refund of unearned premiums upon death of insured.

(a) Upon the death of an insured, the proceeds payable to the insured or his estate under the policy of individual ~~disability~~ accident and health insurance, delivered or issued for delivery in this state after June 17, 1981, shall include premiums paid, for ~~disability~~ accident and health insurance coverage for the insured, for any period beyond the end of the policy month in which the death occurred.

(b) Unearned premiums shall be paid in lump sum on a date no later than (30) days after the proof of the insured's death has been furnished to the insurer.

(c) This section shall be applicable to all individual contracts of ~~disability~~ accident and health insurance including individual contracts issued by hospital and medical service corporations.

SECTION 11. Arkansas Code 23-85-136(a) is amended to read as follows:

(a) ~~As of January 1, 1996, a~~ All ~~disability~~ accident and health insurers transacting business in this state shall use Form HCFA 1500 and Form UB-92/HCFA 1450, or the claim format required by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as the standard claim forms until and unless the Insurance Commissioner prescribes otherwise.

SECTION 12. Arkansas Code 23-85-137(a)-(c) are amended to read as follows:

(a) All ~~disability~~ accident and health insurance companies doing business in this state shall include, as a covered expense, in vitro fertilization.

(b) The Insurance Commissioner, pursuant to the applicable provisions of the Arkansas Insurance Code, § 23-60-101 et seq., may suspend or revoke the certificate of authority of any insurance company failing to comply with the provisions of this section.

1 (c) After conducting appropriate studies and public hearings, the
2 Insurance Commissioner shall establish minimum and maximum levels of coverage
3 to be provided by the ~~disability~~ accident and health insurance companies.
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