

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
2 83rd General Assembly
3 Regular Session, 2001

A Bill

SENATE BILL 455

4
5 By: Senator Wilkins
6
7

For An Act To Be Entitled

9 AN ACT TO AMEND VARIOUS PROVISIONS OF CHAPTER 86 OF
10 TITLE 23 FOR GROUP AND BLANKET ACCIDENT AND HEALTH
11 INSURANCE; AND FOR OTHER PURPOSES.
12

Subtitle

13 THE GROUP ACCIDENT AND HEALTH INSURANCE
14 POLICY OMNIBUS ACT.
15
16
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. The title to Chapter 86 of Title 23 of the Arkansas Code is
21 amended to read as follows:

22 Chapter 86. Group and Blanket ~~Disability~~ Accident and Health Insurance
23

24 SECTION 2. Arkansas Code 23-86-101 is amended to read as follows:

25 23-86-101. Blanket ~~disability~~ accident and health insurance -

26 Definition.

27 Blanket ~~disability~~ accident and health insurance is declared to be that
28 form of ~~disability~~ accident and health insurance covering groups of persons as
29 enumerated in one (1) of the following subdivisions:

30 (1) Under a policy or contract issued to any common carrier or to
31 any operator, owner, or lessee of a means of transportation, who or which
32 shall be deemed the policyholder, covering a group defined as all persons or
33 all persons of a class who may become passengers on the common carrier or such
34 means of transportation;

35 (2) Under a policy or contract issued to an employer, who shall
36 be deemed the policyholder, covering all employees, dependents, or guests,

1 defined by reference to specified hazards incident to the activities or
 2 operations of the employer or any class of employees, dependents, or guests
 3 similarly defined;

4 (3) Under a policy or contract issued to a school or other
 5 institution of learning, camp, or sponsor thereof; or to the head or principal
 6 thereof, who or which shall be deemed the policyholder, covering students or
 7 campers. Supervisors and employees may be included;

8 (4) Under a policy or contract issued in the name of any
 9 religious, charitable, recreational, educational, or civic organization, which
 10 shall be deemed the policyholder, covering participants in activities
 11 sponsored by the organization;

12 (5) Under a policy or contract issued to a sports team or
 13 sponsors thereof, which shall be deemed the policyholder, covering members,
 14 officials, and supervisors;

15 (6) Under a policy or contract issued in the name of any
 16 volunteer fire department, first aid, or other such volunteer group, or agency
 17 having jurisdiction thereof, which shall be deemed the policyholder, covering
 18 all of the members of the fire department or group; or

19 (7) Under a policy or contract issued to cover any other risk or
 20 class of risks which, in the discretion of the commissioner, may be properly
 21 eligible for blanket ~~disability~~ accident and health insurance. The discretion
 22 of the Insurance Commissioner may be exercised on an individual risk basis or
 23 class of risks, or both.

24
 25 SECTION 3. Arkansas Code 23-86-102 is amended to read as follows:

26 23-86-102. Blanket ~~disability~~ accident and health insurance - Required
 27 provisions.

28 Any insurer authorized to write ~~disability~~ accident and health insurance
 29 in this state shall have the power to issue blanket disability insurance. No
 30 blanket policy may be issued or delivered in this state unless a copy of the
 31 form shall have been filed in accordance with § 23-79-109. Every blanket
 32 policy shall contain provisions which in the opinion of the Insurance
 33 Commissioner are at least as favorable to the policyholder and the individual
 34 insured as the following:

35 (1) A provision that the policy and the application shall
 36 constitute the entire contract between the parties and that all statements

1 made by the policyholder shall, in absence of fraud, be deemed representations
2 and not warranties, and that no such statements shall be used in defense to a
3 claim under the policy, unless it is contained in a written application;

4 (2) A provision that written notice of sickness or of injury must
5 be given to the insurer within twenty (20) days after the date when such
6 sickness or injury occurred. Failure to give notice within the time shall not
7 invalidate or reduce any claim if it shall be shown not to have been
8 reasonably possible to give such notice and that notice was given as soon as
9 was reasonably possible;

10 (3) A provision that the insurer will furnish to the policyholder
11 such forms as are usually furnished by it for filing proof of loss. If the
12 forms are not furnished before the expiration of fifteen (15) days after the
13 giving of the notice, the claimant shall be deemed to have complied with the
14 requirements of the policy as to proof of loss upon submitting within the time
15 fixed in the policy for filing proof of loss, written proof covering the
16 occurrence, character, and extent of the loss for which claim is made;

17 (4) A provision that in the case of claim for loss of time for
18 disability, written proof of the loss must be furnished to the insurer within
19 thirty (30) days after the commencement of the period for which the insurer is
20 liable, and the subsequent written proofs of the continuance of such
21 disability must be furnished to the insurer at such intervals as the insurer
22 may reasonably require, and that in the case of claim for any other loss,
23 written proof of the loss must be furnished to the insurer within ninety (90)
24 days after the date of loss. Failure to furnish proof within the time shall
25 not invalidate or reduce any claim if it shall be shown not to have been
26 reasonably possible to furnish the proof and that the proof was furnished as
27 soon as was reasonably possible;

28 (5) A provision that all benefits payable under the policy other
29 than benefits for loss of time will be payable immediately upon receipt of due
30 written proof of the loss, and that, subject to due proof of loss, all accrued
31 benefits payable under the policy for loss of time will be paid not later than
32 at the expiration of each period of thirty (30) days during the continuance of
33 the period for which the insurer is liable, and that any balance remaining
34 unpaid at the termination of the period will be paid immediately upon receipt
35 of the proof;

36 (6) A provision that the insurer, at its own expense, shall have

1 the right and opportunity to examine the person of the insured when and so
 2 often as it may reasonably require during the pendency of claim under the
 3 policy and also the right and opportunity to make an autopsy in case of death
 4 where it is not prohibited by law;

5 (7) A provision that no action at law or in equity shall be
 6 brought to recover under the policy prior to the expiration of sixty (60) days
 7 after written proof of loss has been furnished in accordance with the
 8 requirements of the policy and that no such action shall be brought after the
 9 expiration of three (3) years after the time written proof of loss is required
 10 to be furnished; and

11 (8) In any contract that contains a provision whereby coverage of
 12 a dependent in a family group terminates at a specified age, there shall also
 13 be a provision that coverage of an unmarried dependent who is incapable of
 14 sustaining employment by reason of mental retardation or physical disability,
 15 who became so incapacitated prior to the attainment of age nineteen (19) and
 16 who is chiefly dependent upon the employee for support and maintenance, shall
 17 not terminate but coverage shall continue so long as the contract remains in
 18 force and so long as the dependent remains in such condition. At the request
 19 and expense of the insurer, proof of the incapacity or dependency must be
 20 furnished to the insurer by the policyholder. In no event shall this
 21 requirement preclude eligible dependents under Acts 1975, No. 649, § 5, as
 22 amended, regardless of age. If the incapacity or dependency is thereafter
 23 removed or terminated, the policyholder shall so notify the insurer.

24
 25 SECTION 4. Arkansas Code 23-86-103 is amended to read as follows:

26 23-86-103. Blanket ~~disability~~ accident and health insurance -
 27 Application and certificates not required.

28 An individual application shall not be required from a person covered
 29 under a blanket ~~disability~~ accident and health policy or contract, nor shall
 30 it be necessary for the insurer to furnish each person a certificate.

31
 32 SECTION 5. Arkansas Code 23-86-104 is amended to read as follows:

33 23-86-104. Blanket ~~disability~~ accident and health insurance - Payment of
 34 benefits.

35 (a)(1) All benefits under any blanket ~~disability~~ accident and health
 36 policy shall be payable to the person insured, to his designated

1 beneficiaries, or to his estate.

2 (2) However, if the person insured is a minor or mental
3 incompetent, the benefits may be made payable to his parent, guardian, or
4 other person actually supporting him. If the entire cost of the insurance has
5 been borne by the employer, the benefits may be made payable to the employer.

6 (b)(1) However, the policy may provide that all or any portion of any
7 indemnities provided by the policy on account of hospital, nursing, medical,
8 or surgical services may, at the insurer's option, be paid directly to the
9 hospital or person rendering the services, but the policy may not require that
10 the service be rendered by a particular hospital or person.

11 (2) Payment so made shall discharge the insurer's obligation with
12 respect to the amount of insurance paid.

13

14 SECTION 6. Arkansas Code 23-86-106 is amended to read as follows:

15 23-86-106. Group ~~disability~~ accident and health insurance - Definition.

16 Group ~~disability~~ accident and health insurance is declared to be that
17 form of ~~disability~~ accident and health insurance covering groups of persons as
18 defined in this section, with or without one (1) or more members of their
19 families or one (1) or more of their dependents, or covering one (1) or more
20 members of the families or one (1) or more dependents of the groups of
21 persons, and issued upon the following basis:

22 (1)(A) Under a policy issued to an employer or trustees of a fund
23 established by an employer, who shall be deemed the policyholder, insuring
24 employees of the employer for the benefit of persons other than the employer.

25 (B) The term "employees" as used in subdivision (1) of this
26 section shall be deemed to include the officers, managers, and employees of
27 the employer, the individual proprietor or partner if the employer is an
28 individual proprietor or partnership, the officers, managers, and employees of
29 subsidiary or affiliated corporations, the individual proprietors, partners,
30 and employees of individuals and firms, if the business of the employer and
31 the individual or firm is under common control through stock ownership,
32 contract, or otherwise.

33 (C) The term "employees" as used in subdivision (1) of this
34 section may include retired employees.

35 (D) A policy issued to insure employees of a public body
36 may provide that the term "employees" shall include elected or appointed

1 officials.

2 (E) The policy may provide that the term "employees" shall
3 include the trustees or their employees, or both, if their duties are
4 principally connected with the trusteeship;

5 (2) Under a policy issued to an association, including a labor
6 union, which shall have a constitution and bylaws and which has been organized
7 and is maintained in good faith for purposes other than that of obtaining
8 insurance or insuring members, employees, or employees of members of the
9 association for the benefit of persons other than the association or its
10 officers or trustees. The term "employees" as used in this subdivision may
11 include retired employees;

12 (3)(A) Under a policy issued to the trustees of a fund
13 established by two (2) or more employers in the same or related industry or by
14 one (1) or more labor unions or by one (1) or more employers and one (1) or
15 more labor unions or by an association as defined in subdivision (2) of this
16 section, who shall be deemed the policyholder, to insure employees of the
17 employers or members of the unions or of the association, or employees of
18 members of the association, for the benefit of persons other than the
19 employers or the unions or the association.

20 (B) The term "employees" as used in subdivision (3) of this
21 section may include the officers, managers, and employees of the employer and
22 the individual proprietor or partners if the employer is an individual
23 proprietor or partnership.

24 (C) The term "employees" as used in subdivision (3) of this
25 section may include retired employees.

26 (D) The policy may provide that the term "employees" shall
27 include the trustees or their employees, or both, if their duties are
28 principally connected with such trusteeship;

29 (4) Under a policy issued to any person or organization to which
30 a policy of group life insurance may be issued or delivered in this state to
31 insure any classes of individuals that could be insured under the group life
32 policy, and in accord with appropriate provisions of chapter 16 of Acts 1959,
33 No. 148 [repealed];

34 (5) Under a policy issued to cover any other substantially
35 similar group which, in the discretion of the Insurance Commissioner, may be
36 subject to the issuance of a group ~~disability~~ accident and health policy or

1 contract.

2

3 SECTION 7. Arkansas Code 23-86-107 is amended to read as follows:

4 23-86-107. Group ~~disability~~ accident and health insurance - ~~Section 23-~~
5 ~~83-123~~ applicable Requires authorized insurer.

6 ~~Section 23-83-123 is applicable to group disability insurance contracts~~
7 ~~covering persons resident in this state.~~ (a) All group accident and health
8 insurance placed by an employer on employees who are residents of this state
9 shall be placed by the employer with an insurer authorized to transact
10 insurance in this state.

11 (b) This section shall not apply to group insurance lawfully placed in
12 an unauthorized insurer transacting insurance as a surplus line insurer under
13 Chapter 65 of Title 23.

14

15 SECTION 8. Arkansas Code 23-86-108 is amended to read as follows:

16 23-86-108. Group ~~disability~~ accident and health insurance - Required
17 provisions.

18 Each group ~~disability~~ accident and health insurance policy shall contain
19 in substance the following provisions:

20 (1) A provision that, in the absence of fraud, all statements
21 made by applicants or the policyholder or by an insured person shall be deemed
22 representations and not warranties and that no statement made for the purpose
23 of effecting insurance shall void the insurance or reduce benefits unless
24 contained in a written instrument signed by the policyholder of the insured
25 person, a copy of which has been furnished to the policyholder or to the
26 person or his beneficiary;

27 (2) A provision that the insurer will furnish to the policyholder
28 for delivery to each employee or member of the insured group a statement in
29 summary form of the essential features of the insurance coverage of the
30 employee or member and to whom benefits thereunder are payable. If dependents
31 are included in the coverage, only one (1) certificate need be issued for each
32 family unit;

33 (3) A provision that to the group originally insured may be added
34 from time to time eligible new employees or members or dependents, as the case
35 may be, in accordance with the terms of the policy;

36 (4) In any contract that contains a provision whereby coverage of

1 a dependent in a family group terminates at a specified age, there shall also
 2 be a provision that coverage of an unmarried dependent who is incapable of
 3 sustaining employment by reason of mental retardation or physical disability,
 4 who became so incapacitated prior to the attainment of age nineteen (19) years
 5 and who is chiefly dependent upon the employee for support and maintenance,
 6 shall not terminate but coverage shall continue so long as the coverage of the
 7 employee or member remains in force and so long as the dependent remains in
 8 such condition. At the request and expense of the insurer, proof of the
 9 incapacity or dependency must be furnished to the insurer by the policyholder,
 10 except in no event shall this requirement preclude eligible dependents under
 11 Acts 1975, No. 649, § 5, as amended, regardless of age. If the incapacity or
 12 dependency is thereafter removed or terminated, the policyholder shall so
 13 notify the insurer;

14 (5)(A) No policy or contract of group ~~disability~~ accident and
 15 health insurance, including contracts issued by hospital and medical service
 16 corporations which provides coverage for any of the following services when
 17 delivered on an inpatient basis shall hereafter be sold, delivered, or issued
 18 for delivery or offered for sale in this state unless the identical coverage
 19 for such services is provided when delivered on an outpatient basis:

- 20 (i) Laboratory and pathological tests;
- 21 (ii) X rays;
- 22 (iii) Chemotherapy;
- 23 (iv) Radiation treatment; and
- 24 (v) Renal dialysis.

25 (B) However, the coverage required by subdivision (5)(A) of
 26 this section shall not be required where any policyholder or contract holder
 27 shall reject the coverage in writing.

28 (C) The definition of the services referred to in
 29 subdivision (5) of this section shall be the same as found in § 23-85-133.

30 (D) All existing group contracts, including existing group
 31 contracts issued by hospital and medical service corporations, shall conform
 32 to the provisions of subdivision (5) of this section upon the first
 33 anniversary of the issue date, after March 12, 1981;

34 (6) A provision that:

35 (A) All benefits payable under the policy other than
 36 benefits for loss of time will be payable immediately upon receipt of written

1 proof of such loss;

2 (B) Subject to proof of loss, all accrued benefits payable
3 under the policy for loss of time will be paid not later than at the
4 expiration of each period of thirty (30) days during the continuance of the
5 period for which the insurer is liable; and

6 (C) Any balance remaining unpaid at the termination of that
7 period will be paid immediately upon receipt of due proof; and

8 (7)(A) Every insurer, hospital or medical service corporation,
9 fraternal benefit society, self-funded health care plan, or health maintenance
10 organization providing replacement coverage, with respect to group ~~disability~~
11 accident and health benefits within a period of sixty (60) days from the date
12 of discontinuance of a prior plan, shall immediately cover all employees and
13 dependents:

14 (i) If each employee or dependent was validly covered
15 under the previous plan at the date of the discontinuance;

16 (ii) If each employee or dependent is a member of the
17 class of individuals eligible for coverage under the succeeding carrier's
18 plan, regardless of any of the plan's limitations or exclusions relating to
19 "actively at work" or hospital confinement; and

20 (iii) Only if the group ~~disability~~ accident and
21 health benefits were provided to a group consisting of more than fifteen (15)
22 members.

23 (B) The succeeding carrier shall be entitled to deduct from
24 its benefits any benefits payable by the previous carrier pursuant to an
25 extension of benefits provision.

26 (C) No provision in a succeeding carrier's plan of
27 replacement coverage which would operate to reduce or exclude benefits, on the
28 basis that the condition giving rise to benefits preexisted the effective date
29 of the succeeding carrier's plan, shall be applied with respect to those
30 employees and dependents validly insured under the previous carrier's policy
31 on the date of discontinuance if benefits for the condition would have been
32 payable under the previous carrier's plan.

33 (D) The provisions of this section shall apply upon the
34 issuance of an insurance policy or health care plan:

35 (i) To a group whose benefits had previously been
36 self-insured;

1 (ii) To a self-insurer providing coverage to a group
2 which had been previously covered by an insurer; and

3 (iii) To a group which had previously been covered by
4 an insurer.

5
6 SECTION 9. Arkansas Code 23-86-109 is amended to read as follows:

7 23-86-109. Group ~~disability~~ accident and health insurance - Optional
8 continuation of benefit provisions.

9 Any group ~~disability~~ accident and health policy which contains
10 provisions for the payment by the insurer of benefits for expenses incurred on
11 account of hospital, nursing, medical, or surgical services for members of the
12 family or dependents of a person in the insured group may provide for the
13 continuation of the benefit provisions, or any parts thereof, after the death
14 of the person in the insured group.

15
16 SECTION 10. Arkansas Code 23-86-110 is amended to read as follows:

17 23-86-110. Group ~~disability~~ accident and health insurance -
18 Administration of benefits.

19 (a)(1) All group ~~disability~~ accident and health carriers including
20 hospital and medical service corporations shall be subject to the "primary"
21 and "secondary" carrier rules and regulations promulgated by the Insurance
22 Commissioner.

23 (2) The secondary carrier shall administer benefits on a timely
24 basis.

25 (b) This section shall be applicable to all group contracts of
26 ~~disability~~ accident and health insurance sold, delivered or issued for
27 delivery, renewed, or offered for sale in this state, including those issued
28 by hospital and medical service corporations, except group contracts for
29 employees whose employer pays one hundred percent (100%) of the premiums.

30
31 SECTION 11. Arkansas Code 23-86-111 is amended to read as follows:

32 23-86-111. Group disability insurance - Payment of benefits where other
33 like insurance exists.

34 (a) No contract of group disability insurance or health coverage sold,
35 delivered or issued for delivery, renewed, or offered for sale in this state
36 by an insurer, hospital and medical service corporation, or health maintenance

1 organization, directly or indirectly providing indemnity, services, health
 2 care services, or cash to an individual as a result of hospitalization,
 3 medical or surgical treatment, or dental care, shall contain any provision for
 4 the denial or reduction of benefits because of the existence of other like
 5 insurance except to the extent that the aggregate benefits with respect to the
 6 covered medical expenses incurred under the contract and all other like
 7 insurance with other insurers, hospital and medical service corporations, or
 8 health maintenance organizations exceed all covered medical expenses incurred.
 9 The term "other like insurance" may include group or blanket disability
 10 insurance or group coverage provided by health maintenance organizations,
 11 hospital and medical service corporations, government insurance plans, except
 12 Medicaid, union welfare plans, employer or employee benefit organizations, or
 13 workers' compensation insurance or no-fault automobile coverage provided for
 14 or required by any statute.

15 (b)(1) No group disability insurance policy providing disability income
 16 coverage sold, delivered or issued for delivery, renewed, or offered for sale
 17 in this state shall provide for reduction in the amount of the disability
 18 benefits payable to the insured to the extent of and because of the existence
 19 of other such coverage, unless the policy provides a minimum amount payable,
 20 regardless of the reduction, of fifty dollars (\$50.00) per month.

21 (2) "Other such coverage" for which a reduction may be effected
 22 includes:

23 (A) Governmental programs such as federal social security,
 24 Arkansas Public Employees' Retirement System, the State Workers' Compensation
 25 System, and all other government-sponsored, mandatory plans or programs that
 26 provide for disability benefit coverage;

27 (B) Disability or pension income coverages as established
 28 by the Insurance Commissioner through implementing rules and regulations; and

29 (C) Such other programs, coverages, or permissible
 30 reductions as the commissioner may establish through rules and regulations.

31 (3) The amount of any such reduction shall not be increased with
 32 any increase in the level of federal social security benefits payable which
 33 becomes effective after a claim commences.

34 (4) The commissioner may also issue rules and regulations to
 35 implement this section and § 23-86-110, including, but not limited to, the
 36 nature and timing of proofs of eligibility for federal social security

1 benefits.

2 (c) This section shall be applicable to all group contracts of
3 disability insurance sold, delivered or issued for delivery, renewed, or
4 offered for sale in this state, except group contracts for employees whose
5 employer pays one hundred percent (100%) of the premiums.

6

7 SECTION 12. Arkansas Code 23-86-112 is amended to read as follows:

8 23-86-112. Group ~~disability~~ accident and health insurance - Direct
9 payment of hospital or medical services.

10 (a) Any group ~~disability~~ accident and health policy may, on request by
11 the group policyholder, provide that all or any portion of any indemnities
12 provided by any policy on account of hospital, nursing, medical, or surgical
13 services may, at the insurer's option, be paid directly to the hospital or
14 person rendering such services; but the policy may not require that the
15 service be rendered by a particular hospital or person.

16 (b) Payment so made shall discharge the insurer's obligation with
17 respect to the amount of insurance paid.

18

19 SECTION 13. Arkansas Code 23-86-113 is amended to read as follows:

20 23-86-113. Minimum benefits for mental illness in group ~~disability~~
21 accident and health policies or subscriber's contracts.

22 (a) Unless refused in writing, every group ~~disability~~ accident and
23 health policy or group contract of hospital and medical service corporations
24 issued or renewed after July 1, 1983, providing hospitalization or medical
25 benefits to Arkansas residents for conditions arising from mental illness
26 shall, on and after July 1, 1983, provide the following minimum benefits:

27 (1) In the case of benefits based upon confinement as an
28 inpatient in a hospital, psychiatric hospital, or outpatient psychiatric
29 center licensed by the Department of Health or a community mental health
30 center certified by the Division of Mental Health Services of the Department
31 of Human Services the benefits shall be as defined in subsection (b) of this
32 section;

33 (2) In the case of benefits provided for partial hospitalization
34 in a hospital, psychiatric hospital, or outpatient psychiatric center licensed
35 by the Department of Health or a community mental health center certified by
36 the Division of Mental Health Services of the Department of Human Services as

1 defined in subsection (b) of this section; for the purpose of this section,
 2 "partial hospitalization" means continuous treatment for at least four (4)
 3 hours, but not more than sixteen (16) hours in any twenty-four (24) hour
 4 period; and

5 (3) In the case of outpatient benefits, the benefits shall cover
 6 services furnished by:

7 (A) A hospital, a psychiatric hospital, or an outpatient
 8 psychiatric center licensed by the Department of Health;

9 (B) A physician licensed under the Medical Practices Act, §
 10 17-95-201 et seq.;

11 (C) A psychologist licensed under § 17-97-201 et seq.; or

12 (D) A community mental health center or other mental health
 13 clinic certified by the Division of Mental Health Services of the Department
 14 of Human Services to furnish mental health services as defined in subsection
 15 (b) of this section.

16 (b) The insurer or hospital and medical service corporation may
 17 establish a copayment requirement for mental illness benefits paid for
 18 inpatient, partial hospitalization, or outpatient care described in subsection
 19 (a) of this section, which may or may not differ from the copayment
 20 requirements for any other condition or illness, except that copayment
 21 requirements for mental illness shall not exceed a twenty percent (20%)
 22 copayment requirement.

23 (c)(1) The For accident and health insurance sold to employers of fifty
 24 (50) or fewer employees, the insurer or hospital and medical service
 25 corporation shall not impose limits on benefits under subsection (a) of this
 26 section with regard to deductible amounts, lifetime maximum payments, payments
 27 per outpatient visit, or payments per day of partial hospitalization which
 28 differ from benefits for any other condition or illness, provided such insurer
 29 or hospital and medical service corporation may impose an annual maximum
 30 benefit payable, which shall not be less than seven thousand five hundred
 31 dollars (\$7,500) per calendar year.

32 (2) For accident and health insurance sold to employers of fifty-
 33 one (51) or more employees, the insurer or hospital and medical service
 34 corporation shall not impose limits on benefits under subsection (a) of this
 35 section with regard to deductible amounts, lifetime maximum payments, payments
 36 per outpatient visit, or payments per day of partial hospitalization which

1 diff er from benefi ts for any other condition or illness, provided such insurer
 2 or hospital and medical service corporation may impose an annual maximum of
 3 eight (8) inpatient/partial hospitalization days together with forty (40)
 4 outpatient visits.

5 (d) No person shall disclose mental health history, diagnosis, or
 6 treatment services information received in an initial application for coverage
 7 or subsequent claims for benefits to any person, group, organization, or
 8 governmental agency, without written consent of the insured, except for
 9 purposes of:

10 (1) Obtaining professional review and judgments of quality and
 11 appropriateness of treatment rendered;

12 (2) Litigation proceedings involving the insured and when ordered
 13 by a court;

14 (3) Reinsurance, when required;

15 (4) Applying over-insurance provisions or for purposes of
 16 claiming benefits for services on behalf of the insured; or

17 (5) Underwriting applications for insurance coverage.

18 (e) Nothing in this section shall be construed to prohibit an insurer,
 19 hospital and medical service corporations, health care plan, health
 20 maintenance organization, or other person providing ~~disability~~ accident and
 21 health insurance or medical benefits to Arkansas residents from issuing or
 22 continuing to issue ~~a disability~~ an accident and health insurance benefit
 23 plan, policy, or contract which provides benefits greater than the minimum
 24 benefits required to be made available under this section or from issuing any
 25 plans, policies, or contracts which provide benefits which are generally more
 26 favorable to the insured than those required to be made available under this
 27 section.

28 (f) The requirements of this section with respect to a group or blanket
 29 ~~disability~~ accident and health insurance benefit plan, policy, or subscriber
 30 contract shall be satisfied if the coverage specified is made available to the
 31 master policyholder of the plan, policy, or contract.

32 (g)(1)(A) Every insurer or hospital and medical service corporation
 33 which issues a group ~~disability~~ accident and health insurance policy,
 34 contract, or agreement in this state which provides for mental health coverage
 35 shall offer coverage for the payment of services rendered by licensed
 36 professional counselors.

1 (B) Such offer shall be made either at the time of
2 application for, or upon the first renewal of, such policy, contract, or
3 agreement after April 1, 1995.

4 (C) If such offer is accepted, the amount paid for services
5 provided by licensed professional counselors shall be subject to the same
6 limitations as set forth in the policy for mental health coverage.

7 (2) Nothing in this subsection shall be deemed to expand the
8 scope of the practice of licensed professional counselors currently licensed
9 by the Arkansas Board of Examiners in Counseling and possessing the
10 qualifications set forth in § 17-27-301 et seq., or other applicable laws.

11
12 SECTION 14. Arkansas Code 23-86-114 is amended to read as follows:

13 23-86-114. Group ~~disability~~ accident and health insurance - Continuation
14 of coverage beyond termination of employment, change in marital status, etc.

15 (a) Every group ~~disability~~ accident and health insurance policy,
16 contract, or certificate providing hospital, surgical, or major medical
17 coverage, other than accident only or specified disease policies, shall
18 contain a provision that any certificate holder, member, or spouse whose
19 coverage under the policy would otherwise terminate due to termination of
20 employment or membership or a change in marital status may continue coverage
21 under the policy for themselves and their eligible dependents as provided in
22 this section.

23 (b) The continued coverage need not include benefits for dental care,
24 vision services, or prescription drug expenses.

25 (c)(1) Continuation of coverage shall be available only to individuals
26 who have been insured continuously under the group policy during the three-
27 month period prior to the termination of employment membership or change in
28 marital status.

29 (2) Continuation of coverage shall not be available to an
30 individual who is eligible for:

31 (A) Federal Medicare coverage; or

32 (B)(i) Full coverage under any other group ~~disability~~
33 accident and health policy or contract.

34 (ii) This coverage must provide benefits for all
35 preexisting conditions to be considered full coverage.

36 (iii) Accordingly, under this subdivision, an

1 individual may continue his or her previous group coverage until all
2 preexisting conditions are covered or would be covered under another group
3 policy or contract or until termination pursuant to subsection (f) of this
4 section or pursuant to the applicable provisions of federal law.

5 (d) An individual who wishes to continue coverage must request
6 continuation in writing not later than ten (10) days after the termination of
7 employment or membership or the change in marital status.

8 (e) An individual who requests continuation of coverage must pay the
9 premium required by the policyholder on a monthly basis and in advance.
10 Payments shall be made in accordance with the group policy.

11 (f) Continuation of coverage shall end upon the earliest of the
12 following dates:

13 (1) One hundred twenty (120) days after continuation of coverage
14 began;

15 (2) The end of the period for which the individual made a timely
16 contribution;

17 (3) The contribution due date following the date the individual
18 becomes eligible for Medicare;

19 (4) The date on which the policy is terminated or the group
20 withdraws from the plan. However, if the group policy is replaced,
21 continuation shall continue under the new coverage.

22 (g) At the termination of the continued coverage, an individual shall
23 be offered the conversion policy under the group policy.

24 (h) Individuals choosing to utilize the conversion privilege under the
25 group policy may do so and thereby waive their right to continuation of
26 coverage.

27 (i) This section shall not be applicable to health care plans in which
28 the employer is self-insured.

29
30 SECTION 15. Arkansas Code 23-86-115 is amended to read as follows:

31 23-86-115. Group ~~disability~~ accident and health insurance - Entitlement
32 to conversion policy upon termination of group policy.

33 (a)(1) Every group policy, contract, or certificate of ~~disability~~
34 accident and health insurance delivered or issued for delivery in this state
35 which provides hospital, surgical, or major medical coverage on an expense-
36 incurred basis, other than coverage limited to expenses from accidents or

1 specified diseases, shall provide that an employee, member, or covered
 2 dependent whose insurance under the group policy has been terminated for any
 3 reason, including the discontinuance of the group policy in its entirety,
 4 shall be entitled to have issued to him by the insurer a policy of ~~disability~~
 5 accident and health insurance referred to in this section as a conversion
 6 policy.

7 (2) An employee, member, or dependent shall not be entitled to a
 8 conversion policy if the termination of the group policy, contract, or
 9 certificate was a result of his failure to pay any required contribution or if
 10 the terminated policy is replaced by similar coverage within thirty-one (31)
 11 days.

12 (3) An individual wishing to exercise his or her conversion
 13 privilege must apply for the conversion policy in writing not later than
 14 thirty (30) days after the termination of the group coverage.

15 (b)(1) The conversion policy shall provide coverage equal to or greater
 16 than the minimum standards established by the Insurance Commissioner. All
 17 conversion policies shall contain a wording in bold print that "the benefits
 18 in this policy do not necessarily equal or match those benefits provided in
 19 your previous group policy".

20 (2) The conversion policy shall not exclude coverage for
 21 pregnancy or other illness or injury on the grounds of a preexisting condition
 22 provided that the combination of time served under the group and the
 23 conversion policy equals or exceeds any waiting periods under the group policy
 24 or contract. Moreover, the conversion policy shall include benefits for
 25 maternity coverage for any pregnancies in existence at the time of the
 26 conversion.

27 (c)(1) The insurer shall not be required to offer the conversion policy
 28 to any individual who is eligible for:

29 (A) Federal medicare coverage; or

30 (B) Full coverage under any other group ~~disability~~ accident
 31 and health policy or contract. This coverage must provide benefits for all
 32 preexisting conditions to be considered full coverage.

33 (2) Accordingly, under this subsection, an individual may convert
 34 to a conversion policy and remain covered by that policy until all preexisting
 35 conditions are covered or would be covered under another group policy or
 36 contract.

1 (d) This section shall not be applicable to self-insured plans.

2 (e)(1)(A) The initial premium for the conversion policy for the first
3 twelve (12) months and subsequent renewal premiums shall be determined in
4 accordance with premium rates applicable to individually underwritten standard
5 risks for the age and class of risk of each person to be covered under the
6 conversion policy and for the type and amount of insurance provided.

7 (B) The experience under conversion policies shall not be
8 an acceptable basis for establishing rates for conversion policies.

9 (2) For purposes of subdivision (e)(1) of this section:

10 (A) The phrase "premium rates applicable to individually
11 underwritten standard risks" means the premium charged to individuals who
12 qualify for coverage without modification, determined from a rate table based
13 on aggregate individually underwritten policy experience;

14 (B) "Aggregate individually underwritten policy experience"
15 means the policy experience is drawn from a mature combination of newly
16 selected insureds and insureds for whom selection effects no longer exist; and

17 (C) "Class" means any actuarially determined characteristic
18 except health status or individual claims experience.

19 (3) If an insurer experiences incurred losses which exceed earned
20 premiums for a period of two (2) successive years on conversion policies which
21 have been in force for at least one (1) year, the insurer may file with the
22 commissioner amended renewal rates for the subsequent year which will produce
23 a loss ratio of not less than one hundred percent (100%).

24 (4)(A) Even though a renewal premium is established in accordance
25 with subdivision (e)(3) of this section, a holder of the conversion policy
26 shall not be required to pay the full renewal premium until the beginning of
27 the policy's fourth year.

28 (B) The premium for the second policy year shall be the
29 initial premium plus thirty-three and one-third percent (33 1/3%) of the
30 difference between the initial premium and the renewal premium in effect on
31 the policy's first anniversary date.

32 (C) The premium for the third policy year shall be the
33 initial premium plus sixty-six and two-thirds percent (66 2/3%) of the
34 difference between the initial premium and the renewal premium in effect on
35 the policy's second anniversary date.

36 (D) The premium for the fourth year shall be one hundred

1 percent (100%) of the renewal premium in effect on the policy's third
2 anniversary date.

3 (5) This subsection shall be applicable to any conversion policy
4 issued after March 22, 1995.

5

6 SECTION 16. Arkansas Code 23-86-116(a) is amended to read as follows:

7 (a) Every group ~~disability~~ accident and health insurance policy,
8 contract, or certificate that provides coverage for hospital or medical
9 services or expenses shall provide that the insurer shall continue its
10 obligation for benefits under the policy or contract for any person insured
11 under the policy or contract who is hospitalized on the date of termination if
12 the policy or contract is terminated and replaced by a group health insurance
13 policy or contract issued by another insurer or by a self-funded health care
14 plan.

15

16 SECTION 17. Arkansas Code 23-86-117(a) is amended to read as follows:

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

22

23 SECTION 18. Arkansas Code 23-86-118 is amended to read as follows:

24 23-86-118. In vitro fertilization coverage required.

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

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

32 (c) After conducting appropriate studies and public hearings, the
33 commissioner shall establish minimum and maximum levels of coverage to be
34 provided by the ~~disability~~ accident and health insurance companies.

35 (d) Coverage required under this section shall include services
36 performed at a medical facility, licensed or certified by the Department of

1 Health, those performed at a facility certified by the department which
 2 conforms to the American College of Obstetricians and Gynecologists guidelines
 3 for in vitro fertilization clinics, or those performed at a facility certified
 4 by the department which meets the American Fertility Society minimal standards
 5 for programs of in vitro fertilization.

6
 7 SECTION 19. Arkansas Code 23-86-202(12) is amended to read as follows:

8 (12) "Small employer" means any person, firm, corporation, partnership,
 9 or association actively engaged in business who, on at least fifty percent
 10 (50%) of its working days during the preceding year, employed no less than two
 11 (2) nor more than twenty-five (25) eligible employees. In determining the
 12 number of eligible employees, companies which are affiliated companies or
 13 which are eligible to file a combined tax return for purposes of state
 14 taxation shall be considered one (1) employer;

15
 16 SECTION 20. Arkansas Code 23-86-203(a) is amended to read as follows:

17 (a) Except as provided in subsection (b) of this section, the
 18 provisions of this subchapter apply to any health benefit plan which provided
 19 coverage to ~~one (1)~~ two (2) or more employees of a small employer.

20
 21 SECTION 21. Arkansas Code 23-86-302(d)(1) is amended to read as
 22 follows:

23 (1) The provisions of this subchapter shall be applicable to all
 24 ~~disability~~ accident and health insurers, health maintenance organizations,
 25 hospital and medical service corporations, and fraternal benefit societies
 26 which are licensed and authorized by the Insurance Commissioner to transact
 27 business in the State of Arkansas.