

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 85th General Assembly  
3 Regular Session, 2005

# A Bill

HOUSE BILL 1181

4  
5 By: Representative Bond  
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7

## For An Act To Be Entitled

8  
9 AN ACT TO REGULATE HEALTH INSURERS' RECOUPMENT OF  
10 HEALTH CARE PROVIDER CLAIMS; AND FOR OTHER  
11 PURPOSES.  
12

### Subtitle

13  
14 TO REGULATE HEALTH INSURERS' RECOUPMENT  
15 OF HEALTH CARE PROVIDER CLAIMS.  
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
19

20 SECTION 1. Arkansas Code Title 23 is amended to add an additional  
21 chapter to read as follows:

22 Chapter 104 -- Health Care Insurers.

23 Subchapter 1 - Audits of Medical Providers.

24 23-104-101. Definitions.

25 As used in this subchapter:

26 (1) "Covered person" means a person on whose behalf a health  
27 care insurer offering health insurance coverage is obligated to pay benefits  
28 or provide services;

29 (2) "Health care insurer" means an entity subject to the  
30 insurance laws of this state or the jurisdiction of the Insurance  
31 Commissioner that contracts or offers to contract to provide health insurance  
32 coverage, including, but not limited to, an insurance company, a health  
33 maintenance organization, or a hospital medical service corporation;

34 (3) "Health care provider" means any person or entity providing:

35 (A) Medical, pharmacy, or dental care;

36 (B) Hospitalization; or



1 (C) Any other services and goods used for the purpose or  
2 incidental to the purpose of preventing, alleviating, curing, or healing  
3 human illness or injury;

4 (4)(A) "Health insurance coverage" means benefits consisting of  
5 medical, pharmacy, or dental care, hospitalization, or other goods or  
6 services for the purpose of preventing, alleviating, curing, or healing human  
7 illness provided, directly or indirectly, through insurance, reimbursement,  
8 or otherwise, including items and services paid for under any policy,  
9 certificate, or agreement offered by a health care insurer.

10 (B) "Health insurance coverage" does not include policies  
11 or certificates covering only accident, credit, disability income, long-term  
12 care, hospital indemnity, Medicare supplemental policy as defined in 42  
13 U.S.C. § 1395ss(g)(1), a specified disease, other limited benefit health  
14 insurance, automobile medical payment insurance, or claims under the Workers'  
15 Compensation Law, § 11-9-101 et seq. or the Public Employees Workers'  
16 Compensation Act, § 21-5-601 et seq.; and

17 (5) "Recoupment" means any action or attempt by a health care  
18 insurer to recover or collect payments already made to a health care provider  
19 with respect to a claim:

20 (A) By reducing other payments currently owed to the  
21 health care provider;

22 (B) By withholding or setting off the amount against  
23 current or future payments to the health care provider;

24 (C) By demanding payment back from a health care provider  
25 for a claim already paid; or

26 (D) In any other manner that reduces or affects the future  
27 claim payments to the health care provider.

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29 23-104-102. Payment errors.

30 (a)(1) A health care provider shall not be required to appeal errors  
31 in payment if the health care insurer has not paid the claim according to the  
32 contracted rate.

33 (2) Miscalculations in payments made by the health care insurer  
34 shall be corrected and paid within thirty (30) calendar days upon the health  
35 care insurer's receipt of documentation from the health care provider  
36 verifying the error.

1       (b) A health care insurer shall not be required to correct a payment  
 2 error to a health care provider if the provider's request for a payment  
 3 correction is filed more than twelve (12) months after the date that the  
 4 health care provider received payment for the claim from the health care  
 5 insurer.

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 7       23-104-103. Time for recoupment.

8       (a) Except in cases of fraud committed by the health care provider, a  
 9 health care insurer may only exercise recoupment from a provider during the  
 10 twelve-month period after the date that the health care insurer paid the  
 11 claim submitted by the health care provider.

12       (b)(1) A health care insurer that exercises recoupment under this  
 13 section shall give the health care provider a written or electronic statement  
 14 specifying the basis for the recoupment.

15       (2) The statement shall contain, at a minimum, the information  
 16 required by § 23-104-105.

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 18       23-104-104. Persons not covered.

19       (a) If a health care insurer determines that payment was made for  
 20 services not covered under the covered person's health insurance coverage,  
 21 the health care insurer shall give written notice to the health care provider  
 22 of its intent to exercise recoupment and may:

23               (1) Request a refund from the health care provider; or

24               (2) Make a recoupment of the payment from the health care  
 25 provider in accordance with § 23-104-105.

26       (b) Except in the case of fraud committed by the health care provider,  
 27 subsection (a) of this section shall not apply if a health care provider or  
 28 other party on its behalf verified from the health care insurer or its agent  
 29 that an individual was a covered person and if the health care provider in  
 30 good faith provided services to the individual in reliance on the  
 31 verification.

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 33       23-104-105. Recoupments – Required disclosures.

34       If a health care insurer exercises recoupment, then the health care  
 35 insurer shall provide the health care provider written documentation that  
 36 specifies the:

- 1           (1) Amount of the recoupment;
- 2           (2) Covered person’s name to whom the recoupment applies;
- 3           (3) Patient identification number;
- 4           (4) Date or dates of service;
- 5           (5) Service or services on which the recoupment is based;
- 6           (6) Pending claims being recouped or future claims that will be  
7 recouped; and
- 8           (7) Specific reason for the recoupment.

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10           23-104-106. Penalties.

11           (a) If the Insurance Commissioner finds a health care insurer has  
12 failed to comply with a provision of this subchapter, the commissioner shall  
13 impose a penalty for each failure to comply.

14           (b) The penalty shall be the greater of:

- 15           (1) Two (2) times the amount of each claim; or
- 16           (2) Five hundred dollars (\$500) for each claim.

17           (c) Funds collected by the commissioner under this section shall be  
18 distributed first to reimburse the aggrieved health care provider and next to  
19 the State Insurance Department Trust Fund.

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21           23-104-107. Private remedies.

22           In the alternative, a health care provider may seek injunctive or other  
23 appropriate relief in the circuit court of the county where the provider  
24 resides or practices.

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26           23-104-108. Rules and regulations.

27           The Insurance Commissioner shall adopt rules and regulations by January  
28 1, 2006, to ensure compliance with this subchapter.

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30           23-104-109. No waiver of provisions.

31           The provisions of this subchapter shall not be waived, voided, or  
32 nullified by contract.