

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

As Engrossed: H2/10/05

85th General Assembly

# A Bill

Regular Session, 2005

HOUSE BILL 1181

By: Representatives Bond, Bolin, Lamoureux

## For An Act To Be Entitled

AN ACT TO REGULATE HEALTH INSURERS' RECOUPMENT OF  
HEALTH CARE PROVIDER CLAIMS; AND FOR OTHER  
PURPOSES.

## Subtitle

TO REGULATE HEALTH INSURERS' RECOUPMENT  
OF HEALTH CARE PROVIDER CLAIMS.

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

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

Chapter 104 -- Health Care Insurers.

Subchapter 1 - Audits of Medical Providers.

23-104-101. Definitions.

As used in this subchapter:

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

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

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

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

(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., Public Employees Workers' Compensation  
16 Act, § 21-5-601 et seq., or the Arkansas Comprehensive Health Insurance Pool  
17 Act, § 23-79-501 et seq.; and

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

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

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

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

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

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31                   23-104-102. Time for recoupment.

32                   (a) Except in cases of fraud committed by the health care provider, a  
33 health care insurer may only exercise recoupment from a provider during the  
34 eighteen-month period after the date that the health care insurer paid the  
35 claim submitted by the health care provider.

36                   (b)(1) A health care insurer that exercises recoupment under this

1 section shall give the health care provider a written or electronic statement  
2 specifying the basis for the recoupment.

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

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6 23-104-103. Persons not covered.

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

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

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

14 (b)(1) Except in the case of fraud committed by the health care  
15 provider or as provided in subdivision (b)(2) of this section, subsection (a)  
16 of this section shall not apply if a health care provider or other party on  
17 its behalf verified from the health care insurer or its agent that an  
18 individual was a covered person and if the health care provider in good faith  
19 provided services to the individual in reliance on the verification.

20 (2) A health care insurer has one hundred twenty (120) days from  
21 the date of payment to notify the provider of a verification error and the  
22 fact that services rendered will not be covered if the error was made in good  
23 faith at the time of the verification.

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25 23-104-104. Recoupments – Required disclosures.

26 If a health care insurer exercises recoupment, then the health care  
27 insurer shall provide the health care provider written documentation that  
28 specifies the:

29 (1) Amount of the recoupment;

30 (2) Covered person's name to whom the recoupment applies;

31 (3) Patient identification number;

32 (4) Date or dates of service;

33 (5) Service or services on which the recoupment is based;

34 (6) Pending claims being recouped or future claims that will be  
35 recouped; and

36 (7) Specific reason for the recoupment.

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2       23-104-105. Penalties.

3       The failure to comply with any provision of this subchapter shall be  
4 deemed an unfair trade practice under the Trade Practices Act, § 23-66-201 et  
5 seq. and may be punished by the fines and penalties established under §§ 23-  
6 66-210, 23-60-108, and 23-66-215.

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8       23-104-106. Rules and regulations.

9       The Insurance Commissioner shall adopt rules and regulations by January  
10 1, 2006, to ensure compliance with this subchapter.

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12       23-104-107. No waiver of provisions.

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

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16                               /s/ Bond, et al  
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