

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
4

As Engrossed: H3/30/05

A Bill

HOUSE BILL 2691

5 By: Representative D. Johnson
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For An Act To Be Entitled

9 AN ACT TO REQUIRE THE STATE MEDICAID PROGRAM TO
10 PROVIDE NOTICE, HEARINGS, ACCESS TO WITNESSES,
11 AND FINAL REPORTS REGARDING THE DENIAL,
12 TERMINATION, SUSPENSION, OR REDUCTION OF MEDICAID
13 ELIGIBILITY OR COVERED SERVICES; AND FOR OTHER
14 PURPOSES.

Subtitle

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16 AN ACT TO SPECIFY PROCEDURES FOR DUE
17 PROCESS REGARDING ADVERSE ACTION BY THE
18 STATE MEDICAID PROGRAM.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. Arkansas Code Title 20, Chapter 77, Subchapter 1 is amended
25 to add an additional section to read as follows:

26 20-77-121. Adverse decisions -- Notice -- Rights.

27 (a) As used in this section:

28 (1) "Adverse action" means the denial, termination, suspension,
29 or reduction of Medicaid eligibility or covered services;

30 (2) "Beneficiary" means:

31 (A) A person who has applied for medical assistance under
32 the state Medicaid program; or

33 (B) A person who is a recipient of medical assistance
34 under the state Medicaid program; and

35 (3) "Department" means the Department of Human Services.

36 (b) If an application or claim for medical assistance is denied in



1 whole or in part, or is not acted upon within thirty (30) days, the
2 department shall give the beneficiary thirty (30) days' notice in writing:

3 (1) Of the beneficiary's right and opportunity for a fair
4 hearing under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.;

5 (2) Of the method by which the beneficiary may obtain a fair
6 hearing; and

7 (3) That the beneficiary may:

8 (A) Represent himself or herself; or

9 (B) Be represented by:

10 (i) Legal counsel;

11 (ii) A friend; or

12 (iii) Any other spokesperson except a corporation.

13 (c) A notice required under subsection (b) of this section shall
14 include, but not be limited to:

15 (1) A statement detailing:

16 (A) The type and amount of medical assistance that the
17 beneficiary has requested; and

18 (B) The adverse action that the department has taken or
19 proposes to take; and

20 (2) A statement of the reasons for the adverse action that shall
21 include, but not be limited to:

22 (A) The specific facts regarding the individual
23 beneficiary that support the action; and

24 (B) The sources from which the facts were derived.

25 (d) If the adverse action that the department has taken or proposes to
26 take is based on a determination of medical necessity or other clinical
27 decision, the notice required under subsection (b) of this section shall:

28 (1)(A) Include all of the following:

29 (i) Specification of the medical records upon which
30 the physician or clinician relied in making the determination; and

31 (ii) Specification of any portion of the criteria
32 for medical necessity or coverage that is not met by the beneficiary.

33 (B) Generic rationales or explanations shall not suffice
34 to meet the requirements of subdivision (d)(1)(A) of this section;

35 (2)(A) Include a statement detailing:

36 (i) The specific regulations that support the

1 adverse action; or

2 (ii) The change in federal or state law that
3 requires the adverse action.

4 (B) The information required under subdivision (d)(2)(A)
5 of this section shall include:

6 (i) A plain and concise statement of the applicable
7 law, rule, or department policy;

8 (ii) The official citation of the applicable law,
9 rule, or department policy; and

10 (iii) A brief statement of the reasons for the
11 adverse action based on the individual beneficiary's circumstances.

12 (C) The department and others acting on behalf of the
13 department may not cite or rely on policies that are inconsistent with
14 federal or state laws and regulations or that were not properly promulgated;
15 and

16 (3) Include an explanation of:

17 (A) The beneficiary's right to request a fair hearing, if
18 available; or

19 (B) In cases of an adverse action based on a change in
20 law:

21 (i) The circumstances under which a fair hearing
22 will be granted; and

23 (ii) An explanation of the circumstances under which
24 medical assistance is provided or continued if a fair hearing is requested.

25 (e)(1) If a beneficiary appeals an adverse action under the Arkansas
26 Administrative Procedure Act, § 25-15-201 et seq., the reviewing authority
27 shall consider only those adverse actions that were included in the written
28 notice to the beneficiary as required under subsections (c) and (d) of this
29 section.

30 (2)(A) All determinations of the medical necessity of any
31 request for medical assistance shall be based on the individual needs of the
32 beneficiary and his or her medical history.

33 (B) The department and any contractor performing medical
34 necessity determinations on behalf of the department shall be bound by the
35 department's rules regarding medical necessity decisions.

36 (f) If the department receives an appeal from a beneficiary regarding

1 an adverse action, the department shall provide the beneficiary all records
2 or documents pertaining to the department's, or the department's
3 contractor's, decision to take the adverse action.

4 (g) If the adverse action is based upon a determination that the
5 requested medical assistance is, or was, not medically necessary, the records
6 and documents required to be provided under this section shall include all
7 relevant material produced by the department or a contractor of the
8 department that contains relevant information concerning the medical
9 necessity determination.

10 /s/ D. Johnson

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