

1 State of Arkansas  
2 92nd General Assembly  
3 Regular Session, 2019  
4

As Engrossed: S3/13/19

# A Bill

SENATE BILL 512

5 By: Senator Bledsoe  
6 By: Representative D. Ferguson  
7

## For An Act To Be Entitled

9 AN ACT TO PROVIDE FOR THE ASSIGNMENT OF BENEFITS TO A  
10 HEALTHCARE PROVIDER; AND FOR OTHER PURPOSES.

### Subtitle

14 TO PROVIDE FOR THE ASSIGNMENT OF BENEFITS  
15 TO A HEALTHCARE PROVIDER.

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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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20 SECTION 1. Arkansas Code Title 23, Chapter 99, is amended to add an  
21 additional subchapter to read as follows:

22 Subchapter 12 – Assignment of Benefits

23  
24 23-99-1201. Definitions.

25 As used in this subchapter:

26 (1)(A) "Contracting entity" means an entity, plan, or program  
27 that is subject to the insurance laws of this state or to the jurisdiction of  
28 the Insurance Commissioner and contracts directly or indirectly with a  
29 healthcare provider for the delivery of healthcare services to enrollees in  
30 the ordinary course of business.

31 (B) "Contracting entity" includes without limitation:

32 (i) An insurance company;

33 (ii) A health maintenance organization;

34 (iii) A hospital and medical service corporation;

35 (iv) A preferred provider organization;

36 (v) A risk-based provider organization;



1 (vi) A third-party administrator; and

2 (vii) A pharmacy benefits manager;

3 (2) "Enrollee" means an individual who receives healthcare  
4 services from a healthcare provider under the terms of a healthcare contract  
5 between a contracting entity and the healthcare provider;

6 (3)(A) "Health benefit plan" means an individual, blanket, or  
7 group plan, policy, or contract for healthcare services issued or delivered  
8 by a healthcare insurer in this state.

9 (B) "Health benefit plan" does not include:

10 (i) A disability income plan;

11 (ii) A credit insurance plan;

12 (iii) Insurance coverage issued as a supplement to  
13 liability insurance;

14 (iv) Medical payments under an automobile or  
15 homeowners insurance plan;

16 (v) A health benefit plan provided under Arkansas  
17 Constitution, Article 5, § 32, the Workers' Compensation Law, § 11-9-101 et  
18 seq., or the Public Employee Workers' Compensation Act, § 21-5-601 et seq.;

19 (vi) A plan that provides only indemnity for  
20 hospital confinement;

21 (vii) An accident-only plan;

22 (viii) A specified disease plan;

23 (ix) A long-term-care insurance plan;

24 (x) A dental-only plan; or

25 (xi) A vision-only plan;

26 (4) "Healthcare contract" means a contract entered into,  
27 materially amended, or renewed between a contracting entity and a healthcare  
28 provider for the delivery of healthcare services to enrollees;

29 (5) "Healthcare insurer" means:

30 (A) An insurance company, a health maintenance  
31 organization, or a hospital and medical service corporation that issues or  
32 delivers a health benefit plan in this state; or

33 (B) A sponsor of a nonfederal self-funded governmental or  
34 church plan;

35 (6) "Healthcare provider" means a person or entity that is  
36 licensed, certified, or otherwise authorized by the laws of this state to

1 provide healthcare services;

2 (7) "Healthcare services" means services or goods provided for  
3 the purpose of preventing, diagnosing, treating, alleviating, relieving,  
4 curing, or healing human illness, disease, condition, disability, or injury;

5 (8) "Out-of-network provider" means a healthcare provider that  
6 provides healthcare services to an enrollee but is not a participating  
7 provider;

8 (9) "Participating provider" means a healthcare provider that  
9 has a healthcare contract with a contracting entity to provide healthcare  
10 services to enrollees with the expectation of receiving payment either  
11 directly from the contracting entity or from a healthcare insurer affiliated  
12 with the contracting entity; and

13 (10) "Payor" means a contracting entity or healthcare insurer  
14 responsible for payment for healthcare services provided to an enrollee under  
15 the terms of a healthcare contract or a health benefit plan.

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17 23-99-1202. Assignment of benefits.

18 (a) An enrollee, through an assignment of benefits, may assign to a  
19 healthcare provider the enrollee's right to receive reimbursement for any  
20 healthcare service rendered by a healthcare provider regardless of whether  
21 the healthcare provider is a participating provider or an out-of-network  
22 provider.

23 (b) A healthcare provider that is provided an assignment of benefits  
24 by an enrollee under this section shall provide notice to the payor of the  
25 assignment of benefits with a claim for payment for healthcare services  
26 provided to an enrollee.

27 (c)(1) A payor, upon receipt of the claim and notice of the assignment  
28 of benefits submitted by the healthcare provider, shall promptly remit  
29 payment of the claim directly to the healthcare provider.

30 (2) When payment is made directly to the healthcare provider,  
31 the payor shall give written notice of the payment to an enrollee.

32 (3) A violation of subsection (c) of this section is:

33 (A) An unfair trade practice under § 23-66-206; and

34 (B) Subject to the Trade Practices Act, § 23-66-201 et  
35 seq.

36 (d)(1)(A) If an enrollee executes an assignment of benefits and the

1 healthcare provider submits notice of that assignment of benefits with the  
2 healthcare provider's claim for payment under this section, the claim is not  
3 paid if payor remits payment of the claim to the enrollee rather than to the  
4 healthcare provider.

5 (B) Notwithstanding the incorrect payment of a claim to an  
6 enrollee, a payor shall remain liable for remitting payment of the claim to  
7 the healthcare provider under the assignment of benefits.

8 (2) If an assignment of benefits has been executed but the payor  
9 remits payment of the claim to the enrollee, then the payor shall remit  
10 payment of the claim to the healthcare provider under the assignment of  
11 benefits within ten (10) days of receiving notice of the incorrect payment  
12 from the healthcare provider.

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14 23-99-1203. Waiver prohibited.

15 (a) This subchapter shall not be waived by contract.

16 (b) A contractual arrangement or actions taken in conflict with this  
17 subchapter or that purport to waive any requirement of this subchapter are  
18 void.

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20 23-99-1204. Enforcement.

21 (a) A contracting entity is subject to the Trade Practices Act, § 23-  
22 66-201 et seq.

23 (b) The State Insurance Department shall enforce this subchapter.

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25 23-99-1205. Rules.

26 (a) The Insurance Commissioner shall promulgate rules necessary to  
27 implement this subchapter.

28 (b)(1) When adopting the initial rules to implement this subchapter,  
29 the final rule shall be filed with the Secretary of State for adoption under  
30 § 25-15-204(f):

31 (A) On or before January 1, 2020; or

32 (B) If approval under § 10-3-309 has not occurred by  
33 January 1, 2020, as soon as practicable after approval under § 10-3-309.

34 (2) The commissioner shall file the proposed rule with the  
35 Legislative Council under § 10-3-309(c) sufficiently in advance of January 1,  
36 2020, so that the Legislative Council may consider the rule for approval

1 before January 1, 2020.

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*/s/Bledsoe*

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