

1 State of Arkansas
2 95th General Assembly
3 Regular Session, 2025
4

A Bill

HOUSE BILL 1299

5 By: Representative L. Johnson
6 By: Senator Irvin
7

For An Act To Be Entitled

8
9 AN ACT TO PROHIBIT HEALTHCARE INSURERS FROM
10 EXERCISING RECOUPMENT FOR PAYMENT OF HEALTHCARE
11 SERVICES MORE THAN ONE YEAR AFTER PAYMENT FOR
12 HEALTHCARE SERVICES WAS MADE; AND FOR OTHER PURPOSES.
13
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Subtitle

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16 TO PROHIBIT HEALTHCARE INSURERS FROM
17 EXERCISING RECOUPMENT FOR PAYMENT OF
18 HEALTHCARE SERVICES MORE THAN ONE YEAR
19 AFTER THE PAYMENT FOR HEALTHCARE
20 SERVICES WAS MADE.
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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 23, Chapter 99, is amended to add an
25 additional subchapter to read as follows:
26

Subchapter 19 – Recoupment

23-99-1901. Definitions.

As used in this subchapter:

31 (1) "Covered person" means an individual who is entitled to
32 receive healthcare services under the terms of a health benefit plan;

33 (2)(A) "Health benefit plan" means an individual, blanket, or
34 group plan, policy, or contract for healthcare services issued, renewed, or
35 extended in this state by a healthcare insurer, health maintenance
36 organization, hospital medical service corporation, or self-insured



1 governmental or church plan in this state.

2 (B) "Health benefit plan" includes:

3 (i) Indemnity and managed care plans; and

4 (ii) Plans providing health benefits to state and
 5 public school employees under § 21-5-401 et seq.

6 (C) "Health benefit plan" does not include:

7 (i) A plan that provides only dental benefits or eye
 8 and vision care benefits;

9 (ii) A disability income plan;

10 (iii) A credit insurance plan;

11 (iv) Insurance coverage issued as a supplement to
 12 liability insurance;

13 (v) Medical payments under an automobile or
 14 homeowners insurance plan;

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

18 (vii) A plan that provides only indemnity for
 19 hospital confinement;

20 (viii) An accident-only plan;

21 (ix) A specified disease plan; or

22 (x) A plan provided under the Medicaid Provider-Led
 23 Organized Care Act, § 20-77-2701;

24 (3)(A) "Healthcare insurer" means an entity that is subject to
 25 state insurance regulation and provides coverage for health benefits in this
 26 state.

27 (B) "Healthcare insurer" includes:

28 (i) An insurance company;

29 (ii) A health maintenance organization;

30 (iii) A hospital and medical service corporation;
 31 and

32 (iv) A sponsor of a nonfederal self-funded
 33 governmental healthcare plan;

34 (4) "Healthcare provider" means a person or entity that is
 35 licensed, certified, or otherwise authorized by the laws of this state to
 36 provide healthcare services; and

1 (5) "Recoupment" means an action or attempt by a healthcare
 2 insurer to recover or collect payments already made to a healthcare provider
 3 with respect to a claim by:

4 (A) Reducing other payments currently owed to the
 5 healthcare provider;

6 (B) Withholding or setting off the amount against current
 7 or future payments to the healthcare provider;

8 (C) Demanding repayment from a healthcare provider for a
 9 claim already paid; or

10 (D) Any other means that reduce or affect the future claim
 11 payments to the healthcare provider.

12
 13 23-99-1902. Time.

14 (a) Except in cases of fraud committed by a healthcare provider, a
 15 healthcare insurer may exercise recoupment from a healthcare provider only
 16 within three hundred sixty-five (365) days after the date that the healthcare
 17 insurer paid the claim submitted by the healthcare provider.

18 (b)(1) A healthcare insurer that exercises recoupment under subsection
 19 (a) of this section shall give the healthcare provider a written or
 20 electronic statement specifying the basis for the recoupment.

21 (2) The statement required under subdivision (b)(1) of this
 22 section shall include:

23 (A) The disclosure information required under § 23-99-
 24 1904; and

25 (B)(i) Notice of any right to internal appeal by the
 26 healthcare provider.

27 (ii) If the healthcare provider initiates an
 28 internal appeal under subdivision (b)(2)(B)(i) of this section, the
 29 healthcare insurer shall suspend recoupment efforts for the alleged
 30 overpayment until such time as the healthcare insurer has prevailed after the
 31 healthcare provider has exhausted all available internal appeals.

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 33 23-99-1903. Persons not covered.

34 (a) Except in the case of fraud committed by a healthcare provider or
 35 as described under subdivision (b)(1) of this section, a healthcare insurer
 36 shall not exercise recoupment if:

1 (1) The healthcare provider or other party on its behalf
2 verified from the healthcare insurer or its agent that an individual was a
3 covered person and eligible for benefits for the respective healthcare
4 services; and

5 (2) The healthcare provider provided healthcare services to the
6 covered person in good-faith reliance on the verification.

7 (b)(1) A healthcare insurer has ninety (90) days from the date of
8 payment to notify the healthcare provider of a verification error and the
9 fact that healthcare services rendered will not be covered if:

10 (A) The verification error was made in good-faith reliance
11 at the time of the verification upon information provided by the party
12 responsible for enrolling a covered person in the health benefit plan; and

13 (B) The party responsible for enrolling a covered person
14 in the health benefit plan is separate and independent from, and is not an
15 employee, representative, assignee, affiliate, subsidiary, or otherwise under
16 the common control of, the healthcare insurer.

17 (2) If a recoupment notice is sent based upon a verification
18 error under subdivision (b)(1) of this section, the healthcare insurer shall
19 include a specific explanation of the error.

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21 23-99-1904. Disclosure required – Exercising recoupment.

22 (a) A healthcare insurer shall give written notice to a healthcare
23 provider of the healthcare insurer's intent to exercise recoupment if the
24 healthcare insurer determines that payment was made:

25 (1) For healthcare services not covered under the covered
26 person's health benefit plan; or

27 (2) To a person who was ineligible to receive benefits under the
28 health benefit plan.

29 (b) A healthcare insurer may:

30 (1) Request a refund from a healthcare provider; or

31 (2) Exercise recoupment of the payment from the healthcare
32 provider under this section.

33 (c) If a healthcare insurer exercises recoupment, then the healthcare
34 insurer shall provide the healthcare provider written documentation that
35 specifies the:

36 (1) Amount of the recoupment;

- 1 (2) Covered person’s name to which the recoupment applies;
- 2 (3) Patient identification number;
- 3 (4) Date of the healthcare service;
- 4 (5) Healthcare service on which the recoupment is based;
- 5 (6) Pending claim being recouped or future claim that is
 6 anticipated to be recouped; and
- 7 (7) Specific reason for the recoupment.

8 (d)(1) In a recoupment based upon medical necessity determinations,
 9 level of service determinations, coding errors, or billing irregularities,
 10 the healthcare insurer exercising recoupment shall ensure that the recoupment
 11 is reconciled to specific claims and shall provide specific reasons for the
 12 recoupment.

13 (2) A specific reason for recoupment under subdivision (d)(1) of
 14 this section shall not consist of mere conclusionary statements but shall
 15 contain specific information from which the healthcare provider can determine
 16 the basis for the recoupment and make a reasoned determination about whether
 17 to challenge the recoupment.

18 (3) If the healthcare provider obtained prior authorization for
 19 the healthcare service for the covered person from the healthcare insurer or
 20 the healthcare insurer’s employee, agent, representative, or assign, the
 21 healthcare insurer shall not exercise recoupment based upon a retroactive
 22 medical necessity determination or level of service determination except in
 23 instances of fraud by the healthcare provider in obtaining the prior
 24 authorization.

25 (e)(1) If a prior authorization is not obtained by the healthcare
 26 provider and the healthcare insurer exercises recoupment based on a
 27 determination that the healthcare provider billed the wrong level of care,
 28 the healthcare insurer shall state in the notice of recoupment which level of
 29 care the healthcare insurer has determined would have been appropriate.

30 (2) If a prior authorization is not obtained by a healthcare
 31 provider and the healthcare insurer exercises recoupment based on a
 32 determination that the healthcare service rendered was not medically
 33 necessary, the healthcare insurer shall include with the notice of
 34 recoupment:

35 (A) The specific criteria required for medical necessity
 36 for the healthcare service; and

1 (B) The specific reason why the respective healthcare
2 service failed to meet the criteria described under subdivision (e)(2)(A) of
3 this section.

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5 23-99-1905. Unfair trade practices.

6 A healthcare insurer that fails to comply with this subchapter is
7 subject to and in violation of the Trade Practices Act, § 23-66-201 et seq.

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