

State of Arkansas  
94th General Assembly  
Regular Session, 2023

As Engrossed: H3/16/23 S4/3/23  
**A Bill**

HOUSE BILL 1252

By: Representative L. Johnson

By: Senator Irvin

### For An Act To Be Entitled

AN ACT TO MODIFY THE ARKANSAS HEALTH CARE CONSUMER ACT; TO IMPROVE OUTCOMES FOR INDIVIDUALS WITH LIMB LOSS; TO REQUIRE COVERAGE FOR PROSTHETIC DEVICES FOR ATHLETICS OR RECREATION AND PROSTHETIC DEVICES FOR SHOWERING OR BATHING; AND FOR OTHER PURPOSES.

### Subtitle

TO MODIFY THE ARKANSAS HEALTH CARE CONSUMER ACT; AND TO REQUIRE COVERAGE FOR PROSTHETIC DEVICES FOR ATHLETICS OR RECREATION AND PROSTHETIC DEVICES FOR SHOWERING OR BATHING.

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

SECTION 1. Arkansas Code § 23-99-417 is amended to read as follows:

23-99-417. Coverage required for orthotic devices, orthotic services, prosthetic devices, and prosthetic services.

(a)(1) Subject to subdivision (a)(2) of this section and subsections (b) and (c) of this section, a health benefit plan that is issued for delivery, delivered, renewed, or otherwise contracted for in this state shall provide coverage for eligible charges within limits of coverage that are no less than eighty percent (80%) of Medicare allowable as defined by the Centers for Medicare ~~and~~ & Medicaid Services, Healthcare Common Procedure Coding System as of January 1, 2009, or as of a later date if adopted by rule of the Insurance Commissioner for:



- (A) An orthotic device;
- (B) An orthotic service;
- (C) A prosthetic device; ~~and~~
- (D) A prosthetic service;
- (E) A prosthetic device for athletics or recreation; and
- (F) A prosthetic device for showering or bathing.

(2) This section does not require coverage for an orthotic device, an orthotic service, a prosthetic device, ~~or a prosthetic service, a prosthetic device for athletics or recreation, or a prosthetic device for showering or bathing~~ for a replacement that occurs more frequently than one (1) time every three (3) years unless medically necessary ~~or indicated by other coverage criteria.~~

(b)(1) Eligible charges ~~and limits of or exclusions from~~ for coverage under subsection (a) of this section shall be based on medical necessity ~~or the health benefit plan's coverage criteria for other medical services,~~ which may include without limitation:

(A) The information and recommendation from the treating physician in consultation with the insured and a prosthetic provider regarding the most appropriate model that adequately meets the medical and recreational needs of the covered person; and

(B) The results of a functional ~~limit~~ outcomes test.

(2) As used in this section:

(A) "Functional limit "Functional outcomes test" includes without limitation the insured's:

~~(A)(i)~~ (i) Medical history, including prior use of orthotic devices, ~~or prosthetic devices, or prosthetic devices for athletics or recreation~~ if applicable;

~~(B)(ii)~~ (ii) Current condition, including the status of the musculoskeletal system and the nature of other medical problems; and

~~(C)(iii)~~ (iii) Desire to:

~~(i)(a)~~ (i)(a) Ambulate or recreate with respect to lower-limb orthotic devices, ~~or prosthetic devices, or prosthetic devices for athletics or recreation;~~ or

~~(i)(b)~~ (i)(b) Maximize upper-limb function with respect to upper-limb orthotic devices, ~~or prosthetic devices, or prosthetic devices for athletics or recreation;~~ and

(B)(i) "Prosthetic device for athletics or recreation"  
means a device that provides an individual with the ability or potential for prosthesis ambulation that exceeds basic ambulation skills, exhibiting high impact, stress, or energy levels.

(ii) "Prosthetic device for athletics or recreation"  
includes prostheses meeting the description of utilizing a blade-type foot designed for running and other high activity or high-impact endeavors.

(3) A denial or limitation of coverage based on lack of medical necessity is subject to external review under State Insurance Department Rule 76, the Arkansas External Review Regulation.

(c) A health benefit plan:

(1) May require prior authorization for an orthotic device, an orthotic service, a prosthetic device, ~~or a prosthetic service,~~ a prosthetic device for athletics or recreation, or a prosthetic device for showering or bathing in the same manner that prior authorization is required for any other covered benefit;

(2) May impose copayments, deductibles, or coinsurance amounts for an orthotic device, an orthotic service, a prosthetic device, ~~or a prosthetic service,~~ a prosthetic device for athletics or recreation, or a prosthetic device for showering or bathing if the amounts are no greater than the copayments, deductibles, or coinsurance amounts that apply to other benefits under the health benefit plan;

(3) When the replacement or repair is necessitated by anatomical change or normal use, shall cover the necessary repair and necessary replacement of an orthotic device, ~~or a prosthetic device,~~ a prosthetic device for athletics or recreation, or a prosthetic device for showering or bathing subject to copayments, coinsurance, and deductibles that are no more restrictive than the copayments, coinsurance, and deductibles that apply to other benefits under the health benefit plan, unless the repair or replacement is necessitated by misuse or loss; and

(4) Shall include a requirement that an orthotic device, an orthotic service, a prosthetic device, ~~or a prosthetic service,~~ a prosthetic device for athletics or recreation, or a prosthetic device for showering or bathing be prescribed by a licensed doctor of medicine, doctor of osteopathy, or doctor of podiatric medicine and provided by a doctor of medicine, a doctor of osteopathy, a doctor of podiatric medicine, an orthotist, or a

prosthetist licensed by the State of Arkansas.

(d) Coverage of an orthotic device, an orthotic service, a prosthetic device, ~~or a prosthetic service,~~ a prosthetic device for athletics or recreation, or a prosthetic device for showering or bathing may be made subject to but no more restrictive than the provisions of the health benefit plan that apply to other benefits under the health benefit plan.

(e) The ~~commissioner~~ Insurance Commissioner may+

~~(1) Issue a rule governing payment standards for health benefit plans under subdivision (a)(1) of this section; and~~

~~(2) Adopt~~ adopt necessary rules to enforce this section.

(f) A recreational prosthesis shall be deemed as medically necessary by the treating or referring physician who is prescribing the prosthesis.

(g) A patient who is a candidate for a recreational prosthesis shall qualify in the Medicare functional level status as a K-3 or K-4 functional level as a user who:

(1) Can achieve any high-level activity pursuits; and

(2) Exhibits an ability to perform above and beyond normal ambulation.

/s/L. Johnson

APPROVED: 4/13/23