

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
92nd General Assembly  
Regular Session, 2019

# A Bill

HOUSE BILL 1742

By: Representatives Bentley, Richmond, Sullivan

## For An Act To Be Entitled

AN ACT TO ESTABLISH THE SHORT-TERM, LIMITED-DURATION  
INSURANCE ACT; TO REGULATE SHORT-TERM, LIMITED-  
DURATION INSURANCE; AND FOR OTHER PURPOSES.

## Subtitle

TO ESTABLISH THE SHORT-TERM, LIMITED-  
DURATION INSURANCE ACT.

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

SECTION 1. Arkansas Code § 23-79-503(13)(B), concerning the definition of "health insurance" used in the Comprehensive Health Insurance Pool Act, is amended to read as follows:

(B) "Health insurance" does not include long-term care, disability income, ~~short-term, accident~~ accident-only, dental-only, vision-only, fixed indemnity, limited-benefit, or credit insurance, coverage issued as a supplement to liability insurance, insurance arising out of workers' compensation or similar law, automobile medical-payment insurance, or insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance;

SECTION 2. Arkansas Code § 23-79-503(16), concerning the definition of "individual health insurance coverage" used in the Comprehensive Health Insurance Pool Act, is amended to read as follows:

(16) "Individual health insurance coverage" means health insurance coverage offered to individuals in the individual market ~~but does~~



~~not include short term, limited duration insurance;~~

SECTION 3. Arkansas Code § 23-79-607 is amended to read as follows:

23-79-607. Applicability – Exceptions.

This subchapter ~~shall~~ does not apply to:

- (1) Long-term care plans;
- (2) Disability income plans;
- (3) ~~Short-term nonrenewable individual health insurance policies that expire after six (6) months;~~
- ~~(4)~~ Medical payments under homeowner or automobile insurance policies; ~~and~~ or
- ~~(5)~~(4) Workers' compensation insurance.

SECTION 4. Arkansas Code § 23-86-120(c), concerning hospice care coverage for terminally ill patients, is amended to read as follows:

(c) This section does not apply to contracts or policies providing disability income insurance, specified disease insurance, hospital indemnity insurance, long-term care insurance, ~~short-term limited duration insurance,~~ ~~accident-only~~ accident-only insurance, Medicare supplement insurance, or ~~all~~ other supplemental insurance.

SECTION 5. Arkansas Code § 23-86-121(a), concerning coverage for anesthesia and hospitalization for dental procedures, is amended to read as follows:

(a) As used in this section, "health benefit plan" means any policy, contract, or agreement offered by an insurance company, health maintenance organization, or hospital and medical service corporation to provide, reimburse, or pay for healthcare services, but does not include the following:

- (1) Workers' compensation coverage;
- (2) Self-funded or self-insured health plans, unless the plan is established or maintained for employees of a governmental or church entity;
- (3) Health plans covering specific diseases other than dental plans;
- (4) Hospital indemnity insurance;
- (5) Long-term care insurance;

- (6) ~~Short-term limited duration insurance;~~
- ~~(7) Accident-only~~ Accident-only insurance;
- ~~(8)~~(7) Medicare supplement insurance; or
- ~~(9)~~(8) Other supplemental insurance.

SECTION 6. Arkansas Code § 23-99-705(a), concerning the exceptions to the grievance systems and quality assessment and improvement systems, is amended to read as follows:

(a) This subchapter ~~shall~~ does not apply to disability income, specified disease, Medicare supplement, hospital indemnity, accident-only policies, long-term care, ~~short-term limited duration insurance,~~ and all or other supplemental insurance products issued by health carriers.

SECTION 7. Arkansas Code Title 23 is amended to add an additional chapter to read as follows:

CHAPTER 104 – ARKANSAS SHORT-TERM, LIMITED DURATION INSURANCE ACT

23-104-101. Title.

This chapter shall be known and may be cited as the "Arkansas Short-Term, Limited-Duration Insurance Act".

23-104-102. Legislative findings and intent.

(a) The General Assembly finds that:

(1) On August 3, 2018, the United States Department of the Treasury, the United States Department of Labor, and the United States Department of Health and Human Services collectively issued the final rule amending the definition of "short-term, limited-duration insurance" for purposes of its exclusion from the definition of "individual health insurance coverage" in order to lengthen the maximum duration of short-term, limited-duration insurance to provide consumers more affordable choices for health care;

(2) Short-term, limited-duration insurance is a type of health insurance coverage that is primarily designed to fill gaps in coverage that may occur when an individual is transitioning from one (1) plan or coverage to another plan or coverage, such as in between jobs;

(3) This type of coverage is exempt from the definition of "individual health insurance coverage" under the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, and is not subject to the provisions of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, that apply to the individual market;

(4) The Patient Protection and Affordable Care Act, Pub. L. No. 111-148, created an imposition of an individual shared-responsibility payment in 26 U.S.C. § 5000A, as it existed on January 1, 2019, that required an individual who did not maintain minimal essential coverage, to be assessed a penalty on his or her federal tax returns;

(5) Pursuant to the Tax Cuts and Jobs Act, Pub. L. No. 115-97, the individual shared-responsibility payment was reduced to zero dollars (\$0.00) effective for months beginning after December 31, 2018;

(6) Short-term, limited-duration insurance plans add an affordable option for Arkansas consumers;

(7) Access to these plans has become increasingly important as premiums have escalated for individual market plans and affordable choices for individuals and families have dwindled; and

(8) Arkansas consumers need greater access to information and disclosures regarding the limitations of short-term, limited-duration insurance plans in order to make the best financial choice for their health insurance needs.

(b) It is the intent of the General Assembly that this chapter promote and emphasize the compelling state interest in maintaining a viable and orderly private sector market for short-term, limited-duration insurance in this state.

#### 23-104-103. Definitions.

As used in this chapter:

(1) "Benefits" means benefits mandated under the Arkansas Insurance Code, limited to:

(A) Medical and surgical treatments and procedures included in mastectomy coverage under § 23-99-405;

(B) Coverage for diabetes treatment under § 23-79-601 et seq.;

(C) Medically necessary foods under § 23-79-703;

- (D) Gastric pacemakers under § 23-99-419;
- (E) Coverage for loss or impairment of speech or hearing under § 23-79-130;
- (F) Prostate cancer screening under § 23-79-1303;
- (G) Orthotic and prosthetic devices or services under § 23-99-417;
- (H) Coverage for reconstructive surgery and related medical care for craniofacial anomalies under § 23-79-1501 et seq.;
- (I) Telemedicine services under § 23-79-1601 et seq.;
- (J) Coverage for medical treatment of musculoskeletal disorders under § 23-79-150; and
- (K) Hearing aids under § 23-79-1402;

(2) "Issuer" means an insurer authorized by the State Insurance Department to provide short-term, limited-duration insurance in this state, including without limitation:

- (A) An insurance company;
- (B) A medical services plan;
- (C) A hospital plan;
- (D) A hospital medical service corporation;
- (E) A health maintenance organization;
- (F) A fraternal benefits society; and
- (G) Any other entity providing insurance subject to the insurance laws of this state;

(3) "Notice" means a prominently displayed statement in a contract with an insurer and in any application materials provided in connection with enrollment in short-term, limited-duration insurance coverage; and

(4) "Short-term, limited-duration insurance" means health insurance coverage provided under a contract with an issuer that has:

- (A) An expiration date specified in the contract that is less than twelve (12) months after the original effective date of the contract; and
- (B) A duration of no longer than thirty-six (36) months in total, taking into account renewals or extensions.

23-104-104. Short-term, limited-duration insurance policies.

A short-term, limited-duration insurance policy sold by an issuer in this state shall have an expiration date specified in the contract that is less than twelve (12) months after the original effective date of the contract and has a duration of no longer than thirty-six (36) months in total, taking into account renewals or extensions.

23-104-105. Mandated and other benefits.

(a) At a minimum, a short-term, limited-duration insurance policy sold by an issuer in this state shall offer benefits.

(b) An issuer that is selling a short-term, limited-duration insurance policy in this state may offer coverage for medical conditions, treatments, or services that are in addition to the benefits mandated by this chapter.

23-104-106. Notice.

(a) An issuer of a short-term, limited-duration insurance policy sold in this state that has a coverage start date on or after October 1, 2019, shall provide notice to the consumer in the policy contract and in any application materials provided in connection with enrollment containing the following language in at least 14-point type:

“This coverage is not required to comply with certain federal market requirements for health insurance, principally those contained in the Affordable Care Act. Be sure to check your policy carefully to make sure you are aware of any exclusions or limitations regarding coverage of preexisting conditions or health benefits, such as hospitalization, emergency services, maternity care, preventive care, prescription drugs, and mental health and substance use disorder services. Your policy might also have lifetime and annual dollar limits on health benefits. If this coverage expires or you lose eligibility for this coverage, you might have to wait until an open enrollment period to get other health insurance coverage.”

(b) The Insurance Commissioner shall review and approve the notice required under subsection (a) of this section.

23-104-107. Rules.

(a) The Insurance Commissioner may promulgate rules that are necessary to implement this chapter.

(b)(1) When adopting the initial rules to implement this chapter, the

final rule shall be filed with the Secretary of State for adoption under § 25-15-204(f):

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

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

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

SECTION 8. DO NOT CODIFY. EFFECTIVE DATE. This act is effective on and after October 1, 2019.