

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

As Engrossed: H3/16/23 S4/3/23

A Bill

HOUSE BILL 1252

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

For An Act To Be Entitled

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

16 TO MODIFY THE ARKANSAS HEALTH CARE
17 CONSUMER ACT; AND TO REQUIRE COVERAGE FOR
18 PROSTHETIC DEVICES FOR ATHLETICS OR
19 RECREATION AND PROSTHETIC DEVICES FOR
20 SHOWERING OR BATHING.
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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26 SECTION 1. Arkansas Code § 23-99-417 is amended to read as follows:

27 23-99-417. Coverage required for orthotic devices, orthotic services,
28 prosthetic devices, and prosthetic services.

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



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

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

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

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

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

22 (2) As used in this section:

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

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

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

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

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

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

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

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

8 (3) A denial or limitation of coverage based on lack of medical
9 necessity is subject to external review under State Insurance Department Rule
10 76, the Arkansas External Review Regulation.

11 (c) A health benefit plan:

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

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

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

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

1 prosthetist licensed by the State of Arkansas.

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

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

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

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

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

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

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

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

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20 /s/L. Johnson

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23 **APPROVED: 4/13/23**
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