

Arkansas Insurance Department

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State Insurance Department of Arkansas
"Wendelyn's Craniofacial Law -- Craniofacial Coverage" Report
(Ark. Code Ann. § 23-79-1501 - 1504)
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Introduction

In 2013, the Arkansas General Assembly added an additional subchapter to the Arkansas Code addressing coverage for craniofacial anomaly corrective surgery. This subchapter later became known as "Wendelyn's Craniofacial Law -- Craniofacial Coverage" ("Wendelyn's Law"). Please see Ark. Code Ann. § 23-79-1501 *et seq.* Healthcare insurers, health maintenance organizations, hospital medical service corporations, self-insured governmental or church plans, and plans providing benefits to state and public school employees were required to provide coverage of the benefits described within Wendelyn's Law when such benefits were determined medically necessary by a nationally accredited cleft-craniofacial team. "Craniofacial anomaly" was defined as "a congenital or acquired musculoskeletal disorder that primarily affects the cranial facial tissue." The State Insurance Department of Arkansas ("the Department") developed Rule 111, Craniofacial Anomaly Reconstructive Surgery Coverage, to implement the subchapter.

In 2015, the General Assembly amended Wendelyn's Law and required health benefit plans to include coverage and benefits for reconstructive surgery determined medically necessary by a cleft-craniofacial team approved by the American Cleft-Palate Craniofacial Association in Chapel Hill, North Carolina.

In 2021, the subchapter was again amended and named "Wendelyn's Craniofacial Law-Craniofacial Coverage." "Craniofacial anomaly" was redefined to mean "the abnormal development of the skull and face." Due to confusion concerning what it meant for a craniofacial anomaly team to submit authorization, language relating to the cleft-craniofacial team was again amended to include more specific instruction requiring the surgical member of the cleft-craniofacial team to authorize service as medically necessary. The amendment also increased coverage required by healthcare insurers by mandating

coverage of hearing and vision care for persons diagnosed with craniofacial anomalies. Due to the scarcity in cleft-craniofacial teams available to perform surgeries in Arkansas, the amendment also enabled a nationally approved cleft-craniofacial team located in another state to provide the healthcare services, treatment, evaluation, authorizations, and review of craniofacial patients. To encourage participation by more cleft-craniofacial teams, the amendment also mandated healthcare insurers pay the approved team for evaluation and consultation. This amendment also included a requirement that the Department submit biannual reports to the Chairs of the House and Senate Committees on Insurance and Commerce. The amendment became effective April 27, 2021.

In response to the 2021 legislative changes, the Department amended Rule 111, Craniofacial Anomaly Reconstructive Surgery Coverage, updated processes used to review and evaluate craniofacial services and to permit fees or charges to insurers for evaluations of proposed services to help resource and pay for team efforts to review and approve services. These amendments were intended to incentivize cleft-craniofacial teams so that they would be able to prioritize their evaluations of craniofacial patients and enable the patients to obtain treatment sooner. Amendments to the rule became effective May 2, 2022.

Operation of Wendelyn's Law

A nationally approved cleft-craniofacial team evaluates a person with a craniofacial anomaly to determine if treatment is medically necessary and coordinates a treatment plan for that person. The cleft-craniofacial team must be approved by the American Cleft-Palate Craniofacial Association in Chapel Hill, North Carolina. The American Cleft-Palate Craniofacial Association determines what specialties should be represented on the team and requires that the team include a surgical member. Once the approved craniofacial team diagnoses a patient as having a craniofacial anomaly and has approved a treatment plan, the surgical member of the cleft-craniofacial team authorize service as medically necessary by submitting an attestation that the service is medically necessary to the appropriate healthcare insurer. Upon receiving this attestation, the healthcare insurer is required to accept the decision and pay for services.

AID Enforcement of Wendelyn's Law

AID enforcement of the Act occurs on two fronts: annual review of health benefit plans and complaints investigation.

Annual Review of Health Benefit Plans

The Department annually certifies and monitors health insurance plans. The Department review includes confirmation that coverage of all benefits mandated by the General Assembly are included within the health benefits plans sold to Arkansans by insurers subject to Department regulation. The Department's review includes checking to make sure that insurers are providing coverage for individuals diagnosed with craniofacial anomalies when the surgery and treatment are medically necessary to improve a functional impairment that results from the craniofacial anomaly.

Complaints Investigation

Since the 2021 amendments to Wendelyn's Law became effective, the Department has received no complaints relating to the operation and interpretation of Wendelyn's Law.

Wendelyn's Law requires a health benefit plan to cover reconstructive surgery and related medical care for a person diagnosed as having a craniofacial anomaly if the surgery and treatment are medically necessary to improve a functional impairment that results from the craniofacial anomaly as determined by a nationally approved cleft-craniofacial team, approved by the American Cleft Palate-Craniofacial Association in Chapel Hill, North Carolina.

The Department has received complaints from prosthodontists, but neither the complaints or healthcare insurer responses indicate any dispute related to interpretation or compliance with Wendelyn's Law. There are four complaints related to whether services performed by a prosthodontist would be considered medical or dental benefits, but there is no mention of a person with a craniofacial abnormality being denied services after an approved cleft-craniofacial team has reviewed the decision, determined treatment is medically necessary, and coordinated a treatment plan for that person.

Conclusion

The Department has observed healthcare insurers have included the coverages mandated by Wendelyn's Law within health benefits plans sold to Arkansans by insurers subject to Department regulation no evidence of any violations of Wendelyn's Law.