

ARKANSAS SENATE
88th General Assembly - Regular Session, 2011
Amendment Form

Subtitle of Senate Bill No. 916

AN ACT TO ESTABLISH A LEGISLATIVE OVERSIGHT COMMITTEE TO REVIEW
CHANGES TO SYSTEMS OF DELIVERY UNDER THE STATE MEDICAID PROGRAM.

Amendment No. 1 to Senate Bill No. 916

Amend Senate Bill No. 916 as originally introduced:

Page 1, delete lines 9 and 10 and substitute "TO REVIEW CHANGES TO THE STATE MEDICAID PROGRAM; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES."

AND

Delete the subtitle in its entirety and substitute:

"TO ESTABLISH A LEGISLATIVE OVERSIGHT
COMMITTEE TO REVIEW CHANGES TO THE
STATE MEDICAID PROGRAM AND TO DECLARE
AN EMERGENCY."

AND

Page 1, delete lines 22 - 24 and substitute:

"SECTION 1. DO NOT CODIFY. Arkansas State Medicaid Program Oversight Committee.

(a) There is created the Arkansas State Medicaid Program Oversight Committee to be composed of the following members:

(1) The Cochairs of the Joint Budget Committee;

(2) The minority and majority leadership of the House of Representatives and the Senate;

(3) The Chair of the Senate Committee on Public Health, Welfare, and Labor and the Chair of the House Committee on Public Health, Welfare, and Labor;

(4) The Speaker of the House of Representatives or his or her designee;

(5) The President Pro Tempore of the Senate or his or her designee; and

(6) The Cochairs of the Hospital and Medicaid Study Subcommittee of the Legislative Council.



(b)(1) The Arkansas State Medicaid Program Oversight Committee shall perform the function of the Legislative Council required by law for the review of a proposed rule or proposed change to a rule promulgated by a state agency pertaining to the state Medicaid program.

(2) A review of a proposed rule shall occur within forty-five (45) days of the date the proposed rule is filed with the Arkansas State Medicaid Program Oversight Committee.

(c) Before the adoption, amendment, or repeal of any rule under this section, the state agency shall:

(1)(A)(i) Give at least forty-five (45) days' notice of its intended action.

(ii) The forty-five-day period shall begin on the first day of the publication of notice.

(B) The notice shall include a statement of the terms or substance of the intended action or a description of the subjects and issues involved and the time, the place where, and the manner in which interested persons may present their views on the intended action or the subjects and issues involved.

(C) The notice shall be mailed to:

(i) Any person specified by law;

(ii) All persons who have requested advance notice of rule-making proceedings; and

(iii) The Cochairs of the Arkansas State Medicaid Program Oversight Committee.

(D)(i) Unless otherwise provided by law, the notice shall be published in a newspaper of general daily circulation for three (3) consecutive days and, when appropriate, in those trade, industry, or professional publications that the state agency may select.

(ii) The notice shall be published by the Secretary of State on the Internet for thirty (30) days in accordance with § 25-15-218;

(2)(A) Afford all interested persons reasonable opportunity to submit data, views, or arguments in writing.

(B) The state agency shall fully consider all written submissions respecting the proposed rule before finalizing the language of the proposed rule and filing the proposed rule as required by subsection (d) of this section.

(C) Upon adoption of a rule, the state agency, if requested to do so by an interested person either before adoption or within thirty (30) days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption;

(3)(A) Hold an oral hearing.

(B) When rules are required by law to be made on the record after opportunity for a state agency hearing, the provisions of that law shall apply in place of subdivision (a)(2) of this section; and

(4) Comply with § 25-15-301 et seq.

(d)(1) If a state agency finds that imminent peril to the public health, safety, or welfare or compliance with federal laws or regulations requires adoption of a rule upon less than forty-five (45) days' notice and states in writing its reasons for that finding, it may proceed without prior notice or hearing, or upon any abbreviated notice and hearing that it may choose, to adopt an emergency rule.

(2)(A) The rule shall not be effective for longer than forty-five (45) days.

(B) A rule shall not be promulgated more than two (2) times as an emergency rule.

(e)(1) Every state agency shall grant any person the right to petition for the issuance, amendment, or repeal of any rule.

(2) Within forty-five (45) days after submission of a petition, the state agency shall:

(A) Deny the petition, stating in writing its reasons for the denial; or

(B) Initiate rule-making proceedings.

(f)(1)(A) Every state agency, including those exempted under § 25-15-202, shall file with the Arkansas State Medicaid Program Oversight Committee a copy of each rule adopted by it and a statement of financial impact for the rule.

(B) Rules shall be filed in compliance with this section and with §§ 25-15-218 and 10-3-309.

(2) The Secretary of State shall keep a register of the rules open to public inspection, and it shall be a permanent register.

(3)(A) The scope of the financial impact statement shall be determined by the state agency but at a minimum shall include the estimated cost of complying with the rule and the estimated cost for the state agency to implement the rule.

(B) Except as provided in § 6-11-132, if the state agency has reason to believe that the development of a financial impact statement will be so speculative as to be cost prohibitive, the state agency shall submit a statement and explanation to that effect.

(C) If the purpose of a state agency rule is to implement a federal rule or regulation, the financial impact statement shall be limited to any incremental additional cost of the state rule, as opposed to the federal rule or regulation.

(g)(1) Each rule adopted by a state agency is effective thirty (30) days after filing unless a later date is specified by law or in the rule itself.

(2)(A)(i) However, an emergency rule may become effective immediately upon filing or at a stated time less than ten (10) days after filing if the state agency finds that this effective date is necessary because of imminent peril to the public health, safety, or welfare.

(ii) The state agency's finding and a brief statement of the reasons for the finding shall be filed with the rule.

(B) The state agency shall take appropriate measures to make emergency rules known to the persons who may be affected by the emergency rules.

(h)(1) In a proceeding brought that questions the existence of imminent peril to the public health, safety, or welfare, a written finding by a state agency that adoption of any emergency rule was necessary to avoid the loss of federal funding or certification establishes a prima facie case of the existence of imminent peril to the public health, safety, or welfare.

(2) The burden of proof shifts to the challenger to rebut the existence of the condition by a preponderance of the evidence.

(i) This section expires on December 31, 2013.

SECTION 2. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that changes to the state Medicaid program are necessary to comply with federal laws; that it is important that the public and the General Assembly have the opportunity to comment on the proposed rules; and that this act is immediately necessary to ensure that the citizens of the State of Arkansas are knowledgeable about proposed changes to the state Medicaid program. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator G. Baker

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Secretary