

1 **State of Arkansas**

2 **79th General Assembly**

3 **Regular Session, 1993**

4 **By: Representatives Brown, Walker, Roberts, Smith and J. Wilson**

5

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7

For An Act To Be Entitled

8 "AN ACT TO PROVIDE ARKANSAS WITH ACCESS TO PRIMARY AND
9 PREVENTIVE HEALTH CARE BY CREATION OF THE ARKANSAS
10 UNIVERSAL HEALTH CARE PLAN (PLAN); TO PROVIDE FOR
11 CREATION AND MAINTENANCE OF THE ARKANSAS UNIVERSAL HEALTH
12 CARE TRUST FUND (TRUST FUND) FOR RECEIPT OF ARKANSAS_
13 HEALTH CARE ASSESSMENTS AND DISBURSEMENT FOR HEALTH CARE
14 PROVIDERS_ INVOICES; TO PROVIDE FOR THE CREATION AND
15 MAINTENANCE OF THE ARKANSAS LONG TERM CARE TRUST FUND
16 (LTC TRUST FUND); TO PROVIDE FOR CREATION AND OPERATION
17 OF THE ARKANSAS UNIVERSAL HEALTH CARE DEPARTMENT
18 (DEPARTMENT); AND FOR SELECTION OF THE DIRECTOR WHO WILL
19 HEAD THE DEPARTMENT AND WILL IMPLEMENT AND MANAGE THE
20 PLAN; TO PROVIDE FOR APPOINTMENT BY THE DIRECTOR WITH
21 ADVICE AND CONSENT OF THE GOVERNOR OF A SEVEN-MEMBER PANEL
22 TO SPECIFY THE PLAN BENEFIT LEVELS AND TO PROVIDE OTHER
23 ASSISTANCE TO THE DIRECTOR IN SELECTING REINSURANCE FOR
24 THE PLAN AND OTHER AREAS; TO SPECIFY ELIGIBILITY FACTORS
25 AND ENROLLMENT PROCEDURES FOR ARKANSANS WHO SHALL BE
26 COVERED BY THE PLAN; [TO PROVIDE FOR INITIAL FUNDING OF
27 THE PLAN BY LEGISLATIVE APPROPRIATION]; [TO PROVIDE FOR
28 LONG-TERM FUNDING OF THE PLAN AFTER THE INITIAL
29 IMPLEMENTATION STAGE]; AND FOR OTHER PURPOSES."

30

31

Subtitle

32 "THE ARKANSAS UNIVERSAL HEALTH CARE PLAN."

33

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

35

1 SECTION 1. Act Title.

2 This act shall be known as the "Arkansas Universal Health Care Act."
3

4 SECTION 2. Purpose.

5 The purpose of this act is to provide all Arkansas with access to basic
6 primary and preventive health care through implementation of a universal
7 health care plan, to establish a system of monitoring and controlling health
8 care quality and costs, to reduce costs of providing health care, and to
9 control the administrative costs of health care through claims administration.
10

11 SECTION 3. Scope and Application.

12 This act shall apply on after its passage and approval. It is not the
13 intent of this act to replace or supplant, void or make voidable any self-
14 insurance policies, contracts or plans, or any private insurers_ policies or
15 contracts, with inception, renewal or anniversary dates on or before or after
16 the effective date of this act.
17

18 SECTION 4. Definitions.

19 *As used in this act, unless the context otherwise requires:*

20 (a) *"Catastrophic health care" shall mean acute medical or health care*
21 *for a patient's disease, condition, or illness requiring intensive treatment;*

22 (b) *"Children_s preventive health care" shall mean the benefits*
23 *afforded minor children up to the age of sixteen (16) as required under the*
24 *Arkansas Children_s Preventive Health Care Act of 1989;*

25 (c) *"Contribution" shall mean the dollar amount specified in the Plan*
26 *that each employer, employee or participant, where applicable, is required to*
27 *remit monthly or otherwise to the Trust Fund to receive Plan services and*
28 *benefits;*

29 (d) *"Coverage card" or "card" shall mean a plasticized card evidencing*
30 *that an individual is a participant in the Arkansas Universal Health Care*
31 *Plan, and which is used for purposes of health care provider billings and*
32 *invoices for services rendered and for other purposes;*

33 (e) *"Covered benefits" or "covered services" shall mean those health or*
34 *medical services Plan participants are eligible and entitled to receive under*
35 *the Plan and for which payment is made by the Arkansas Universal Health Care*

1 Trust Fund to the health care provider;

2 (f) "Department" shall mean the Arkansas Universal Health Care
3 Department;

4 (g) "Director" shall mean the Director of the Arkansas Universal Health
5 Care Department;

6 (h) "Emergency" shall mean a medical condition manifesting itself by
7 acute symptoms of sufficient severity such that the absence of immediate
8 medical attention could reasonably be expected to place the participant's
9 health in imminent and serious jeopardy, to cause death or serious impairment
10 to bodily functions, or to result in serious dysfunction of any bodily organ
11 or part;

12 (i) "Emergency benefits or services" shall mean covered inpatient or
13 outpatient services which are furnished by a provider and are needed
14 immediately because of a serious injury or acute sudden illness;

15 (j) "Employee" shall mean any individual who is subject to the Arkansas
16 Income Tax Act, §§26-51-101, et seq., who performs or performed services for
17 an employer as defined in this act and who receives wages therefor;

18 (k) "Employer" shall mean a person doing business in or deriving income
19 from sources within this state who has control of the payment of wages to an
20 individual for services performed, or a person who is the officer or agent of
21 the person having control of the payment of wages;

22 (l) "Family physician" shall mean a physician or surgeon who is duly
23 licensed by the state of Arkansas and who is responsible for coordinating the
24 medical treatment of a Plan participant;

25 (m) "Grievance" means a problem or concern presented for informal or
26 formal resolution through a grievance procedure;

27 (n) "Grievance procedure" shall mean the formal process for resolution
28 of problems or complaints which cannot be resolved in an informal manner;

29 (o) "LTC Trust Fund" shall mean the Arkansas Long Term Care Trust Fund;

30 (p) "Medical specialist" shall mean a physician, surgeon, or osteopath
31 who is board certified or board eligible in a specialty listed by the American
32 Medical Association;

33 (q) "Panel" shall mean the Arkansas Universal Health Care Panel;

34 (r) "Plan" shall mean the Arkansas Universal Health Care Plan;

35 (s) "Plan participant" or "cardholder" or "coverage cardholder" shall

1 mean all residents of this state who receive or may receive benefits under
2 this Plan, and for whom a coverage card is issued and/or used;

3 (t) "Pre-existing condition" shall mean any illness, injury, condition,
4 or symptom occurring or manifested prior to Plan coverage;

5 (u) "Resident" shall mean any person who is establishing or has already
6 established Arkansas as his official state of residency or domicile; and

7 (v) "Trust Fund" shall mean the Arkansas Universal Health Care Trust
8 Fund.

9

10 SECTION 5. Arkansas Universal Health Care Trust Fund; Arkansas Long
11 Term Care Trust Fund.

12 (a) (1) There is hereby established on the books of the State Treasurer,
13 State Auditor, and the Chief Fiscal Officer of this State a fund to be known
14 as the "Arkansas Universal Health Care Trust Fund" ("Trust Fund") to be used
15 to defray the expenses and pay the claims of the Arkansas Universal Health
16 Care Plan, and the Arkansas Universal Health Care Department.

17 (2) The money for the Trust Fund shall be derived from employers and
18 employees. Each employer who has Arkansas employees shall withhold from the
19 paychecks of each Arkansas employee a percentage of the employee_s salary
20 and/or wages, and shall remit such payments directly to the Trust Fund on
21 behalf of the employee. In addition, each Arkansas employer must pay directly
22 into the Trust Fund a percentage of its gross annual payroll.

23 (3) The percentage to be paid by the Arkansas employee, and the
24 percentage to be paid by the Arkansas employer, and other Plan participants
25 shall be determined annually by the director. The director shall determine
26 the percentages to be paid by the Arkansas employer and employee to facilitate
27 implementation of the payroll withholding program as part of the Plan. In the
28 first year of the Plan implementation, and thereafter in subsequent years on
29 or before April 15 annually, the director shall determine the percentage to be
30 paid by the Arkansas employer and employee necessary to operate the Plan for
31 the ensuing year and shall publish such percentages statewide.

32 (4) In determining the percentages, the director shall consider the
33 following factors: the prior year_s loss experience, the projected cost of
34 operating the plan for the future year, changes in Arkansas_ demographics, and
35 any other factors deemed relevant by the director.

1 (5) No money is to be appropriated from this Fund for any purpose
2 except for the personal services and operating expenses, maintenance and
3 operations, and support of the director, the department, the Plan and all
4 covered and compensable health care claims of participants in the Plan,
5 including the costs of loss and loss adjustment expenses, at the direction of
6 the director for the use, benefit and support of the Plan, the department and
7 the director, and compensable claims of participants.

8 (6) The Fund established pursuant to this subsection shall be
9 administered, disbursed and invested under the direction of the Director of
10 the Arkansas Universal Health Care Plan and with the advice of the State
11 Treasurer.

12 (7) All income derived through investment of the Trust Fund monies
13 shall be credited as investment income to the Trust Fund.

14 (8) Further, all monies deposited to the aforementioned Trust Fund
15 shall not be subject to any deduction, tax, levy, or any other type of
16 assessment, except as may be provided by this act.

17 (9) Further, upon waiver or extension of Medicare or Medicaid benefits
18 for the state of Arkansas under any federal legislation or regulation or
19 ruling or grant of extension or waiver, any such monies accruing thereafter
20 may be appropriated by the state of Arkansas upon federal approval and
21 deposited into the Trust Fund. Any other gifts, grant awards, or other
22 contributions are permitted for direct deposit into the Fund, but shall be
23 disbursed only as the provisions of this act specify.

24 (b)(1) There is hereby established on the books of the State Treasurer,
25 State Auditor, and the Chief Fiscal Officer of this state a fund to be known
26 as the "Arkansas Long Term Care Trust Fund" ("LTC Trust Fund") to be used to
27 defray the expenses and pay the long term care claims of the Arkansas
28 Universal Health Care Plan.

29 (2) The money for the LTC Trust Fund shall be derived from participants
30 who elect long term care benefits pursuant to the Plan provisions. Each
31 employer who has Arkansas employees electing long term care benefits shall
32 withhold from the paychecks of such Arkansas employee a percentage of the
33 employee_s salary and/or wages, and shall remit such payments directly to the
34 LTC Trust Fund on behalf of the employees.

35 (3) The percentage to be paid by the Arkansas employee shall be

1 determined annually by the director. In the first year of Plan
2 implementation, and thereafter in subsequent years on or before April 15
3 annually, the director shall determine the percentage to be paid by the
4 Arkansas employee necessary for long term care benefits for the ensuing year
5 and shall publish such percentages statewide.

6 (4) In determining the long term care benefit percentages, the director
7 shall consider the following factors: the prior year_s loss experience, the
8 projected cost for the future year, changes in Arkansas_ demographics, and any
9 other factors deemed relevant by the director.

10 (5) No money is to be appropriated from the LTC Trust Fund for any
11 purpose except for covered and compensable long term care claims of
12 participants in the Plan, including the costs of loss and loss adjustment
13 expenses at the direction of the director.

14 (6) The LTC Trust Fund established pursuant to this subsection shall be
15 administered, disbursed and invested under the direction of the Director of
16 the Arkansas Universal Health Care Plan and with the advice of the State
17 Treasurer.

18 (7) All income derived through investment of the LTC Trust Fund monies
19 shall be credited as investment income to the LTC Trust Fund.

20 (8) Further, all monies deposited to the LTC Trust Fund shall not be
21 subject to any deduction, tax, levy, or any other type of assessment, except
22 as may be provided by this act.

23 (9) Any gifts, grant awards, or other contributions are permitted for
24 direct deposit into the LTC Trust Fund, but shall be disbursed only as the
25 provisions of this act specify.

26

27 SECTION 6. Arkansas Universal Health Care Department.

28 (a) Department; Creation. (1) There is hereby created at the seat of
29 government of this state, a department to be known as the Arkansas Universal
30 Health Care Department ("Department").

31 (2) There shall be assigned, by the officer or board or agency having
32 custody of the state_s public buildings, suitable space for the business of
33 the Arkansas Universal Health Care Department, with the necessary conveniences
34 for the transaction of business and the safekeeping of the records of that
35 department.

1 (3) The Secretary of State shall procure an official seal for the
2 Arkansas Universal Health Care Department. Every paper executed by the
3 director in pursuance of laws and sealed with the seal of his office shall be
4 received in evidence in any court or other tribunal and may be recorded in the
5 same manner and with like effect as deeds regularly acknowledged.

6 (b) Director; Appointment and Removal. The Governor, by and with the
7 advice and consent of the Senate, shall appoint a Director of the Arkansas
8 Universal Health Care Department who shall: (1) be a resident of this state
9 or possess the intent to establish residency in this state; (2) be at least
10 thirty-five (35) years of age; and (3) have not less than five (5) years_
11 experience either in practical health care or in a state or federal agency
12 that regulates in whole or in part the health care industry or has
13 administrative experience at a management level. The director shall be the
14 head of the Arkansas Universal Health Care Department and shall hold his
15 office for a term of four (4) years. He shall take and subscribe to the usual
16 oath of office and execute bond to the state of Arkansas, in the sum of one
17 hundred thousand dollars (\$100,000) for the faithful performance of his
18 duties. The bond may be made by any surety company authorized to do fidelity
19 bond business in this state and shall be approved by the Governor and State
20 Auditor. The director may be removed by the Governor for cause. In the case
21 of death, removal, or resignation of the director, the Governor, with the
22 advice and consent of the Senate, shall appoint his successor, who shall serve
23 for the remainder of the term fixed by law.

24 (c) Director - Powers and Duties. The director shall be charged with
25 the execution of all laws passed by the state of Arkansas relating to the
26 organization, inspection, supervision, and control of the Universal Health
27 Care Plan, and such other duties as may be enjoined upon the department or
28 director. The director shall have the power to make such rules and
29 regulations as may be necessary to carry out the intent and purposes of all
30 such laws and to issue cease and desist orders to any health care provider,
31 employer, employee, or others found to be violating any health care plan laws
32 of this state or the rules and regulations of the department. Upon
33 establishment of Plan benefits by the Universal Health Care Panel as specified
34 in this act, the director shall implement and monitor the Arkansas Universal
35 Health Care Plan ("Plan"). The director shall administer and maintain the

1 Arkansas Universal Health Care Trust Fund and the LTC Trust Fund, after
2 creation and establishment pursuant to and in compliance with the provisions
3 of this act. The director shall be accountable for and make investments of
4 the Funds therein pursuant to and in compliance with the investment laws and
5 limitations for insurance companies contained and recited in the Arkansas
6 Insurance Code, §§23-60-101, et seq. The director shall monitor the solvency
7 of the Plan and shall apply to obtain Medicare and ERISA waivers to facilitate
8 the Plan.

9 (d) *Employment and Duties of Staff Generally.* The director shall
10 employ from time to time such assistants, examiners, clerks, actuaries, claims
11 representatives, court reporters, accountants, stenographers, and counsel as
12 he may find necessary properly and efficiently to discharge the duties of his
13 office. He shall appoint a deputy director, who shall be an attorney licensed
14 in this state, and who shall report directly to the director and shall serve
15 at his pleasure and shall perform such duties as assigned. He shall fix their
16 compensation, except as otherwise provided in this subchapter, within the
17 limitation of the numbers of such employees and the appropriations for their
18 salaries as provided from time to time by acts of the General Assembly;
19 provided that he shall incur no expense until an appropriation shall have been
20 made therefor, not in excess of the revenues of the Arkansas Universal Health
21 Care Department. In computing the time for setting up salary schedules, a
22 fraction of a calendar year may be counted as a full year. If the director is
23 not himself at any time available for the transaction of any specific matter
24 committed by law to his authority or discretion, any one of the assistant
25 directors may transact such matters in the name and stead of the director.
26 All employees shall be required to furnish bonds, blanket bonds or self-
27 insured blanket bonds in the amounts as the director shall deem sufficient to
28 cover the liabilities of their respective positions, which bonds may be made
29 by any surety company authorized to do fidelity bond business in this state;
30 or through a self-insured program devised by the director under his authority;
31 or available to any state agency under other laws and regulations. The fees
32 paid by any officer or employee of the Arkansas Universal Health Care
33 Department to any surety or bonding company for a fidelity bond shall be
34 considered and charged as expenses of the department. No expense shall be
35 incurred until an appropriation shall be made for such purpose, and in no case

1 shall any liability be created for the state in excess of the appropriation
2 therefor.

3 (e) Reports. The director shall prepare and submit statistical and
4 financial data reports in a format and at such times as the Governor shall
5 prescribe as to the operation and solvency of the Plan and the Trust Fund and
6 the LTC Trust Fund.

7 (f) Director; Contractual Assistants and Consultants. The director may
8 contract for and procure on the basis of fees or similar compensation
9 independent and professional consultants, attorneys, actuaries and
10 underwriters, examiners and claims representatives, third party
11 administrators, and other professionals he may from time to time require.
12 Expenditures for all services may not exceed the amount of current funds
13 appropriated therefor by the General Assembly to the department, or in an
14 amount authorized to be disbursed from the Trust Fund, or are otherwise
15 available for the purpose.

16 (g) Director_s Financial Transactions. The director shall keep a true
17 and perfect record of all the business of the department and shall make
18 monthly reports to the State Auditor of all monies collected by him, which he
19 shall promptly pay to the State Treasurer, taking duplicate receipts therefor,
20 one (1) of which shall be filed with the State Auditor. Except for monies to
21 be deposited directly into the LTC Trust Fund, all monies and other revenues
22 received by the department shall be deemed for all purposes revenues of the
23 Arkansas Universal Health Care Department and, when paid into the State
24 Treasury by the director, shall be maintained by the State Treasury as an
25 Arkansas Universal Health Care Trust Fund, separate from all other funds, and
26 available only for the payment of the Plan_s health care claims, except for
27 claims and loss adjustment expenses payable from the LTC Trust Fund, and
28 expenses of the department pursuant to the appropriations therefor and other
29 disbursements as this act shall so authorize. The State Auditor shall, upon
30 proper voucher from the director, issue his warrant on the State Treasurer in
31 payment of all salaries and other expenses incurred in the administration of
32 this act.

33 (h) Immunity; Records Confidentiality and Privileges. (1) In enforcing
34 the provisions of this act, the director and his deputy, assistants, employees
35 and consultants shall be granted immunity from civil liability, except for

1 grossly negligent injury of or damages to others occasioned by willful, wanton
2 and malicious acts or omissions; and further, except for fraudulent acts or
3 omissions, in accounting for and being a fiduciary as to the Trust Fund and
4 the LTC Trust Fund. Any health care records or information on Plan
5 participants furnished the director and his deputy, assistants, employees and
6 consultants during their appointed term, employment or contract tenure for
7 their service to the Plan shall be deemed privileged communications, and shall
8 not be made public by the director, or his deputy, assistants, employees or
9 consultants with any identifying data including the names of any participants,
10 or social security or vehicle drivers_ licenses, or claims numbers if those
11 are duplicative of social security numbers, or employers_ ID numbers for
12 federal taxation purposes if used in connection with the Plan, and so forth.
13 These records shall be accessible upon any request under the Arkansas Freedom
14 of Information Act but shall not disclose any identifying data in the
15 interests of patient and participant privacy. (2) Any financial or
16 accounting records or information on Plan participants, or health care
17 providers to the Plan and/or its participants shall be given confidential
18 treatment and shall not be made public by the director or his deputy,
19 assistants, employees or consultants; unless the director after giving notice
20 and an opportunity to be heard to the parties affected by disclosure thereof,
21 determines that the interest of the state, the department or the Arkansas
22 public will be served by publication thereof and the records can be released
23 without identifying data on the participants as specified above. In that
24 event, the director may publish all or any part thereof of such files in such
25 manner as he deems appropriate. Without being in violation of this section,
26 the director may release statistical or financial calculations or projections
27 or workload reports which quantify data for successful operation of the Plan
28 and the Trust Fund, so long as the publications reveal no patient names,
29 social security or identification numbers or other identifying features which
30 would infringe on patient privacy rights. (3) The provisions of this section
31 as to the civil immunity privileges to be afforded to the director shall be
32 deemed cumulative and supplemental to any sovereign or governmental immunity
33 privileges already afforded under other Arkansas laws to the director and his
34 deputy, assistants, and employees and consultants; and these sections are not
35 intended to supersede or override or conflict with any other applicable U.S.

1 or Arkansas Constitutional or statutory provisions as to immunity or
2 privilege.

3 (i) The department shall contain necessary divisions to accomplish the
4 duties set by this act for the director or department, including but not
5 limited to the following divisions as the director shall prescribe: (1)
6 Medical Practices Division which shall certify and decertify health care
7 providers for Plan participants; and shall have authority to conduct on-site
8 reviews or audits of certified providers and applicant providers; and monitor
9 continuing education hours as required for maintenance of Arkansas licensure
10 of health care professionals; (2) Financial Division which shall administer
11 the Arkansas Universal Health Care Trust Fund and the LTC Trust Fund,
12 including investment of those funds, as well as managing the billing and
13 collection of assessments by participants, employers, and others; (3) Cost
14 Containment and Managed Care Division which shall establish cost containment
15 levels for providers and conduct utilization reviews; (4) Benefit Division
16 which shall issue, renew, recall and terminate Coverage Cards, and shall
17 assist in processing payment of providers_ billings from the Trust Fund and
18 the LTC Trust Fund, as needed; (5) Examination Division which shall be
19 responsible for audit and examination of health care providers with authority
20 to do on-site inspections of the books and records of hospitals, physicians
21 and surgeons; and (6) Administration Division which shall assist the director
22 in creation and implementation of the Plan; assist him in promulgating rules
23 and regulations necessary for implementation of the Plan; and assist with
24 complaints and grievance procedures.

25 (j) The director shall be authorized to appoint the Universal Health
26 Care Panel ("Panel" or "Health Care Panel"), with the advice and consent of
27 the Governor of the State of Arkansas. The Panel shall be composed of seven
28 (7) members: the Director as Chairperson; the Insurance Commissioner of the
29 State of Arkansas or his designee; one (1) representative of a health care
30 provider; one (1) economist; one (1) actuary; and two (2) members of the
31 public at large. The members of the panel shall serve for three (3) year
32 terms each; and may be reappointed. The members of the Panel shall serve
33 without compensation or per diem, but shall be allowed meals, lodging and
34 travel expense for attending Plan meetings, to be paid from the Trust Fund as
35 part of the administrative expenses of the Plan. The Panel shall specify the

1 minimum Plan benefits and any elective Plan benefits.

2

3 SECTION 7. Arkansas Universal Health Care Plan; Basic Plan.

4 After the Health Care Panel establishes the benefit levels of the
5 Universal Health Care Plan, the director with the assistance of the Universal
6 Health Care Department shall implement, maintain and monitor the operation of
7 the Arkansas Universal Health Care Plan ("Plan"). The Plan shall be
8 implemented and in operation no later than two (2) years after passage and
9 approval of this act. The Basic Plan shall provide for health care for
10 Arkansas residents, and every Arkansas resident may participate in the Basic
11 Plan as described below. The Panel with the assistance of the director and
12 any other consultants needed shall determine procedures for enrollment of
13 Arkansas residents.

14 (a) Benefits. Plan benefits shall only be available for eligible
15 participants from birth to age sixty-five (65), with the exception of elective
16 long term care benefits as specified in this act. The Basic Plan which the
17 Health Care Panel shall prescribe shall provide minimum basic coverage for the
18 following:

19 (1) Preventive Health Care Benefits:

20 Children_s Preventive Health Care Benefits for children up to age
21 sixteen (16) as outlined in Arkansas Code §23-79-141, including eighteen (18)
22 visits at approximately the following age intervals: birth, two (2) months,
23 four (4) months, eighteen (18) months, two (2) years, three (3) years, four
24 (4) years, five (5) years, six (6) years, eight (8) years, ten (10) years,
25 twelve (12) years, fourteen (14) years, and sixteen (16) years;

26 (2) Medically necessary Obstetrical and Gynecological Care;

27 (3) Medically necessary Pre-Natal and Post-Natal Care;

28 (4) Medically necessary Children_s Catastrophic Health Care Coverage
29 and/or for benefit levels, amounts, and duration as the Panel shall specify;

30 (5) Medically necessary hospital or in-patient confinement;

31 (6) Medically necessary surgical services, anesthesia services,
32 radiological services, and in-hospital medical services;

33 (7) Medically necessary prescription drugs and other pharmaceuticals,
34 and prescription glasses for children only;

35 (8) Adult Primary Care: A generalist or family physician shall refer

1 the adults over age sixteen (16) to specialists for diagnosed conditions. The
2 Health Care Panel shall prescribe in the Basic Plan what adult primary care is
3 medically necessary. The Panel shall specify in the Basic Plan the
4 eligibility factors for health care automobile policy are paid in coordinating
5 benefits under the Plan coverage pursuant to Arkansas Insurance Commissioner_s
6 Rule and Regulation 21;

7 (9) Emergency facility services for non-emergency conditions;

8 (10) Personal items or a private room in a hospital, unless ordered by
9 the participant_s physician as medically necessary, or any other services not
10 medically necessary;

11 (11) Innovative and experimental health care treatment as defined by the
12 Panel for the Basic Plan;

13 (12) Investigation of or treatment for infertility, reversal of
14 sterilization, embryonic implants, artificial insemination, or in vitro
15 fertilization techniques or procedures; and

16 (13) Treatment, surgery, services, or medication designed solely to
17 prolong life.

18 (b) Co-payments; Deductibles, Waiting Periods.

19 The Panel may establish co-payments and deductibles as deemed necessary
20 and appropriate for continued solvency of the Trust Fund. Plan participants
21 shall not have a waiting period nor shall pre-existing conditions preclude
22 treatment for health care services reimbursable under the Trust Fund.

23 (c) Card. (1) The Panel shall specify in the Plan and later implement
24 the procedures for application, issuance, renewal, termination and recall of
25 Coverage Cards evidencing that an Arkansan is a participant under the Plan; as
26 well as how health care providers may utilize these Coverage Cards for Trust
27 Fund billings and invoices. (2) In creating and implementing the Coverage
28 Card procedures, the Panel shall have access to Arkansas state tax records
29 solely for purposes specified in this act only; and the Director and the Panel
30 shall treat such records as confidential and privileged.

31 (d) Grievance Procedures. The director shall prescribe the procedures
32 for hearing and resolving grievances pertaining to plan participants, health
33 care providers, and the department. The grievance procedure shall provide for
34 resolution of the grievance within thirty (30) days of receipt of complete
35 information describing the grievance and its basis. Appeals shall be to the

1 Panel, and appeals of the Panel_s decision may be lodged pursuant to the
2 provisions of the Administrative Procedure Act, §§25-15-101, et seq. The
3 director may utilize alternate dispute resolution procedures upon agreement by
4 the aggrieved party.

5 (e) Federal grants; Medicare, Medicaid, and ERISA Waivers. The Panel
6 in conjunction with the director shall apply to the federal government for any
7 grants available for grant monies or other awards under any current or future
8 "State Care Acts"; and shall apply with the Federal Government for Medicare,
9 Medicaid and ERISA waivers.

10

11 SECTION 8. Eligibility of Plan Participants.

12 To be eligible for coverage under the Arkansas Universal Health Care
13 Plan an individual shall:

14 (a) Be under age sixty-five (65) except as to long term care benefits
15 as specified in this act; and be a resident of the State of Arkansas as
16 defined under Arkansas law; or homeless persons present in this state for over
17 six (6) months; and

18 (b) Not be eligible for any United States or other government sponsored
19 program which provides for health insurance, reimbursement for health care
20 benefits, or actual health care benefits, including but not limited to
21 CHAMPUS, whether or not application has been made for such program.

22

23 SECTION 9. Providers_ Certification; Medical Providers_ Compensation
24 and Pricing System; Cost Containment Procedures for Utilization Reviews and
25 Managed Care Systems.

26 (a) The director shall through the Medical Practices Division of the
27 department annually certify and compile a list of the health care providers
28 who are qualified to provide covered services and health care to participants
29 under the Plan. The Medical Practices Division shall through the director_s
30 supervision implement the procedures which the department shall follow in
31 certifying and decertifying providers under the Plan; and shall outline and
32 implement appeal steps for aggrieved participants, and aggrieved providers
33 denied certification under the Plan rules. The director shall enlist the
34 participation of health care professionals through an advisory council in
35 implementation of this program.

1 (b) The director shall establish the medical providers_ compensation
2 and pricing system utilizing data on the reasonable and customary charges for
3 health care in Arkansas, as well as nationally where applicable, for
4 limitations to hospitals, physicians, surgeons and other health care and
5 medical providers_ charges and billings to the Trust Fund and the LTC Trust
6 Fund for participants_ covered health care under the Plan. This pricing
7 limitation system shall factor in yearly monetary inflation for annual
8 increases for covered benefits. The medical providers shall adhere to and
9 shall not exceed the limitations provided in the compensation and pricing
10 system in billing for services rendered to Plan participants, except in
11 circumstances where the director or the Plan provides for waiver of the
12 limitations for extraordinary reasons.

13 (c) The director through the Medical Practices Division shall specify
14 the mechanisms for cost containment through managed care programs, preferred
15 provider organizations or arrangements, utilization reviews, and peer medical
16 reviews to reduce the health care costs billed to the Trust Fund and the LTC
17 Trust Fund.

18

19 SECTION 10. Plan Funding; Initial Legislative Appropriation.

20 Legislative appropriation shall be duly made from the General Revenue
21 Account of the state of Arkansas for initial monies in the amount of five
22 hundred million dollars (\$500,000,000) to fund the creation and operation of
23 the Plan, the Trust Fund and the LTC Trust Fund, and the expenses of the
24 department.

25

26 SECTION 11. Trust Fund Contributions.

27 The director shall prescribe the amount and the frequency with which
28 contributions must be made to the Trust Fund and the LTC Trust Fund.

29 (a) Employees_ Contributions. The amount of each individual employee_s
30 assessment shall be based upon a percentage of the participant_s gross income
31 as defined under the Arkansas State Income Tax Code §26-51-404 (a) (1), as to
32 Plan coverage. Responsibility for forwarding the employee_s contributions to
33 the Trust Fund shall be that of the employer.

34 (b) Employers_ Contributions; Distribution of Plan Information to
35 Employees. All employers with Arkansas employees shall be responsible for

1 paying an assessment which shall be in a percentage specified by the director
2 and based upon a percentage of the employer_s gross income as defined under
3 the Arkansas State Income Tax Code, §26-51-404 (a)(1). The employer shall be
4 responsible for forwarding its contribution as well as each employee_s
5 assessment for direct deposit into the Trust Fund and the LTC Trust Fund. The
6 employer may elect to cover himself as a Plan participant and shall then add
7 his own "employee_s contribution" to that of his employees_ contributions
8 forwarded to the Arkansas Universal Health Care Trust Fund or the LTC Trust
9 Fund respectively.

10 (c) Unemployed Arkansas_ Contributions. Arkansas residents who are
11 currently unemployed and are receiving no salaries, wages or other
12 compensation shall be provided coverage under the Plan, but until employment
13 is secured and verified and/or gross income is received, the participant shall
14 be exempt from contributions to the Plan.

15 (d) Retired Arkansans. Arkansas residents who are retirees shall remit
16 contributions for coverage under the Plan directly to the Trust Fund and the
17 LTC Trust Fund.

18 (e) State Income Taxes. (1) Employees. Employees_ and retirees_
19 contributions or assessments to the Trust Fund and the LTC Trust Fund pursuant
20 to this act shall be exempt from state income taxation and all other statutory
21 taxes, levies and assessments under Arkansas law, other than the provisions of
22 this act.

23 (2) Employers. Employers and sole proprietors remitting assessments or
24 contributions to the Trust Fund or LTC Trust Fund pursuant to this act shall
25 be entitled to a credit or deduction from their state income tax liability
26 equal to the amount of their Trust Fund and/or their LTC Trust Fund
27 contributions, but in no event shall such credit or offset reduce the state
28 income tax due by more than seventy percent (70%).

29

30 SECTION 12. Penalties. If any person, firm or corporation is found to
31 be in noncompliance with this act, then the director on behalf of the
32 Universal Health Care Plan or the Trust Fund or the LTC Trust Fund or the
33 Universal Health Care Panel may issue cease and desist orders, or obtain other
34 injunctive relief in courts of general jurisdiction in this state. Further,
35 if any employer or participant fails to send in required contributions or

1 assessments, the director shall be authorized to pursue any civil or criminal
2 remedies at his disposal under Arkansas law to obtain the funds for the Trust
3 Fund and the LTC Trust Fund. Further, any person who is found to be guilty of
4 fraud in connection with misappropriation or withholding or conversion to his
5 personal use of Plan assessments, contributions, gifts, awards or grants
6 monies, or any other kind of fees, or other compensation involved with the
7 Plan, shall upon conviction be guilty of a Class D felony, and further shall
8 be ordered to make full restitution to the Plan. Medical or health care
9 providers who are found not to be in compliance with this act may be
10 disqualified as a Plan provider by the director for good cause shown, and may
11 also have sanctions imposed by the medical licensure board given jurisdiction
12 under Arkansas laws of that profession, including loss of licensure on a
13 temporary or permanent basis.

14

15 SECTION 13. Act Compliance Date; Plan Effective Date.

16 The provisions of the Arkansas Universal Health Care Plan shall be
17 created and implemented by the director no later than two (2) years following
18 the effective date of this act. Compliance with the provisions of this act
19 shall be required by the Plan, or may be specified in a rule or regulation
20 promulgated by the director.

21

22 SECTION 14. All provisions of this act of a general and permanent
23 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
24 Code Revision Commission shall incorporate the same in the Code.

25

26 SECTION 15. If any provision of this act or the application thereof to
27 any person or circumstance is held invalid, such invalidity shall not affect
28 other provisions or applications of the act which can be given effect without
29 the invalid provision or application, and to this end the provisions of this
30 act are declared to be severable.

31

32 SECTION 16. All laws and parts of laws in conflict with this act are
33 hereby repealed.

34

35 SECTION 17. EMERGENCY. It is hereby found and determined by the

1 General Assembly of the state of Arkansas that current mechanisms in the
2 public and private sector are not providing universal access to quality basic
3 health care consistently and uniformly for all residents of the state of
4 Arkansas, and, in particular, those at or below the subsisting poverty level,
5 the unemployed, and infants and children under the age of sixteen (16). This
6 act is specifically designed to address and remedy such problems for our
7 state_s residents by creation of a new Arkansas Universal Health Care Trust
8 Fund and the LTC Trust Fund, a new department, and new funding ideas for
9 provision of service, for implementation of cost containment measures,
10 especially directed to pricing systems for compliance of Arkansas hospitals,
11 physicians and surgeons. Therefore, an emergency is hereby declared to exist
12 and this act being necessary for the immediate preservation of the public
13 peace, health and safety shall be in full force and effect from and after its
14 passage and approval.

15

16

/s/Irma Hunter Brown, et al