

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003
4

A Bill

HOUSE BILL 2279

5 By: Representative Napper
6
7

For An Act To Be Entitled

9 AN ACT TO PROVIDE ADDITIONAL FUNDING TO THE
10 ARKANSAS COMPREHENSIVE HEALTH INSURANCE POOL
11 THROUGH A SURCHARGE OF PAYMENTS BY INSURERS AND
12 SELF-INSURED HEALTH PLANS FOR INPATIENT HOSPITAL
13 SERVICES; AND FOR OTHER PURPOSES.
14

Subtitle

15 TO PROVIDE ADDITIONAL FUNDING TO THE
16 ARKANSAS COMPREHENSIVE HEALTH INSURANCE
17 POOL THROUGH A SURCHARGE OF PAYMENTS BY
18 INSURERS AND SELF-INSURED HEALTH PLANS
19 FOR INPATIENT HOSPITAL SERVICES.
20
21
22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

25 SECTION 1. Arkansas Code § 23-79-504, concerning the Arkansas
26 Comprehensive Health Insurance Pool, is amended to read as follows:

27 23-79-504. Arkansas Comprehensive Health Insurance Pool.

28 (a) There is hereby created a nonprofit legal entity to be known as
29 the "Arkansas Comprehensive Health Insurance Pool" as the successor entity to
30 the nonprofit legal entity established by Act 1339 of 1995.

31 (b)(1) The pool shall operate subject to the supervision and control
32 of the Board of Directors of the Arkansas Comprehensive Health Insurance
33 Pool. The pool is created as a political subdivision, instrumentality, and
34 body politic of the State of Arkansas, and, as such, is not a state agency.

35 (2) The pool will be exempt from all state, county, and local
36 taxes, § 19-11-201 et seq., § 25-19-101 et seq., and § 25-15-201 et seq.,



03062003AAF0927.JMB211

1 except to the extent defined in this subchapter.

2 (3) The board shall consist of the following seven (7) members
3 to be appointed by the Insurance Commissioner:

4 (A) Two (2) current or former representatives of insurance
5 companies licensed to do business in the State of Arkansas;

6 (B) Two (2) current or former representatives of health
7 maintenance organizations licensed to do business in the State of Arkansas;

8 (C) One (1) member of a health-related profession licensed
9 in the State of Arkansas;

10 (D) One (1) member from the general public who is not
11 associated with the medical profession, a hospital, or an insurer; and

12 (E) One (1) member to represent a group considered to be
13 uninsurable.

14 (4) In making appointments to the board, the commissioner shall
15 strive to ensure that at least one (1) person serving on the board is at
16 least sixty (60) years of age.

17 (5) All terms shall be for three (3) years.

18 (6) The board shall elect one (1) of its members as chairman.

19 (7) Any vacancy in the board occurring for any reason other than
20 the expiration of a term shall be filled for the unexpired term in the same
21 manner as the original appointment.

22 (8) Members of the board may be reimbursed from moneys of the
23 pool for actual and necessary expenses incurred by them in the performance of
24 their official duties as members of the board but shall not otherwise be
25 compensated for their services.

26 (c) All insurers, as a condition of doing business in the State of
27 Arkansas, shall participate in the pool by paying the assessments, submitting
28 the reports, and providing the information required by the board or the
29 commissioner to implement the provisions of this subchapter.

30 (d) All hospitals, as a condition of doing business in the State of
31 Arkansas, shall participate in the pool by:

32 (1) Collecting an inpatient surcharge from patients who are
33 insured under a policy or contract of health insurance or from patients who
34 are enrolled in a self-insured group health plan;

35 (2) Paying the funds resulting from the surcharges collected
36 under subdivision (d)(1) to the pool; and

1 (3) Submitting the reports and providing other information
2 required by the board or the commissioner to implement the provisions of this
3 subchapter.

4 ~~(d)~~(e) Neither the board nor its employees shall be liable for any
5 obligations of the pool. No board member or employee of the board shall be
6 liable, and no cause of action of any nature may arise against them, for any
7 act or omission related to the performance of their powers and duties under
8 this subchapter. The board may provide in its bylaws or rules for
9 indemnification of, and legal representation for, the board members and
10 employees.

11
12 SECTION 2. Arkansas Code § 23-79-507, which establishes the funding
13 mechanism for the Arkansas Comprehensive Health Insurance Pool, is amended to
14 read as follows:

15 23-79-507. Funding of pool.

16 (a) Premiums.

17 (1) The Arkansas Comprehensive Health Insurance Pool shall
18 establish premium rates for plan coverage as provided in subdivision (a)(2)
19 of this section. Separate schedules of premium rates based on age, sex, and
20 geographical location may apply for individual risks. Premium rates and
21 schedules shall be submitted to the Insurance Commissioner for approval prior
22 to use.

23 (2)(A) The pool, with the assistance of the commissioner, shall
24 determine a standard risk rate by considering the premium rates charged by
25 other insurers offering health insurance coverage to individuals in Arkansas.
26 The standard risk rate shall be established using reasonable actuarial
27 techniques and shall reflect anticipated experience and expenses for the
28 coverage.

29 (B) Initial rates for plan coverage shall not be less than
30 one hundred fifty percent (150%) of rates established as applicable for
31 individual standard risks in Arkansas. Subject to the limits provided in this
32 subdivision (a)(2), subsequent rates shall be established to help provide for
33 the expected costs of claims including recovery of prior losses, expenses of
34 operation, investment income of claim reserves, and any other cost factors
35 subject to the limitations described herein. In no event shall plan rates
36 exceed two hundred percent (200%) of rates applicable to individual standard

1 risks.

2 (b) Source of Additional Revenue: Hospital Surcharge of Self-funded
3 Health Plans.

4 (1) Each hospital operating in the State of Arkansas shall
5 collect from each patient who receives inpatient hospital services and who is
6 insured under a policy or contract of health insurance or who is enrolled in
7 a self-insured group health plan that provides for reimbursement directly to
8 the hospital on an expense incurred basis, a surcharge equal to two percent
9 (2%) of the payment the hospital will receive from the insurer or the self-
10 insured group health plan for the admission.

11 (2) Each hospital shall monthly remit the funds resulting from
12 the surcharges collected in accordance with subdivision (b)(1) of this
13 section to the pool.

14 (3)(A) Following the close of each fiscal year, the plan
15 administrator shall determine the net revenues, based on premiums plus
16 inpatient hospital services surcharges, less administrative expense
17 allowances, the pool expenses of administration, and the incurred losses for
18 the year, taking into account investment income and other appropriate gains
19 and losses.

20 (B) If the pool has incurred a deficit, the deficit shall
21 be recouped by assessment of the participating insurers under subsection (c)
22 of this section.

23 (C) If the pool has not incurred a deficit, the excess
24 shall be held in an interest bearing account and used by the board to offset
25 future losses or to reduce assessments that may be required under subsection
26 (c) of this section.

27 (D) As used in this subsection (b)(3), "future losses"
28 includes reserves for incurred by not reported claims.

29 ~~(b)(c)~~ Source ~~Source~~ Source of Additional Revenue: Insurers' Assessments.

30 (1) In addition to the powers enumerated in § 23-79-506, the
31 pool shall have the authority to assess insurers in accordance with the
32 provisions of this section and to make advance interim assessments as may be
33 reasonable and necessary for the pool's organizational and interim operating
34 expenses. Any such interim assessments are to be credited as offsets against
35 any regular assessments due following the close of the fiscal year.

36 (2) ~~Following the close of each fiscal year, the plan~~

1 ~~administrator shall determine the net premiums, i.e., premiums less~~
 2 ~~administrative expense allowances, the pool expenses of administration and~~
 3 ~~the incurred losses for the year, taking into account investment income and~~
 4 ~~other appropriate gains and losses. The~~ If the pool incurs a deficit under
 5 subsection (b)(3) of this section, the deficit incurred by the pool shall be
 6 recouped by assessments apportioned by the Board of Directors of the Arkansas
 7 Comprehensive Health Insurance Pool among insurers.

8 (3) Each insurer's assessment shall be determined by multiplying
 9 the total assessment of all insurers as determined in subdivision ~~(b)(2)~~
 10 (c)(2) of this section by a fraction, the numerator of which equals that
 11 insurer's premium and subscriber contract charges for health insurance
 12 written in the state during the preceding calendar year and the denominator
 13 of which equals the total of all health insurance premiums by all insurers.

14 (4) If assessments exceed the pool's actual losses and
 15 administrative expenses, the excess shall be held at interest and used by the
 16 board to offset future losses or to reduce future assessments. As used in
 17 this subsection, "future losses" includes reserves for incurred but not
 18 reported claims.

19 (5) Each insurer's assessment shall be determined annually by
 20 the board based on annual statements and other reports deemed necessary by
 21 the board and filed by the insurer with the board or the commissioner.

22 (6)(A) An insurer may petition the commissioner for an abatement
 23 or deferment of all or part of an assessment imposed by the board. The
 24 commissioner may abate or defer, in whole or in part, the assessment if, in
 25 the opinion of the commissioner, payment of the assessment would endanger the
 26 ability of the insurer to fulfill its contractual obligations.

27 (B) In the event an assessment against an insurer is
 28 abated or deferred in whole or in part, the amount by which the assessment is
 29 abated or deferred shall be assessed against the other insurers in a manner
 30 consistent with the basis for assessments set forth in this subsection. The
 31 insurer receiving the abatement or deferment shall remain liable to the plan
 32 for the deficiency for four (4) years.

33 (7) From July 1, 1997, until December 31, 1997, if the board
 34 issues an assessment upon insurers, the board will utilize the method of
 35 calculating the assessment consistent with the provisions set forth in this
 36 subchapter, provided however, for purposes of this interim period assessment,

1 insurers shall be defined as any individual, corporation, association,
 2 partnership, fraternal benefits society, or any other entity engaged in the
 3 health insurance business, except insurance agents or brokers. This term
 4 shall also include medical services plans, hospital plans, health maintenance
 5 organizations, and self-insurance arrangements, which shall be designated as
 6 engaged in the business of insurance for the purposes of this interim period
 7 assessment. For all assessments issued by the board, beginning January 1,
 8 1998, only those individuals, corporations, associations, or other entities
 9 defined as an insurer in § 23-79-503(17) shall be subject to assessment.

10 (8) In the event the board fails to act within a reasonable
 11 period of time to recoup by assessment any deficit incurred by the pool, the
 12 commissioner shall have all the powers and duties of the board under this
 13 chapter with respect to assessing insurers.

14 ~~(e)~~(d) Assessment Offsets.

15 (1)(A) Any assessment may be offset in an amount equal to the
 16 amount of the assessment paid to the pool against the premium tax payable by
 17 that insurer for the year in which the assessment is levied or for the four
 18 (4) years subsequent to that year.

19 (B) No offset shall be allowed for any penalty assessed
 20 under subdivision ~~(d)~~(1)~~(e)~~(1) of this section.

21 (2) Notwithstanding any provisions of this subchapter to the
 22 contrary, no insurer may be assessed in any one (1) calendar year an amount
 23 greater than the amount which that insurer paid to the state in the previous
 24 year as premium tax on the business to which this tax applies, or one-
 25 hundredth of one percent (0.01%) of the total written premiums on the
 26 business in this state, whichever is greater.

27 ~~(d)~~(1)~~(e)~~(1) All assessments and fees shall be due and payable upon
 28 receipt and shall be delinquent if not paid within thirty (30) days of the
 29 receipt of the notice by the insurer. Failure to timely pay the assessment
 30 will automatically subject the insurer to a ten percent (10%) penalty, which
 31 will be due and payable within the next thirty-day period. The board and the
 32 commissioner shall have the authority to enforce the collection of the
 33 assessment and penalty in accordance with the provisions of this subchapter
 34 and the Arkansas Insurance Code, § 23-60-101 et seq. The board may waive the
 35 penalty authorized by this subsection if it determines that compelling
 36 circumstances exist which justify such waiver.

(2) The board and the commissioner shall have the authority to enforce the collection of the assessment and penalty in accordance with the provisions of this subchapter and the Arkansas Insurance Code, § 23-60-101 et seq. The board may waive the penalty authorized by this subsection if it determines that compelling circumstances exist which justify the waiver.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36