

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

As Engrossed: H4/10/13

A Bill

HOUSE BILL 1256

5 By: Representative Westerman
6 By: Senator D. Sanders
7

For An Act To Be Entitled

9 AN ACT TO CREATE THE ARKANSAS MEDICAL ASSISTANCE
10 FRAUD PREVENTION PROGRAM; TO PROVIDE FOR THE ADOPTION
11 OF A MEDICAL ASSISTANCE FRAUD PREVENTION PROGRAM; TO
12 PROVIDE FOR DEFINITIONS; TO PROVIDE FOR
13 IMPLEMENTATION BY THE DEPARTMENT OF HUMAN SERVICES;
14 TO PROVIDE FOR IMPLEMENTATION OF A PILOT PROGRAM; TO
15 PROVIDE FOR PARTICIPATION; TO PROVIDE FOR A WAIVER;
16 TO PROVIDE FOR RELATED MATTERS; AND FOR OTHER
17 PURPOSES.
18

Subtitle

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20
21 TO CREATE THE ARKANSAS MEDICAL ASSISTANCE
22 FRAUD PREVENTION PROGRAM AND TO PROVIDE
23 FOR THE ADOPTION OF A MEDICAL ASSISTANCE
24 FRAUD PREVENTION PROGRAM.
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26

27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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29 SECTION 1. Arkansas Code Title 20, Chapter 77, is amended to add an
30 additional subchapter to read as follows:

31 Subchapter 21 – Arkansas Medical Assistance Fraud Prevention Program
32

33 20-77-2101. Title.

34 This subchapter shall be known and may be cited as the "Arkansas
35 Medical Assistance Fraud Prevention Program".
36



1 20-77-2102. Definitions.

2 As used in this subchapter:

3 (1) "Care management organization" means an entity that is
4 organized for the purpose of providing or arranging health care that has been
5 granted a certificate of authority by the Insurance Commissioner as a health
6 maintenance organization and that has entered into a contract with the
7 Department of Human Services to provide or arrange health care services,
8 products, or both, on a prepaid, capitated basis to members;

9 (2)(A) "Claim" a request or demand, whether under a contract or
10 otherwise, for money, property, or services that is made to the Arkansas
11 Medicaid program, or to an officer, employee, fiscal intermediary, grantee or
12 contractor of the Arkansas Medicaid program, or to another person or entity
13 if the request of demand results in payments by the Arkansas Medicaid
14 program, if the Arkansas Medicaid program:

15 (i) Provides or will provide a portion of the money
16 or property requested or demanded; or

17 (ii) Will reimburse the contractor, grantee, or
18 other recipient for any portion of the money or property requested or
19 demanded.

20 (B) "Claim" includes a request or demand that is made orally, in
21 writing, electronically, or magnetically; and

22 (i) Identifies a product or service provided or
23 purported to have been provided within the State of Arkansas to a recipient
24 as reimbursable under the medical assistance program, without regard to
25 whether the money that is requested or demanded is paid;

26 (ii) States the income earned or expense incurred by
27 a provider in providing a product or a service and that is used to determine
28 a rate of payment under the medical assistance program; and

29 (iii) Has been generated at the point of transaction
30 and as a result of a recipient's participating in either biometric or
31 alternative method authentication;

32 (3) "Health care provider" means a person, partnership,
33 professional association, corporation, facility, or institution certified,
34 licensed, or registered by the State of Arkansas and that has contracted with
35 a care management organization to provide health care services, products, or
36 both, to a member;

1 (4) "Medicaid" means the program authorized under Title XIX of
2 the Social Security Act, 42 U.S.C. § 1396 et seq., that provides for payments
3 for medical goods or services on behalf of indigent families with dependent
4 children and of aged, blind, or disabled individuals whose income and
5 resources are insufficient to meet the cost of necessary medical services;

6 (5) "Medical assistance" means payment to a provider of a part
7 or all of the cost of a certain item of medical or remedial care or service
8 rendered by the provider to a recipient, if the items are rendered and
9 received in accordance with Medicaid regulations promulgated by the Secretary
10 Of Health And Human Services, all applicable laws of this state, the state
11 Medicaid plan, and rules of the Department of Human Services that are in
12 effect on the date on which the items are rendered;

13 (6) "Medical assistance card" means a Medicaid card used by a
14 recipient before the implementation of the smart card program under this
15 subchapter, and which will be replaced by smart cards under this subchapter
16 that shall identify an eligible recipient and his or her account numbers and
17 shall be used by recipients to obtain medical assistance for which payment by
18 the state shall be tendered;

19 (7) "Member" means a Medicaid or ARKids First A recipient who is
20 currently enrolled in a care management organization plan;

21 (8) "Multifactor authentication" means a security process in
22 which a user provides multiple means of identification, one (1) of which is a
23 token, such as a smart card, and the other of which is representative of who
24 the user is, such as a photo;

25 (9) "ARKids First B" means the State of Arkansas's State
26 Children's Health Insurance Program established pursuant to Title XXI of the
27 federal Social Security Act;

28 (10) "Pilot program" means the front-end, proactive Arkansas
29 Medical Assistance Fraud Prevention Pilot Program implemented under this
30 subchapter before the state-wide rollout of the Arkansas Medical Assistance
31 Fraud Prevention Program;

32 (11) "Point of transaction" means the place and time at which a
33 recipient obtains a service or product from a provider, if the service or
34 product, or both is submitted as a claim to be paid by the state Medicaid
35 program under Title XIX of the federal Social Security Act;

36 (12) "Provider" means a health care provider or provider of

1 medical assistance;

2 (13) "Provider of medical assistance" means a person or
3 institution, public or private, including its employees, that participates in
4 the state Medicaid plan and that possesses all licenses, permits,
5 certificates, approvals, registrations, charters, and other forms of
6 permission issued by entities other than the Department of Human Services
7 that are required by law either to render health care services, products, or
8 both or to provide medical assistance for which federal financial
9 participation is available and which meets the further requirements for
10 participation prescribed by the Department of Human Services and which is
11 enrolled in the state Medicaid plan;

12 (14) "Recipient" means a member or a recipient of medical
13 assistance; and

14 (15) "Recipient of medical assistance" means a person who is
15 certified eligible for medical assistace under the state Medicaid plan to
16 have medical assistance paid on his or her behalf.

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18 20-77-2103. Arkansas Medical Assistance Fraud Prevention Pilot Program
19 – Creation.

20 (a)(1) The Department of Human Services shall establish and administer
21 the Arkansas Medical Assistance Fraud Prevention Pilot Program.

22 (2) The requirements under the pilot program for a photo ID do
23 not apply to an ARKids First A recipient or an ARKids First B recipient.

24 (b) The department shall enter into an agreement with a third-party
25 vendor to implement and maintain the Arkansas Medical Assistance Fraud
26 Prevention Pilot Program.

27 (c)(1) Before a state-wide rollout of the Arkansas Medical Assistance
28 Fraud Prevention Program, the department shall conduct a front-end, proactive
29 medical assistance fraud prevention pilot program.

30 (2) The department shall determine the scope of the pilot
31 program and shall enter into an agreement with a third-party vendor to
32 develop and execute the pilot program.

33 (3) The department shall adopt rules to implement the pilot
34 program.

35 (d)(1) The department shall implement the pilot program for a minimum
36 of three (3) months, not to exceed a total of six (6) months, within seven

1 (7) counties chosen by the department.

2 (2)(A) The pilot program shall involve enrollment, distribution,
3 and use of a smart card by a recipient.

4 (B) If applicable, the smart card shall serve as a
5 replacement for a currently used medical assistance card.

6 (3) The pilot program shall involve the distribution of *card*
7 *readers at each provider location within the* designated counties.

8 (e) The department shall mandate participation in the pilot program by
9 all providers and recipients in the counties in which the pilot program is
10 conducted.

11 (f) The department shall implement the pilot program not later than
12 January 1, 2014.

13
14 20-75-2104. Arkansas Medical Assistance Fraud Prevention Program –
15 Creation.

16 (a) The Department of Human Services shall implement the Arkansas
17 Medical Assistance Fraud Prevention Program to address Medicaid fraud, waste,
18 and abuse.

19 (b) The program shall be designed to:

20 (1) Authenticate a provider at the point of transaction to
21 prevent phantom billing and other forms of provider fraud;

22 (2) Authenticate a recipient at the onset and completion of each
23 point of transaction to prevent card sharing and other forms of fraud;

24 (3) Deny ineligible persons at the point of transaction;

25 (4) Reduce the total amount of medical assistance expenditures
26 by reducing the average cost per recipient; and

27 (5) Secure and protect the personal identity and information of
28 recipients.

29 (c) The program shall include:

30 (1)(A) *Card readers for real time, multifactor authentication of*
31 *a recipient's smart card.*

32 (B) *Card readers shall be kept at the point of transaction*
33 *with a provider;*

34 (2) An image of the recipient stored on both a smart card and in
35 a data base;

36 (3) An information system for recording and reporting

1 authenticated transactions;

2 (4) An information system that interfaces with the state
3 database to determine eligibility of recipients;

4 (5) No requirement for preenrollment of recipients;

5 (6)(A) A smart card for storage of a recipient's state benefit
6 information, insurance information, and other general health information.

7 (B) A smart card shall include a recipient's prescription
8 history information to assist in prevention of drug overutilization and to
9 mitigate costs and risks associated with prescription drugs.

10 (C) Sensitive information stored on a smart card shall be
11 separated into multiple parts and shall be encrypted, with one (1) part
12 stored on the host database;

13 (7) A smart card with the ability to store multiple recipients'
14 information on one (1) card; and

15 (8) A system that gathers analytical information to be provided
16 to a data-mining company to assist in data-mining processes.

17 (d) In implementing the program, the department may:

18 (1) Allow electronic prescribing services and prescription
19 database integration and tracking to prevent medical error through
20 information sharing and to reduce pharmaceutical abuse and lower health care
21 costs;

22 (2) Allow the program, including without limitation smart cards
23 and card readers, to be adapted for use by other state programs administered
24 by the department to reduce costs associated with the necessity of multiple
25 cards per recipient;

26 (3) Enter and store billing codes, deductible amounts, and bill
27 confirmations;

28 (4) Use an alternative method of authentication of recipients
29 when the smart card cannot be used and as necessary to address specific
30 requirements for a waiver or authorization from the Centers for Medicare and
31 Medicaid Services; and

32 (5) Implement quick pay incentives for providers when electronic
33 prescribing services, electronic health records, electronic patient records,
34 or computerized patient records used by providers automatically synchronize
35 with recipients' smart cards and electronically submit a claim.

36 (e)(1) The department shall implement a statewide rollout of the

1 program after completion of a successful pilot program under § 20-77-2103.

2 (2) The pilot program shall be considered a success if it meets
3 the minimum criteria defined in subsections (b) and (c) of this section and
4 reduces the average monthly cost per recipient within the pilot program area
5 by a minimum of three percent (3%).

6 (3)(A) If the pilot program does not meet the minimum criteria
7 to be considered a success, the department may extend and revise the pilot
8 program as necessary and reevaluate the results.

9 (B) To evaluate the average monthly cost of a recipient
10 within the pilot program area and to develop a strategy necessary to achieve
11 the highest rate of savings to the state Medicaid plan, the department shall
12 analyze four (4) sample sets of figures for the pilot program, including:

13 (i)(a) Establishment of base figures.

14 (b) The department shall gather claims data
15 for a first sample set that includes all claims for the recipients in the
16 pilot program area and the average cost per recipient by provider type and
17 county from at least the prior year for the exact time period for all areas
18 in the pilot program;

19 (ii)(a) Adjustment of base figures for increase or
20 decrease in cost of services.

21 (b) To evaluate an increase or decrease in the
22 cost of services, the department shall gather a second sample set and shall
23 adjust the base figures of the first in relation to the second sample set.

24 (c) The second sample set of claims data shall
25 represent a rural area and an urban area not participating in the pilot
26 program, with as close as possible demographics similar to those of
27 recipients in the pilot program areas, including specific data relating to
28 sex, age, race, and ethnicity, county similarities, number of providers, and
29 the average cost per recipient.

30 (d) The department shall analyze the second
31 sample set the preceding year's figures by comparing to current year figures
32 for the same time frame and area to determine an increase or decrease in cost
33 of services.

34 (e) The second sample set shall not include
35 any major changes from the prior year to the current year that would change
36 the comparison, such as the introduction of managed care in the area.

1 (f) The increase or decrease in cost per
2 recipient from the second sample set shall be factored into the data set
3 determined under this subsection to derive an adjusted base figure or average
4 cost per recipient per month;

5 (iii)(a) Comparison of base figures to current
6 figures.

7 (b) A third sample set of data shall be
8 gathered reflecting the claims data of the recipients and the average cost
9 per recipient on a monthly basis during the pilot program by provider type.

10 (c) A comparison of the adjusted base figures
11 arrived at by the second sample set to the actual figures from the third
12 sample set shall determine how much the state saved by provider type.

13 (d) A recipient who leaves the pilot program
14 area to avoid fraud detection will be noted, thus, the third sample set will
15 be adjusted by claims derived outside of the pilot program area; and

16 (iv)(a) Recipient Surveying.

17 (b) The department shall obtain a fourth
18 sample set of data by sampling two percent (2%) of Medicaid recipients in the
19 pilot program area and shall survey the recipients before the beginning of
20 the pilot program to determine services used, frequency of services used, and
21 satisfaction with services used.

22 (c) The department shall repeat the survey
23 required under subdivision (e)(3)(B)(iv)(b) of this section at the completion
24 of the pilot program to rate the level of satisfaction of the pilot program.

25 (f)(1) The department shall adopt a plan to implement the program
26 statewide in phases.

27 (2) The plan shall include for each phase a description of the
28 policies and procedures:

29 (A) For handling lost, forgotten, or stolen cards;

30 (B)(i) For distributing and activating smart cards for all
31 recipients.

32 (ii) The policies and procedures shall include a
33 simple step-by-step process that instructs a recipient in the process of
34 enrollment and initial use of smart cards at the recipient's primary care
35 provider and in the process of activating a smart card;

36 (C) The procedures shall include shipping the equipment to

1 providers and providing simple step-by-step instructions for installation of
2 the equipment; and

3 (D) For enrolling recipients for participation in the
4 program.

5 (g) The department shall mandate participation in the program by all
6 providers and recipients as the program is rolled out.

7
8 20-75-2105. Pilot program reports.

9 (a) The Department of Human Services, in preparation for implementing
10 the Arkansas Medical Assistance Fraud Prevention Pilot Program required under
11 this subchapter, shall submit a monthly report regarding the progress of
12 preimplementation of the pilot program to the Governor, the cochairs of the
13 Medicaid Subcommittee of the Legislative Joint Audit Committee, the chair of
14 the House Committee on Public Health, Welfare, and Labor, and the chair of
15 the Senate Committee on Public Health, Welfare, and Labor.

16 (b)(1) Upon implementation of the pilot program, the department shall
17 submit a quarterly report to the Governor, the cochairs of the Medicaid
18 Subcommittee of the Legislative Joint Audit Committee, the chair of the House
19 Committee on Public Health, Welfare, and Labor, and the chair of the Senate
20 Committee on Public Health, Welfare, and Labor.

21 (2)(A) The first quarterly report shall include an evaluation of
22 the success of the pilot program.

23 (B) The quarterly report shall include without limitation:

24 (i) The number of cards issued as a percentage of
25 the recipient population;

26 (ii) The Cost of the program including estimated
27 cost avoidance and savings;

28 (iii) Provider satisfaction or benefits, or both;

29 (iv) Loss of cards and card security; and

30 (v) Fraud prevention and detection.

31 (C) In addition, the department shall include in the
32 quarterly report other pertinent data and information.

33
34 20-75-2106. Interaction with federal law.

35 (a) This subchapter is intended to be consistent with the Social
36 Security Act, 42 U.S.C. § 1396 et seq.

