

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

As Engrossed: S1/26/15

A Bill

SENATE BILL 96

5 By: Senator J. Hendren
6

For An Act To Be Entitled

8 AN ACT TO ADDRESS THE HEALTHCARE NEEDS OF INDIVIDUALS
9 SERVED BY THE HEALTH CARE INDEPENDENCE PROGRAM TO BE
10 KNOWN AS THE ARKANSAS HEALTH REFORM ACT OF 2015; TO
11 CREATE THE ARKANSAS HEALTH REFORM LEGISLATIVE TASK
12 FORCE; TO TRANSFORM THE ARKANSAS MEDICAID PROGRAM
13 WITH INNOVATIVE AND COST-EFFECTIVE SOLUTIONS FOR THE
14 PROVISION OF HEALTHCARE SERVICES; TO DECLARE AN
15 EMERGENCY; AND FOR OTHER PURPOSES.
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Subtitle

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19 TO CREATE THE ARKANSAS HEALTH REFORM ACT
20 OF 2015; AND TO DECLARE AN EMERGENCY.
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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25 WHEREAS, the federal Patient Protection and Affordable Care Act of
26 2010, Pub. L. No. 111-148, requires that Arkansas citizens obtain credible
27 health insurance coverage either through employer mandates or individual
28 action, or face threat of tax penalties; and
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30 WHEREAS, the federal Patient Protection and Affordable Care Act of
31 2010, Pub. L. No. 111-148, further jeopardized the Arkansas healthcare system
32 and its clinical providers' ability to meet healthcare needs of citizens by
33 excising new taxes, cutting existing Medicare payments, and imposing new
34 penalties on clinical providers; and
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36 WHEREAS, the federal Emergency Medical Treatment & Labor Act requires



1 Arkansas hospitals to provide direct health care for Arkansas citizens,
2 including those citizens eligible for the Arkansas Health Care Independence
3 Program, regardless of ability to pay; and
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5 WHEREAS, the Arkansas Health Care Independence Program was the State of
6 Arkansas's initial response to the disruptive challenges of the federal
7 healthcare legislation and regulation in an effort to safeguard Arkansas
8 employers and citizens and healthcare systems; and
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10 WHEREAS, the Arkansas Health Care Independence Program and the federal
11 waiver under which the state operates the Arkansas Health Care Independence
12 Program will terminate on December 31, 2016, which will have the effect of
13 ending eligibility for Medicaid expansion populations in the absence of
14 legislative action by the General Assembly; and
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16 WHEREAS, the State of Arkansas has historically sought state-specific
17 strategies to provide health care for low-income and other vulnerable
18 populations while reducing state and federal obligations to entitlement
19 spending; and
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21 WHEREAS, the State of Arkansas continues to seek out strategies to
22 provide health care for low-income and other vulnerable populations in a
23 manner that will promote accountability, personal responsibility, and
24 transparency; remove disincentives for work and social mobility; encourage
25 and reward healthy outcomes and responsible choices; and promote efficiencies
26 that will deliver value to the taxpayers; and
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28 WHEREAS, the State of Arkansas is recognized as a leader in healthcare
29 finance and delivery system innovation; and
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31 WHEREAS, the State of Arkansas seeks to assert its responsibility for
32 local control and to protect Arkansas consumers and businesses from federal
33 mandates,
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35 NOW THEREFORE,

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

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SECTION 1. DO NOT CODIFY. Title.

This act shall be known and may be cited as the "Arkansas Health Reform Act of 2015".

SECTION 2. TEMPORARY LANGUAGE. DO NOT CODIFY. Arkansas Health Reform Legislative Task Force – Creation – Membership – Duties.

(a) There is created the Arkansas Health Reform Legislative Task Force.

(b)(1) The task force shall consist of the following sixteen (16) members of the General Assembly:

(A) The President Pro Tempore of the Senate, or his or her designee who is a member of the Senate;

(B) Five (5) members of the Senate appointed by the President Pro Tempore of the Senate;

(C) The Senate Majority Leader, or his or her designee who is a member of the Senate;

(D) The Senate Minority Leader, or his or her designee who is a member of the Senate;

(E) The Speaker of the House of Representatives, or his or her designee who is a member of the House of Representatives;

(F) Five (5) members of House of Representatives appointed by the Speaker of the House of Representatives;

(G) The House Majority Leader, or his or her designee who is a member of the House of Representatives; and

(H) The House Minority Leader, or his or her designee who is a member of the House of Representatives.

(2) The Surgeon General shall serve as a nonvoting member of the task force.

(3) If a vacancy occurs on the task force, the vacancy shall be filled by the same process as the original appointment.

(4) Legislative members of the task force shall be paid per diem and mileage as authorized by law for attendance at meetings of interim committees of the General Assembly.

(c)(1) The President Pro Tempore of the Senate shall designate one (1) member of the task force to call the first meeting of the task force within

1 thirty (30) days of the effective date of this act and serve as chair of the
2 task force at the first meeting.

3 (2) At the first meeting of the task force, the members of the
4 task force shall elect from its membership a chair and other officers as
5 needed for the transaction of its business.

6 (3)(A) The task force shall conduct its meetings in Pulaski
7 County at the State Capitol or another site with teleconferencing
8 capabilities.

9 (B) Meetings of the task force shall be held at least one
10 (1) time every two (2) months but may occur more often at the call of the
11 chair.

12 (4) The task force shall establish rules and procedures for
13 conducting its business.

14 (5)(A) A majority of the voting members of the task force shall
15 constitute a quorum for transacting business of the task force.

16 (B) An affirmative vote of a majority of a quorum present
17 shall be required for the passage of a motion or other task force action.

18 (6) The Bureau of Legislative Research shall provide staff for
19 the task force.

20 (d)(1) The purpose of the task force is to:

21 (A) Recommend an alternative healthcare coverage model and
22 legislative framework to ensure the continued availability of healthcare
23 services for vulnerable populations covered by the Health Care Independence
24 Program established by the Health Care Independence Act of 2013, §§ 20-77-
25 2401 et seq., upon program termination; and

26 (B) Explore and recommend options to modernize Medicaid
27 programs serving the indigent, aged, and disabled.

28 (2) To achieve this purpose, the task force shall:

29 (A) Identify resources and funding necessary to ensure an
30 effective and efficient transition from the Health Care Independence Program,
31 while minimizing or eliminating any need for the General Assembly to raise
32 additional state general revenue;

33 (B) Identify the populations eligible for and
34 participating in the Health Care Independence Program, including both:

35 (i) Individuals newly eligible for health coverage
36 under the program; and

1 (ii) Individuals previously eligible for Medicaid
2 before the effective date of the program, whether under a Medicaid waiver or
3 some other eligibility criteria;

4 (C) Study the healthcare needs and other relevant
5 characteristics of those populations served by the Health Care Independence
6 Program;

7 (D) Recommend measures and options to preserve access to
8 quality health care for those populations served by the Health Care
9 Independence Program;

10 (E) Structure any recommended measures and options in a
11 manner that achieves the following:

12 (i) Protection of Arkansas workers and employers
13 from federal mandates and regulations by limiting the role of the federal
14 government in defining the healthcare choices and coverage available in the
15 Arkansas health insurance market;

16 (ii) Maximum flexibility for the state and
17 limitations on federal restrictions on the state's ability to efficiently and
18 effectively manage the Arkansas Medicaid Program;

19 (iii) Opportunities to limit the size of the
20 traditional Medicaid program by serving healthier beneficiaries in the
21 private market;

22 (iv) Strengthening of the employer-sponsored health
23 insurance market;

24 (v) Increased employment of able-bodied recipients
25 of taxpayer-funded healthcare services;

26 (vi) Healthier behaviors, increased accountability,
27 and personal responsibility for beneficiaries;

28 (vii) Enlistment of enough providers so that care
29 and services are available at least to the extent that such care and services
30 are available under the Health Care Independence Program;

31 (viii) Access to health services in rural areas of
32 the state;

33 (ix) Continuity of coverage for eligible individuals
34 as their income or life circumstances change; and

35 (x)(a) Continued payment innovation, delivery system
36 reform, and market driven improvement, including without limitation the

1 Arkansas Health Care Payment Improvement Initiative, for which current
2 federal grant support will expire on or before December 31, 2016.

3 (b) The task force shall review the Arkansas
4 Health Care Payment Improvement Initiative and recommend continuation,
5 suspension, termination, or other actions the task force deems appropriate to
6 the Governor.

7 (F) Estimate the impact of the Health Care Independence
8 Program and of its termination on the state's economy as a whole and on the
9 state's general revenue budget; and

10 (G) Recommend procedures to optimize and streamline the
11 legislative review and approval process for state plan amendments and other
12 Medicaid rules, so as to promote efficiency, ensure agency responsiveness to
13 changing market conditions, encourage transparency, and protect against undue
14 influence by special interests.

15 (H) If the task force determines necessary, contract with
16 the consultants to assist the task force with the study.

17 (3)(A) On or before December 31, 2015, the task force shall file
18 with the Governor, the Speaker of the House of Representatives, and the
19 President Pro Tempore of the Senate a written report of the task force's
20 activities, findings, and recommendations.

21 (B) The task force may file with the Governor, the Speaker
22 of the House of Representatives, and the President Pro Tempore of the Senate
23 a final written report on or before December 30, 2016.

24 (e) The task force expires December 31, 2016.

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26 SECTION 3. TEMPORARY LANGUAGE. DO NOT CODIFY. Efforts to transform
27 the Arkansas Medicaid Program – Federal waivers or authorities.

28 (a)(1) Notwithstanding any other rule, regulation, or law to the
29 contrary, the Department of Human Services may submit and apply for any
30 federal waivers or authority necessary to transform the Arkansas Medicaid
31 Program into a program with maximum state flexibility in the use of the funds
32 for innovative and cost-effective solutions for the provision of healthcare
33 services.

34 (2) Under no circumstances may Medicaid eligibility be extended
35 past December 31, 2016, for the current Medicaid expansion population under
36 the Health Care Independence Program, commonly referred to as the "Private

1 Option,” without express legislative approval through a proper enactment of
2 law by the General Assembly.

3 (3) The options pursued as part of this effort may include
4 without limitation:

5 (A) A block grant or global budget cap program in which
6 the federal government provides the state with a defined annual lump sum,
7 calculated on the basis of past and existing Medicaid funding levels,
8 adjusted annually for healthcare inflation; and

9 (B) Innovative measures and options such as capitated
10 payment models, including without limitation managed care programs for
11 specific high-need populations such as people with serious mental illness or
12 elders with frailty.

13 (b) The solutions pursued through this effort shall aim to sustain and
14 improve the following:

15 (1) Appropriate care and improved outcomes through early
16 intervention, prevention, and wellness programs, including the reduction of
17 rates of obesity and tobacco use;

18 (2) Services in the most cost-effective settings;

19 (3) Enhanced injury prevention;

20 (4) Optimized use of telemedicine;

21 (5) Transparency in healthcare price, quality, and utilization
22 for consumers, taxpayers, and policymakers;

23 (6) Discouraged over-utilization and reduced waste, fraud, and
24 abuse; and

25 (7) Other efficiencies that will deliver value to the taxpayers.

26 (c) The programs and populations in this effort may include without
27 limitation:

28 (1) The traditional Medicaid program;

29 (2) Existing Medicaid waiver programs, including without
30 limitation those waivers authorized or required by Arkansas law; and

31 (3) Individuals eligible for the Health Care Independence
32 Program authorized under § 20-77-2401 et seq.

33 (d) The department, in consultation with the Arkansas Health Reform
34 Legislative Task Force, shall submit the necessary waiver requests to the
35 Centers for Medicare and Medicaid Services no later than July 1, 2016, for a
36 waiver term of up to five (5) years.

1 (e) The department may promulgate rules to administer and implement
2 this section.

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4 SECTION 4. TEMPORARY LANGUAGE. DO NOT CODIFY. Suspension of certain
5 changes to the Health Care Independence Program.

6 (a) The Department of Human Services shall suspend, as of the
7 effective date of this act and notwithstanding any other rules, regulations,
8 or provisions of law to the contrary, any further inclusion or transition of
9 Medicaid-eligible recipient populations to the Arkansas Health Insurance
10 Marketplace, including without limitation:

11 (1) Children eligible for the ARKids First Program Act, § 20-77-
12 1101 et seq., commonly known as the “ARKids B program”; and

13 (2) Populations under Medicaid from zero percent (0%) of the
14 federal poverty level to seventeen percent (17%) of the federal poverty
15 level.

16 (b) Notwithstanding any other rule, regulation, or law to the
17 contrary, the department shall suspend, as of the effective date of this act,
18 the application of any additional cost sharing requirements *to go into effect*
19 on or after January 31, 2015, under the Health Care Independence Program to
20 Medicaid beneficiaries with incomes below one hundred percent (100%) of the
21 federal poverty level.

22 (c) The purpose of this section is to:

23 (1) Ensure a focus on future improvements; and

24 (2) Limit the state’s exposure to additional costs.

25 (d) This section shall expire at the earliest of:

26 (1) The effective date of the termination of the Health Care
27 Independence Program; or

28 (2) December 31, 2016.

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30 SECTION 5. TEMPORARY LANGUAGE. DO NOT CODIFY. Modification of
31 Medicaid State Plan.

32 (a) Upon the expiration or termination of the Health Care Independence
33 Program under the Health Care Independence Act of 2013, § 20-77-2401 et seq.,
34 the Department of Human Services shall submit all Medicaid State Plan
35 amendments necessary to ensure that expiration or termination of the federal
36 waivers required by § 20-77-2405 does not render eligible individuals, as

1 defined in § 20-77-2404(3), to be covered by the Title XIX Medicaid Program
2 for the State of Arkansas solely on the basis of income.

3 (b) The department shall submit and make effective the Medicaid State
4 Plan amendments required by this section prior to the date on which the
5 federal waivers actually terminate.

6 (c) This section does not require modification of any Medicaid
7 eligibility categories that were in effect on or before December 31, 2013.

8 (d) The purpose of this section is to ensure that Medicaid eligibility
9 does not continue past December 31, 2016, for the current Medicaid expansion
10 population under the Health Care Independence Program, commonly referred to
11 as the "Private Option," without express approval through a proper enactment
12 of law by the General Assembly.

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14 SECTION 6. DO NOT CODIFY. Expiration of Health Care Independence
15 Program.

16 Eligibility, enrollment and participation in Medicaid for the current
17 Medicaid expansion population under the Health Care Independence Program
18 authorized under § 20-77-2401 et seq. shall cease and terminate effective
19 January 1, 2017, in the absence of legislative action by the General
20 Assembly.

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22 SECTION 7. EMERGENCY CLAUSE. It is found and determined by the
23 General Assembly of the State of Arkansas that without legislative action,
24 the Health Care Independence Program will terminate before reductions in
25 federal medical assistance percentages require the expenditure of additional
26 state general revenues; that an urgent need exists to develop contingency
27 plans for the termination of the Health Care Independence Program and to
28 ensure continued healthcare access for eligible individuals; that to ensure
29 efficient use of taxpayer dollars and continued healthcare coverage for the
30 state's most vulnerable citizens, it is immediately necessary to transform
31 the Arkansas Medicaid Program; and that this act is immediately necessary to
32 initiate reforms of the state's healthcare system. Therefore, an emergency is
33 declared to exist, and this act is immediately necessary for the preservation
34 of the public peace, health, and safety, and shall become effective on:

35 (1) The date of this act's approval by the Governor;

36 (2) If the bill is neither approved nor vetoed by the Governor,

1 the expiration of the period of time during which the Governor may veto the
2 bill; or

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

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/s/J. Hendren