

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**

A Bill

ACT 918 OF 1993
SENATE BILL 712

4 **By: Senators Holiman, Fitch, Hoofman, Beebe, Jewell, and Wilson**

5
6

For An Act To Be Entitled

8 "HOME INTRAVENOUS DRUG THERAPY SERVICES."

9

Subtitle

11 "HOME INTRAVENOUS DRUG THERAPY SERVICES."

12

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

14

15 SECTION 1. Definitions.

16 (1) (a) "Home intravenous drug therapy services" means the items and
17 services described in paragraph (b) furnished to an individual who is under
18 the care of a physician in a place of residence used as the individual_s home,
19 by a qualified home intravenous drug therapy provider; and under a plan
20 established and periodically reviewed by a physician.

21 (b) "Home intravenous drug therapy services" includes pharmacy
22 and related services (including medical supplies, intravenous fluids and
23 equipment used in administering intravenous fluids) as are necessary to
24 conduct safely and effectively an intravenous administered drug regimen.

25 (2) "Qualified *pharmacy* home intravenous drug therapy provider" means
26 any entity that the Arkansas Board of Pharmacy determines meets the following
27 requirements:

28 (i) the entity is capable of providing home intravenous drug
29 therapy services;

30 (ii) the entity maintains clinical records on all patients;

31 (iii) the entity adheres to the appropriate written protocols and
32 policies with respect to the provision of items and services;

33 (iv) the entity makes services available (as needed) seven (7)
34 days a week on a twenty-four (24) hour basis;

35 (v) the entity coordinates all services with the patient_s
36 physician;

- 1 (vi) the entity conducts a quality assessment and assurance
- 2 program, including drug regimen review and coordination of patient care;
- 3 (vii) the entity is licensed by the Arkansas Board of Pharmacy;
- 4 (viii) the entity provides sterile compounding of intravenous
- 5 drugs in an atmosphere which contains less than one thousand (1,000) particles
- 6 0.5 microns or larger in diameter per cubic foot of air and positive air flow.
- 7 Clean air hoods must be certified at least annually;
- 8 (ix) the entity performs stringent quality control procedures
- 9 including complete sterile compounding records of drug lot number, expiration
- 10 date, quantity used, and copy of the label attached to the final compounded
- 11 product;
- 12 (x) the entity maintains patient records as to frequency of
- 13 nursing visits, certificate of medical necessity from the attending physician,
- 14 progress reports on the patient, and a patient care plan; and
- 15 (xi) the entity meets such other requirements the Arkansas Board
- 16 of Pharmacy may determine are necessary to assure the safe and effective
- 17 provision of home intravenous drug therapy services and the efficient
- 18 administration of home intravenous drug therapy.

19 (3) "Referring physician" means, with respect to providing home
20 intravenous drug therapy services to an individual, a physician who:

- 21 (i) prescribed the home intravenous drug for which the services
- 22 are to be provided; and
- 23 (ii) established the plan of care for such services.

24

25 SECTION 2. Medicaid payment.

26 (a) Medicaid payment shall *not exceed* an amount equal to the lesser of
27 the qualified provider_s usual and customary charges for such services or the
28 *reimbursement* schedule established under paragraph (b) *when determined*
29 *medically necessary by the Arkansas Medicaid Program. A reimbursement*
30 *schedule established under this section shall be on a per diem basis.*
31 *Reimbursement under this section shall not be subject to the medicaid pharmacy*
32 *benefits limits. Service per diem rates shall include the following:*

- 33 (1) pharmacy sterile compounding fees;
- 34 (2) intravenous pole, infusion pumps, and pump cassettes;
- 35 (3) all required intravenous supplies (syringes, tubing, catheter

1 care kits, etc.);

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3 (4) and other related services necessary for home intravenous
4 drug services. When the home intravenous drug therapy medication must be
5 administered by a licensed health care professional, the administration of
6 this medication shall be provided by a licensed home health agency.

7 (b) Department of Human Services shall establish a reimbursement
8 schedule for the following: home intravenous antibiotics, chemotherapy, pain
9 management, total parenteral nutrition, and other home intravenous therapies.

10 (c) The Medicaid reimbursement shall be the average wholesale cost of
11 drug and solution plus a service per diem not exceed the fortieth (40th)
12 percentile of average daily Medicaid per diem to Arkansas hospitals or the
13 usual and customary reimbursement whichever is lower.

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15 SECTION 3. Physician clinical management fees. The referring physician
16 prescribing the home intravenous therapy shall be entitled to Medicaid payment
17 for certain clinical management services determined by the Department of Human
18 Services. The schedule of physician fees for these services shall not exceed
19 on a per diem basis at the fortieth percentile of average Medicaid fees paid
20 to physicians for Arkansas hospital visits or the usual and customary
21 reimbursement whichever is lower.

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23 SECTION 4. Limitation on acceptance of, and payments for, certain
24 referrals. (a) Except as provided in subsection (b), no payment for home
25 intravenous drug therapy services shall be made to any provider in which a
26 physician or a physician's immediate family member has an ownership interest
27 in the provider or in any situation where the physician receives compensation
28 from the provider to induce referrals.

29 (b) Exceptions:

30 (i) subsection (a)(i) does not apply if the ownership interest is
31 the ownership of stock which is traded over a publicly regulated exchange and
32 was purchased on terms generally available to the public.

33 (ii) subsection (a)(ii) does not apply if the compensation is
34 reasonably related to items or services actually provided by the physician and
35 does not vary in proportion to the number of referrals made by the referring

1 physicians, but such exception does not apply to compensation provided for
2 direct patient care services.

3 (iii) subsection (a) does not be construed to apply to a
4 referring physician whose only ownership or financial relationship with the
5 provider is an uncompensated officer or director of the provider.

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7 SECTION 5. Sanctions. No payment may be made under this act for home
8 intravenous drug therapy service which is provided in violation of this act or
9 *jeopardize federal financial participation.*

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11 SECTION 6. No person nor entity shall sell intravenous drugs in this
12 state nor deliver the same into this state through United States mail or a
13 private carrier unless licensed by the Arkansas Board of Pharmacy.

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15 SECTION 7. *Exclusion. The provisions of this act shall not be deemed*
16 *to grant the State Board of Pharmacy any authority to regulate the practice of*
17 *nursing in this state and the practicing of nursing in this state shall remain*
18 *the sole responsibility of the Arkansas State Board of Nursing pursuant to*
19 *Chapter 86 of Title 17 of the Arkansas Code, commonly referred to as the Nurse*
20 *Practices Act.*

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22 SECTION 8. All provisions of this act of a general and permanent nature
23 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
24 Revision Commission shall incorporate the same in the Code.

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26 SECTION 9. 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.

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32 SECTION 10. All laws and parts of laws in conflict with this act are
33 hereby repealed.

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35 SECTION 11. *EMERGENCY. It is hereby found and determined by the*

1 General Assembly that the medicaid program is suffering severe financial
2 strain; that this act would provide substantial relief to medicaid
3 expenditures through authorizing home intravenous drug therapy services; and
4 this act should go into effect immediately in order to grant needed relief to
5 the medicaid program. Therefore and emergency is hereby declared to exist and
6 this act being necessary for the preservation of the public peace, health and
7 safety shall be in full force and effect from and after its passage and
8 approval.

9 /s/ Senators Holiman, et al.

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11 APPROVED: 4/7/93

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As Engrossed: 3/22/93 3/26/93

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