

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

As Engrossed: S3/9/15
A Bill

SENATE BILL 701

5 By: Senator Irvin
6

7 **For An Act To Be Entitled**

8 *AN ACT TO LIMIT THE USE OF FACTORS THAT ARE NOT UNDER*
9 *A PHYSICIAN'S CONTROL IN DETERMINING REIMBURSEMENT IN*
10 *ALTERNATIVE PAYMENT SYSTEMS.*

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13 **Subtitle**

14 *TO LIMIT FINANCIAL PENALTIES ON*
15 *PHYSICIANS IN ALTERNATIVE PAYMENT*
16 *SYSTEMS.*

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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code Title 23, Chapter 99, is amended to add an
22 additional subchapter to read as follows:

23 Subchapter 9 – Limitation on Financial Penalties In Alternative Payment
24 Systems

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26 23-99-901. Legislative findings.

27 The General Assembly finds that:

28 (1) Under an alternative payment system, a *healthcare payor,*
29 *when determining a physician's patient care costs, may use factors that are*
30 *not under the control of the physician;*

31 (2) A physician may not receive an appropriate share of savings
32 or reduction *in recoupment* under an alternative payment system if *the*
33 *physician's patients have a higher cost of care; and*

34 (3) A physician should not be penalized for higher patient care
35 *costs if any of the costs are not under the control of the physician.*
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1 23-99-902. Definitions.

2 As used in this subchapter:

3 (1) "Alternative payment system" means a payment methodology
4 used by a healthcare payor that includes a risk-sharing or gain-sharing
5 component for a physician that participates in a plan, program, or network
6 offered by the healthcare payor;

7 (2) "Gain-sharing payment" means an increase in a payment or
8 additional payments made by a healthcare payor to a physician as a result of
9 patient care costs that fall below cost thresholds of any form;

10 (3)(A) "Healthcare payor" means an entity that reimburses a
11 physician for the delivery of healthcare services that are covered by the
12 healthcare payor.

13 (B) "Healthcare payor" does not include a provider-based
14 network or system that utilizes risk-sharing including an accountable care
15 organization or a clinically integrated network; and

16 (4) "Risk-sharing payment" means a reduction in a payment to or
17 refund of a payment already made to a physician as a result of patient care
18 costs that exceed cost thresholds of any form.

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20 23-99-903. Physician penalties – Limitation.

21 A healthcare payor doing business in this state, when determining any
22 gain-sharing or risk-sharing for a physician, shall not attribute to a
23 physician any costs that are a result of variations in the healthcare payor's
24 freely negotiated contract pricing with other persons or entities outside the
25 physician's practice if including the costs reduces a physician's gain-
26 sharing amount or increases a physician's risk-sharing amount.

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28 /s/Irvin

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31 **APPROVED: 04/01/2015**