

1 State of Arkansas  
2 91st General Assembly  
3 Regular Session, 2017  
4

# A Bill

HOUSE BILL 1919

5 By: Representative Boyd  
6 By: Senator Files  
7

## For An Act To Be Entitled

9 AN ACT TO CODIFY THE PROCESS FOR THE REVIEW OF RULES  
10 IMPACTING STATE MEDICAID COSTS; TO EXEMPT MEDICAL  
11 CODES FROM THE RULE-MAKING PROCESS AND LEGISLATIVE  
12 REVIEW AND APPROVAL; AND FOR OTHER PURPOSES.  
13

## Subtitle

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15 TO CODIFY THE PROCESS FOR THE REVIEW OF  
16 RULES IMPACTING STATE MEDICAID COSTS; AND  
17 TO EXEMPT MEDICAL CODES FROM THE RULE-  
18 MAKING PROCESS AND LEGISLATIVE REVIEW AND  
19 APPROVAL.  
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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25 SECTION 1. Arkansas Code § 10-3-309(b)(1)(B), concerning the  
26 definition of "rule" within the legislative review and approval of state  
27 agency rules procedure, is amended to read as follows:

28 (B) "Rule" does not mean:

29 (i) A statement that concerns the internal  
30 management of a state agency and that does not affect the private rights or  
31 procedures available to the public;

32 (ii) A declaratory order or ruling issued under §  
33 25-15-206 or other provision of law applicable to the state agency issuing  
34 the declaratory order or ruling; ~~or~~

35 (iii) Intraagency memoranda; or

36 (iv) A medical code within the Arkansas Medicaid



1 Program that is issued by the Centers for Medicare and Medicaid Services,  
 2 including without limitation:

3 (a) Current Procedural Terminology codes;

4 (b) Healthcare Common Procedure Coding System  
 5 codes;

6 (c) International Classification of Diseases  
 7 codes;

8 (d) National Uniform Billing Committee  
 9 Official UB-04 Specifications Manual codes; and

10 (e) National Correct Coding Initiative codes;

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 12 SECTION 2. Arkansas Code § 25-15-202(9)(B), concerning the definition  
 13 of "rule" within the Administrative Procedure Act, is amended to read as  
 14 follows:

15 (B) "Rule" does not mean:

16 (i) ~~Statements concerning~~ A statement that concerns  
 17 the internal management of an a state agency and that ~~do~~ does not affect the  
 18 private rights or procedures available to the public;

19 (ii) ~~Declaratory rulings~~ A declaratory order or  
 20 ruling issued pursuant to under § 25-15-206 or other provision of law  
 21 applicable to the state agency issuing the declaratory order or ruling; or

22 (iii) ~~Intra-agency~~ Intraagency memoranda; or

23 (iv) A medical code within the Arkansas Medicaid  
 24 Program that is issued by the Centers for Medicare and Medicaid Services,  
 25 including without limitation:

26 (a) Current Procedural Terminology codes;

27 (b) Healthcare Common Procedure Coding System  
 28 codes;

29 (c) International Classification of Diseases  
 30 codes;

31 (d) National Uniform Billing Committee  
 32 Official UB-04 Specifications Manual codes; and

33 (e) National Correct Coding Initiative codes;

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 35 SECTION 3. Arkansas Code Title 25, Chapter 15, is amended to add an  
 36 additional subchapter to read as follows:

1                   Subchapter 4 – Rules Impacting Medicaid Costs

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3           25-15-401. Legislative finding.

4           In light of the potential for rapidly rising costs to the state  
5 attributable to the Arkansas Medicaid Program and the importance of Medicaid  
6 expenditures to the health and welfare of the citizens of this state, the  
7 General Assembly finds that it is desirable to exercise a more thorough  
8 review of future proposed changes to any rule impacting state Medicaid costs.

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10          25-15-402. Definition.

11          (a) As used in this section, "rule impacting state Medicaid costs"  
12 means a proposed rule as defined by § 25-15-202(9), or a proposed amendment  
13 to an existing rule as defined by § 25-15-202(9), that would, if adopted,  
14 adjust Medicaid reimbursement rates, Medicaid eligibility criteria, or  
15 Medicaid benefits, including without limitation a proposed rule or a proposed  
16 amendment to an existing rule seeking to:

17               (1) Reduce the number of individuals covered by the Arkansas  
18 Medicaid Program;

19               (2) Limit the types of services covered by the program;

20               (3) Reduce the utilization of services covered by the program;

21               (4) Reduce provider reimbursement;

22               (5) Increase consumer cost sharing;

23               (6) Reduce the cost of administering the program;

24               (7) Increase the program revenues;

25               (8) Reduce fraud and abuse in the program;

26               (9) Change any of the methodologies used for reimbursement of  
27 providers;

28               (10) Seek a new waiver or modification of an existing waiver of  
29 any provision under Title XIX of the Social Security Act, 42 U.S.C. § 1396-1  
30 et seq., including a waiver that would allow a demonstration project;

31               (11) Participate or seek to participate in the waiver authority  
32 of Section 1115(a)(1) of the Social Security Act, 42 U.S.C. § 1315(a)(1),  
33 that would allow operation of a demonstration project or program;

34               (12) Participate or seek to participate in a request under  
35 Section 1115(a)(2) of the Social Security Act, 42 U.S.C. § 1315(a)(2), for  
36 the United States Secretary of the Department of Health and Human Services to

1 provide federal financial participation for costs associated with a  
 2 demonstration project or program;

3 (13) Implement managed care provisions under Section 1932 of the  
 4 Social Security Act, 42 U.S.C. § 1396u-2; or

5 (14) Participate or seek to participate in the projects or  
 6 programs of the Centers for Medicare and Medicaid Services Innovation.

7 (b) "Rule impacting state Medicaid costs" does not include a  
 8 modification, addition, or elimination of the medical codes used within the  
 9 Arkansas Medicaid Program that are issued by the Centers for Medicare and  
 10 Medicaid Services, including without limitation:

11 (1) Current Procedural Terminology codes;

12 (2) Healthcare Common Procedure Coding System codes;

13 (3) International Classification of Diseases codes;

14 (4) National Uniform Billing Committee Official UB-04  
 15 Specifications Manual codes; and

16 (5) National Correct Coding Initiative codes.

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 18 25-15-403. Additional rule procedure.

19 (a)(1) In addition to filing requirements under the Arkansas  
 20 Administrative Procedure Act, § 25-15-201 et seq., and § 10-3-309, the  
 21 Department of Human Services shall, at least thirty (30) days before the  
 22 expiration of the period for public comment, file a proposed rule impacting  
 23 state Medicaid costs or a proposed amendment to an existing rule impacting  
 24 state Medicaid costs with the Senate Committee on Public Health, Welfare, and  
 25 Labor and the House Committee on Public Health, Welfare, and Labor.

26 (2) A review of the proposed rule or proposed amendment to an  
 27 existing rule by the Senate Committee on Public Health, Welfare, and Labor  
 28 and the House Committee on Public Health, Welfare, and Labor shall occur  
 29 within forty-five (45) days of the date the proposed rule or proposed  
 30 amendment to an existing rule is filed with the Senate Committee on Public  
 31 Health, Welfare, and Labor and the House Committee on Public Health, Welfare,  
 32 and Labor.

33 (b)(1) If adopting an emergency rule impacting state Medicaid costs,  
 34 in addition to the filing requirements under the Arkansas Administrative  
 35 Procedure Act, § 25-15-201 et seq., and § 10-3-309, the Department of Human  
 36 Services shall notify the following individuals of the emergency rule and

1 provide each individual with a copy of the rule within five (5) business days  
2 of adopting the rule:

3 (A) The Speaker of the House of Representatives;

4 (B) The President Pro Tempore of the Senate;

5 (C) The Chair of the Senate Committee on Public Health,  
6 Welfare, and Labor; and

7 (D) The Chair of the House Committee on Public Health,  
8 Welfare, and Labor.

9 (2) A review of the emergency rule by the Senate Committee on  
10 Public Health, Welfare, and Labor and the House Committee on Public Health,  
11 Welfare, and Labor shall occur within forty-five (45) days of the date that  
12 the emergency rule is provided to the chairs.

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15 **APPROVED: 03/23/2017**  
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