

1 State of Arkansas

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A Bill

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SENATE BILL 527

4

5 By: Senators Irvin, Hester, J. Dismang, Gilmore, J. Boyd, B. Johnson, Stone

6 By: Representatives L. Johnson, Achor, Bentley, Clowney, Eaves, Eubanks, Evans, Gramlich, Hudson,

7 Ladyman, Lundstrum, Maddox, Perry, Pilkington, M. Shepherd, Vaught, Walker, Wardlaw

8

9

For An Act To Be Entitled

10 AN ACT TO AMEND THE ARKANSAS HEALTH AND OPPORTUNITY
11 FOR ME ACT OF 2021; TO INCREASE THE MEDICAL-LOSS
12 RATIO IN THE ARKANSAS HEALTH AND OPPORTUNITY FOR ME
13 PROGRAM; TO AUTHORIZE THE STATE TO OBTAIN PHARMACY
14 REBATES UNDER THE ARKANSAS HEALTH AND OPPORTUNITY FOR
15 ME PROGRAM; AND FOR OTHER PURPOSES.

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Subtitle

19 TO AMEND THE ARKANSAS HEALTH AND
20 OPPORTUNITY FOR ME ACT OF 2021; AND TO
21 INCREASE THE MEDICAL-LOSS RATIO IN THE
22 ARKANSAS HEALTH AND OPPORTUNITY FOR ME
23 PROGRAM.

24

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

26

27 SECTION 1. Arkansas Code §§ 23-61-1002 and 23-61-1003 are amended to
28 read as follows:

29 23-61-1002. Legislative intent.

30 Notwithstanding any general or specific laws to the contrary, it is the
31 intent of the General Assembly for the Arkansas Health and Opportunity for Me
32 Program to be a fiscally sustainable, cost-effective, and opportunity-driven
33 program that:

34 (1) Achieves comprehensive and innovative healthcare reform that
35 reduces the rate of growth in state and federal obligations for providing
36 healthcare coverage to low-income adults in Arkansas;



1 (2) Reduces the maternal and infant mortality rates in the state
2 through initiatives that promote healthy outcomes for eligible women with
3 high-risk pregnancies;

4 (3) Promotes the health, welfare, and stability of mothers and
5 their infants after birth through hospital-based community bridge
6 organizations;

7 (4) Encourages personal responsibility for individuals to
8 demonstrate that they value healthcare coverage and understand their roles
9 and obligations in maintaining private insurance coverage;

10 (5) Increases opportunities for full-time work and attainment of
11 economic independence, especially for ~~certain young adults~~ previously
12 incarcerated individuals, to reduce long-term poverty that is associated with
13 additional risk for disease and premature death;

14 (6) Addresses health-related social needs of Arkansans in rural
15 counties through hospital-based community bridge organizations and reduces
16 the additional risk for disease and premature death associated with living in
17 a rural county;

18 (7) Strengthens the financial stability of the critical access
19 hospitals and other small, rural hospitals; ~~and~~

20 (8) Fills gaps in the continuum of care for individuals in need
21 of services for serious mental illness and substance use disorders; and

22 (9) Recognizes that rebates are an important instrument to
23 ensure affordability and access to pharmaceutical products by eligible
24 individuals and to maximize the use of rebates when available to ensure the
25 fiscal sustainability of the program.

26
27 23-61-1003. Definitions.

28 As used in this subchapter:

29 (1) "Acute care hospital" means a hospital that:

30 (A) Is licensed by the Department of Health under § 20-9-
31 201 et seq., as a general hospital or a surgery and general medical care
32 hospital; and

33 (B) Is enrolled as a provider with the Arkansas Medicaid
34 Program;

35 (2) "Birthing hospital" means a hospital in this state or in a
36 border state that:

- 1 (A) Is licensed as a general hospital;
2 (B) Provides obstetrics services; and
3 (C) Is enrolled as a provider with the Arkansas Medicaid
4 Program;

5 (3) "Community bridge organization" means ~~an~~ a hospital,
6 federally qualified health center, or another organization that is authorized
7 by the Department of Human Services to participate in the economic
8 independence initiative or the health improvement initiative to:

9 (A) Screen and refer Arkansans to resources available in
10 their communities to address health-related social needs; and

11 (B) Assist eligible individuals identified as target
12 populations most at risk of disease and premature death and who need a higher
13 level of intervention to improve their health outcomes and succeed in meeting
14 their long-term goals to achieve independence, including economic
15 independence;

16 (4) "Cost sharing" means the portion of the cost of a covered
17 medical service that is required to be paid by or on behalf of an eligible
18 individual;

19 (5) "Critical access hospital" means an acute care hospital that
20 is:

21 (A) Designated by the Centers for Medicare & Medicaid
22 Services as a critical access hospital; and

23 (B) Is enrolled as a provider in the Arkansas Medicaid
24 Program;

25 (6) "Economic independence initiative" means an initiative
26 developed by the Department of Human Services that is designed to promote
27 economic stability by encouraging participation of program participants to
28 engage in full-time, full-year work, and to demonstrate the value of
29 enrollment in an individual qualified health insurance plan through
30 incentives and disincentives;

31 (7) "Eligible individual" means an individual who is in the
32 eligibility category created by section 1902(a)(10)(A)(i)(VIII) of the Social
33 Security Act, 42 U.S.C. § 1396a, as existing on January 1, 2025;

34 (8) "Employer health insurance coverage" means a health
35 insurance benefit plan offered by an employer or, as authorized by this
36 subchapter, an employer self-funded insurance plan governed by the Employee

1 Retirement Income Security Act of 1974, Pub. L. No. 93-406, as amended;

2 (9) "Federally qualified health center" means an entity as
3 defined by 42 C.F.R. § 405.2401, as existing on January 1, 2025, and that has
4 entered into an agreement with the Centers for Medicare & Medicaid Services
5 to meet Medicare program requirements under 42 C.F.R. § 405.2434, as existing
6 on January 1, 2025;

7 ~~(9)~~(10) "Health improvement initiative" means an initiative
8 developed by an individual qualified health insurance plan or the Department
9 of Human Services that is designed to encourage the participation of eligible
10 individuals in health assessments and wellness programs, including fitness
11 programs and smoking or tobacco cessation programs;

12 ~~(10)~~(11) "Health insurance benefit plan" means a policy,
13 contract, certificate, or agreement offered or issued by a health insurer to
14 provide, deliver, arrange for, pay for, or reimburse any of the costs of
15 healthcare services, but not including excepted benefits as defined under 42
16 U.S.C. § 300gg-91(c), as it existed on ~~January 1, 2021~~ January 1, 2025;

17 ~~(11)~~(12) "Health insurance marketplace" means the applicable
18 entities that were designed to help individuals, families, and businesses in
19 Arkansas shop for and select health insurance benefit plans in a way that
20 permits comparison of available plans based upon price, benefits, services,
21 and quality, and refers to either:

22 (A) The Arkansas Health Insurance Marketplace created
23 under the Arkansas Health Insurance Marketplace Act, § 23-61-801 et seq., or
24 a successor entity; or

25 (B) The federal health insurance marketplace or federal
26 health benefit exchange created under the Patient Protection and Affordable
27 Care Act, Pub. L. No. 111-148;

28 ~~(12)~~(13) "Health insurer" means an insurer authorized by the
29 State Insurance Department to provide health insurance or a health insurance
30 benefit plan in the State of Arkansas, including without limitation:

31 (A) An insurance company;

32 (B) A medical services plan;

33 (C) A hospital plan;

34 (D) A hospital medical service corporation;

35 (E) A health maintenance organization;

36 (F) A fraternal benefits society;

1 (G) Any other entity providing health insurance or a
2 health insurance benefit plan subject to state insurance regulation; or

3 (H) A risk-based provider organization licensed by the
4 Insurance Commissioner under § 20-77-2704;

5 ~~(13)~~(14) "Healthcare coverage" means coverage provided under
6 this subchapter through either an individual qualified health insurance plan,
7 a risk-based provider organization, employer health insurance coverage, or
8 the fee-for-service Arkansas Medicaid Program;

9 ~~(14)~~(15) "Individual qualified health insurance plan" means an
10 individual health insurance benefit plan offered by a health insurer that
11 participates in the health insurance marketplace to provide coverage in
12 Arkansas that covers only essential health benefits as defined by Arkansas
13 rule and 45 C.F.R. § 156.110 and any federal insurance regulations, as they
14 existed on ~~January 1, 2021~~ January 1, 2025;

15 (16) "Medical-loss ratio" means the percentage of premium income
16 that health insurers spend on medical care and quality improvement as opposed
17 to administration, marketing, and, if applicable, profit;

18 ~~(15)~~(17) "Member" means a program participant who is enrolled in
19 an individual qualified health insurance plan;

20 (18)(A) "Pharmacy rebate" means a discount, other price
21 concession, or a payment that is:

22 (i) Based on utilization of a prescription drug; and
23 (ii) Paid by a manufacturer or third party, directly
24 or indirectly, to a pharmacy benefits manager, pharmacy services
25 administrative organization, or pharmacy after a claim has been processed and
26 paid at a pharmacy.

27 (B) "Pharmacy rebate" includes without limitation
28 incentives, disbursements, and reasonable estimates of a volume-based
29 discount;

30 ~~(16)~~(19) "Premium" means:

31 (A) A monthly fee that is required to be paid by or on
32 behalf of an eligible individual to maintain some or all health insurance
33 benefits; and

34 (B) The amount paid by the Department of Human Services to
35 a health insurer on behalf of a program participant for cost-sharing
36 obligations in excess of or other than the program participant's cost-sharing

1 obligations;

2 ~~(17)~~(20) "Program participant" means an eligible individual who:

3 (A) Is at least nineteen (19) years of age and no more
4 than sixty-four (64) years of age with an income that meets the income
5 eligibility standards established by rule of the Department of Human
6 Services;

7 (B) Is authenticated to be a United States citizen or
8 documented qualified alien according to the Personal Responsibility and Work
9 Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193;

10 (C) Is not eligible for Medicare or advanced premium tax
11 credits through the health insurance marketplace; and

12 (D) Is not determined by the Department of Human Services
13 to be medically frail or eligible for services through a risk-based provider
14 organization;

15 ~~(18)~~(21) "Risk-based provider organization" means the same as
16 defined in § 20-77-2703; and

17 ~~(19)~~(22) "Small rural hospital" means a critical access hospital
18 or a general hospital that:

19 (A) Is located in a rural area;

20 (B) Has fifty (50) or fewer staffed beds; and

21 (C) Is enrolled as a provider in the Arkansas Medicaid
22 Program.

23

24 SECTION 2. Arkansas Code § 23-61-1004(c)(2)(D), concerning the
25 administration of the Arkansas Health and Opportunity for Me Program, is
26 amended to read as follows:

27 (D) At least two (2) ~~health insurers offer~~ individual
28 qualified health insurance plans are offered in each county in the state.

29

30 SECTION 3. Arkansas Code § 23-61-1004(d)(1), concerning a memorandum
31 of understanding specifying duties and obligations of each party in the
32 operation of the Arkansas Health and Opportunity for Me Program, is amended
33 to read as follows:

34 (d)(1) The Department of Human Services, the State Insurance
35 Department, and each of the individual qualified health insurance plans shall
36 enter into a memorandum of understanding that shall specify, consistent with

1 this subchapter, the duties and obligations of each party in the operation of
2 the Arkansas Health and Opportunity for Me Program, including provisions
3 necessary to effectuate the purchasing guidelines and reporting requirements,
4 at least thirty (30) calendar days before the annual open enrollment period.
5

6 SECTION 4. Arkansas Code § 23-61-1004(e)(2), concerning the duties of
7 the Department of Human Services under the Arkansas Health and Opportunity
8 for Me Act of 2021, is amended to read as follows:

9 (2)(A) Establish and maintain a process for premium payments,
10 advanced cost-sharing reduction payments, and reconciliation payments to
11 health insurers.

12 (B) The process described in subdivision (e)(2)(A) of this
13 section shall attribute any unpaid member liabilities as solely the financial
14 obligation of the individual member.

15 (C) The Department of Human Services shall not include any
16 unpaid individual member obligation in any payment or financial
17 reconciliation with health insurers or in a future premium rate.

18 (D) The Department of Human Services shall establish and
19 maintain a process for tracking all pharmacy rebates obtained by
20 participating health plans from pharmaceutical companies and ensure that an
21 amount equal to the pharmacy rebates is remitted to this state on a quarterly
22 basis; and
23

24 SECTION 5. Arkansas Code § 23-61-1004(g), concerning the
25 administration of the Arkansas Health and Opportunity for Me Program, is
26 amended to add an additional subdivision to read as follows:

27 (3) A health insurer shall seek all available pharmacy rebates
28 from pharmaceutical companies for products covered through qualified health
29 plans participating in the Arkansas Health and Opportunity for Me Program.
30

31 SECTION 6. Arkansas Code § 23-61-1004(h), concerning the
32 administration of the Arkansas Health and Opportunity for Me Act of 2021
33 relating to the authority for a block grant, is amended to read as follows:

34 (h)(1) The Governor shall request a block grant under relevant federal
35 law and regulations for the funding of the Arkansas Medicaid Program as soon
36 as practical if the federal law or regulations change to allow the approval

1 of a block grant for this purpose.

2 (2)(A) The Governor shall request a waiver under relevant
3 federal law and regulations for a work requirement as a condition of
4 maintaining coverage in the Arkansas Medicaid Program as soon as practical if
5 the federal law or regulations change to allow the approval of a waiver for
6 this purpose.

7 (B) An eligible individual enrolled in the Arkansas Health
8 and Opportunity for Me Program shall:

9 (i) Comply with any and all federal and state work
10 requirements under the Arkansas Medicaid Program, including providing
11 required information to demonstrate compliance; and

12 (ii) Be exempt from the work requirement under this
13 section if the eligible individual:

14 (a) Volunteers twenty (20) hours or more per
15 week as determined by the Department of Human Services;

16 (b) Meets any combination of working and
17 participating in a work program for a total of twenty (20) hours or more per
18 week as determined by the Department of Human Services;

19 (c) Participates and complies with the
20 requirements of a workfare program;

21 (d) Receives unemployment compensation and
22 complies with work requirements that are a part of the unemployment
23 compensation system;

24 (e) Participates in a drug addiction or
25 alcoholic treatment or rehabilitation program;

26 (f) Provides care for a dependent child who:

27 (1) Has a serious medical condition or a
28 disability; or

29 (2) Is under six (6) years of age; or

30 (g) Is at least one (1) of the following:

31 (1) Medically certified as physically or
32 mentally unfit for employment;

33 (2) Pregnant;

34 (3) Under nineteen (19) years of age; or

35 (4) Over fifty-nine (59) years of age.

36 (C)(i) An individual who is not exempt under subdivision

1 (h)(2)(B) of this section and who refuses to cooperate and declines to make
 2 efforts to comply with the work requirements under this section shall have
 3 coverage under the Arkansas Health and Opportunity for Me Program suspended
 4 for the remainder of the plan year.

5 (ii) An individual who has coverage suspended under
 6 subdivision (h)(2)(C)(i) of this section may regain active coverage under the
 7 Arkansas Health and Opportunity for Me Program if he or she cooperates and
 8 demonstrates a clear intention to comply with the work requirements under
 9 this section.

10 (iii) The Department of Human Services shall not
 11 make monthly premium payments or advanced cost-sharing reduction payments to
 12 a health insurer during a period of suspended coverage of the individual
 13 under this subdivision (h)(2)(C).

14
 15 SECTION 7. Arkansas Code § 23-61-1007(a), concerning the insurance
 16 standards for individual qualified health insurance plans within the Arkansas
 17 Health and Opportunity for Me Act of 2021, is amended to read as follows:

18 (a) Insurance coverage for a member enrolled in an individual
 19 qualified health insurance plan shall be obtained, at a minimum, through
 20 silver-level metallic plans as provided in 42 U.S.C. § 18022(d) and 42 U.S.C.
 21 § 18071, as they existed on ~~January 1, 2021~~ January 1, 2025, that restrict
 22 out-of-pocket costs to amounts that do not exceed applicable out-of-pocket
 23 cost limitations.

24
 25 SECTION 8. Arkansas Code § 23-61-1007(c)(3)(A), concerning the
 26 insurance standards for individual qualified health insurance plans, is
 27 amended to read as follows:

28 (3)(A) Maintain a medical-loss ratio of at least ~~eighty percent~~
 29 ~~(80%)~~ eighty-five percent (85%) for an individual qualified health insurance
 30 plan as ~~required~~ permitted under ~~45 C.F.R. § 158.210(e)~~ 45 C.F.R. § 158.211,
 31 as it existed on ~~January 1, 2021~~ January 1, 2025, or rebate the difference
 32 between the health insurer's actual medical-loss ratio and eighty-five
 33 percent (85%) to the Department of Human Services for members.

34
 35 SECTION 9. Arkansas Code § 23-61-1007(c)(5), concerning the insurance
 36 standards for individual qualified health insurance plans, is amended to read

1 as follows:

2 (5) Make reports to the Department of Human Services ~~and the~~
3 ~~Department of Health~~ regarding quality and performance metrics in a manner
4 and frequency established by a memorandum of understanding.

5

6 SECTION 10. Arkansas Code § 23-61-1009 is amended to read as follows:
7 23-61-1009. Sunset.

8 This subchapter ~~shall expire on December 31, 2026~~ expires December 31,
9 2031.

10

11 SECTION 11. Arkansas Code § 23-61-1011(h), concerning the Health and
12 Economic Outcomes Accountability Oversight Advisory Panel, is amended to read
13 as follows:

14 (h) The Department of Human Services shall produce and submit a
15 quarterly report incorporating the advisory panel's ~~findings~~ recommendations
16 to the President Pro Tempore of the Senate, the Speaker of the House of
17 Representatives, and the public on the progress in health and economic
18 improvement resulting from the Arkansas Health and Opportunity for Me
19 Program, including without limitation:

20 (1) Eligibility and enrollment;

21 (2) Participation in and the impact of the economic independence
22 initiative and the health improvement initiative of the eligible individuals,
23 health insurers, and community bridge organizations;

24 (3) Utilization of medical services;

25 (4) Premium and cost-sharing reduction costs; and

26 (5) Health insurer participation and completion.

27

28 SECTION 12. Arkansas Code § 26-57-603(a), concerning the tax reports
29 relating to the insurance premium tax, is amended to read as follows:

30 (a) Each authorized, each formerly authorized, and each unauthorized
31 insurer as defined in § 23-60-102(12) shall file with the Insurance
32 Commissioner on or before March 1 of each year a report in form as prescribed
33 by the commissioner showing, except as to wet marine and foreign trade
34 insurance as defined in § 26-57-605(d), total direct premium income including
35 policy, membership, and other fees, and all other considerations for
36 insurance, from all kinds and classes of insurance, whether designated as

1 premium or otherwise, including all amounts paid for cost sharing by the
2 Department of Human Services to a health insurer under the Arkansas Health
3 and Opportunity for Me Act of 2021, § 23-61-1001 et seq., written by it
4 during the preceding calendar year on account of policies and contracts
5 covering property, subjects, or risks located, resident, or to be performed
6 in this state, with proper proportionate allocation of premium as to the
7 persons, property, subjects, or risks in this state insured under policies or
8 contracts covering persons, property, subjects, or risks located or resident
9 in more than one (1) state, after deducting from the total direct premium
10 income dividends and similar returns paid or credited to policyholders other
11 than as to life insurance, applicable cancellations, returned premiums, the
12 unabsorbed portion of any deposit premium, and the amount of reduction in, or
13 refund of, premiums allowed to industrial life policyholders for payment of
14 premiums directly to an office of the insurer.

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16 */s/ Irvin*

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19 **APPROVED: 4/17/25**
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