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By: Representatives Westerman, Biviano, Collins, Collins-Smith, Cozart, English, Lea, Mauch, D. Meeks

7 **HOUSE CONCURRENT RESOLUTION**

8 TO AUTHORIZE THE INTRODUCTION OF A NONAPPROPRIATION
9 BILL TO IMPROVE PROGRAM INTEGRITY FOR MEDICAID AND
10 THE ARKIDS FIRST PROGRAM BY IMPLEMENTING WASTE,
11 FRAUD, AND ABUSE PREVENTION, DETECTION, AND RECOVERY
12 PROGRAMS; AND FOR OTHER PURPOSES.

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15 **Subtitle**

16 TO AUTHORIZE THE INTRODUCTION OF A
17 NONAPPROPRIATION BILL TO IMPROVE PROGRAM
18 INTEGRITY FOR MEDICAID AND THE ARKIDS
19 FIRST PROGRAM BY IMPLEMENTING WASTE,
20 FRAUD, AND ABUSE PREVENTION, DETECTION,
21 AND RECOVERY PROGRAMS.

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24 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE EIGHTY-EIGHTH GENERAL
25 ASSEMBLY OF THE STATE OF ARKANSAS, THE SENATE CONCURRING THEREIN:

26

27 THAT Representative Bruce Westerman is authorized to introduce a bill
28 that, as introduced, will read substantially as follows:

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30 "For An Act To Be Entitled

31 AN ACT TO IMPROVE PROGRAM INTEGRITY FOR MEDICAID AND THE ARKIDS FIRST PROGRAM
32 BY IMPLEMENTING WASTE, FRAUD, AND ABUSE, PREVENTION DETECTION, AND RECOVERY
33 PROGRAMS; AND FOR OTHER PURPOSES.

34

35 Subtitle

36 TO IMPROVE PROGRAM INTEGRITY FOR MEDICAID AND THE ARKIDS FIRST PROGRAM BY



1 IMPLEMENTING WASTE, FRAUD, AND ABUSE, PREVENTION DETECTION, AND RECOVERY
2 PROGRAMS.

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

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6 SECTION 1. Arkansas Code Title 20, Chapter 77 is amended to add an
7 additional subchapter to read as follows:

8 Subchapter 21 – Waste, Fraud, and Abuse Prevention, Detection, and
9 Recovery Programs

10
11 20-77-2101. Purpose.

12 This subchapter is intended to implement waste, fraud and abuse
13 detection, prevention, and recovery programs by improving program integrity
14 for the state Medicaid and ARKids First programs.

15
16 20-77-2102. Cost savings.

17 Programs implemented under this subchapter shall be designed to ensure
18 that:

19 (1) The savings achieved through this subchapter will more than
20 cover the costs of implementation; and

21 (2) A portion of the savings realized from the implementation of
22 this subchapter is used to offset administrative costs incurred in
23 implementing this subchapter.

24
25 20-77-2103. Definitions.

26 As used in this subchapter:

27 (1) "ARKids First" means the program created in the ARKids First
28 Program Act, § 20-77-1101 et seq.;

29 (2) "Medicaid" means the state Medicaid program under Title XIX
30 of the Social Security Act, 42 U.S.C. § 1396 et seq.; and

31 (3) "Recipient" means an individual who is eligible to receive
32 benefits and is enrolled in either the state Medicaid or ARKids First
33 program.

34
35 20-77-2104. Centralized database.

36 (a) The Department of Human Services shall implement a centralized

1 database of all claims-based data for the state Medicaid and the ARKIDS First
2 programs regardless of whether recipients receive benefits directly from the
3 state Medicaid and the ARKIDS First programs or through an outsourced private
4 health insurer.

5 (b) The department shall ensure that:

6 (1) The database contains unadulterated claims data that is the
7 complete data set as submitted by a provider before any risk of data loss or
8 manipulation as claims pass through processing systems; and

9 (2) Analytics are run on the complete data set to ensure the
10 integrity and appropriate level of payment.

11
12 20-77-2105. Automated reviews of Medicaid and ARKIDS First payments.

13 The Department of Human Services shall implement automated reviews of
14 provider data verification and provider screening to analyze healthcare
15 billing and provider payment data to identify and prevent inappropriate
16 payments under Medicaid and ARKIDS First to:

17 (1) A deceased provider;

18 (2) A barred provider;

19 (3) A retired provider;

20 (4) A provider whose license has expired; or

21 (5) An address confirmed to be wrong.

22
23 20-77-2106. Automated reimbursement review.

24 (a) The Department of Human Services shall acquire and implement
25 state-of-the art clinical code editing technology to:

26 (1) Further automate claims resolution; and

27 (2) Enhance cost containment through improved claim accuracy and
28 appropriate code correction.

29 (b)(1) The department shall use the technology required under this
30 section to identify and prevent errors or potential overbilling.

31 (2) The technology shall use programs based on widely accepted
32 and transparent protocols such as those used by the American Medical
33 Association and the Centers for Medicare and Medicaid Services.

34 (c) The technology required under this section shall use programs
35 capable of automatically reviewing claims before payment to:

36 (1) Speed processing and reduce the number of pending or

1 rejected claims;

2 (2) Help ensure a smoother, more consistent process; and

3 (3) Provide a more transparent review process with fewer delays
4 in provider reimbursement.

5
6 20-77-2107. Automated program review.

7 The Department of Human Services shall acquire and implement state-of-
8 the-art predictive modeling and analytics technologies to provide a more
9 comprehensive and accurate view of use and effectiveness of the Medicaid and
10 ARKids First programs to:

11 (1) Identify and analyze billing or benefit use patterns that
12 represent a high risk of fraudulent activity;

13 (2) Achieve integration into the existing Medicaid and ARKids
14 First claims workflow;

15 (3) Undertake and automate analysis of billing and benefit use
16 before payment is made to minimize disruptions to the workflow and to speed
17 claim resolution;

18 (4) Prioritize problematic transactions for additional review
19 before payment is made based on likelihood of potential waste, fraud, or
20 abuse;

21 (5) Capture outcome information from reviewed claims to allow
22 for refinement and enhancement of the predictive analytics technologies based
23 on historical data and algorithms within the system; and

24 (6) Prevent the payment of claims for reimbursement that have
25 been identified as potentially wasteful, fraudulent, or abusive until the
26 claims have been automatically verified as valid.

27
28 20-77-2108. Fraud investigative programs.

29 (a) The Department of Human Services, in cooperation with the Office
30 of the Attorney General, shall implement fraud investigative programs that
31 combine retrospective claims analysis and prospective waste, fraud, and abuse
32 detection techniques, including without limitation analysis of:

33 (1) Historical claims data;

34 (2) Medical records;

35 (3) Suspect provider databases and high-risk identification
36 lists; and

1 (4) Direct patient and provider interviews.

2 (b) The department shall place emphasis on providing education to
3 providers to ensure that they have the opportunity to review and correct any
4 problems identified before payment.

5
6 20-77-2109. Audit and recovery program.

7 (a) The Department of Human Services shall implement Medicaid and
8 ARKids First claims audit and recovery services to:

9 (1) Identify improper payments due to non-fraudulent issues;

10 (2) Audit claims;

11 (3) Obtain provider sign-off on the audit results; and

12 (4) Recover validated overpayments.

13 (b) Post-payment reviews shall ensure that the diagnoses and procedure
14 codes are accurate and valid based on the supporting physician documentation
15 in the medical records.

16 (c) Core categories of reviews may include without limitation:

17 (1) Coding compliance for diagnosis-related group reviews;

18 (2) Patient transfers between facilities;

19 (3) Hospital readmissions;

20 (4) Cost outlier reviews;

21 (5) Outpatient seventy-two-hour rule reviews;

22 (6) Payment errors; and

23 (7) Billing errors.

24
25 20-77-2110. Contractor proposals.

26 (a) The Department of Human Services shall either contract with The
27 Cooperative Purchasing Network to issue a request for proposals to select a
28 contractor or use the following contractor selection process:

29 (1) No later than one hundred twenty (120) days after the
30 effective date of this subchapter, the department shall issue a formal
31 request for proposals to implement this subchapter during the first year;

32 (2) To the extent appropriate, the department may include
33 subsequent implementation years and may issue additional requests for
34 proposals for subsequent implementation years; and

35 (3) The department shall select contractors to implement this
36 subchapter using standard competitive procedures.

1 (b) The department shall enter into a contract under this subchapter
2 only if the contractor:

3 (1) Demonstrates appropriate technical, analytical, and clinical
4 knowledge and experience to carry out the functions under this subchapter; or

5 (2) Has a contract or will enter into a contract with another
6 entity that meets the criteria under subdivision (b)(1) of this section.

7 (c) The department may enter into a contract under this subchapter
8 with an entity only if the entity agrees to comply with Arkansas's conflict-
9 of-interest standards.

10
11 20-77-2111. Contractor access to data.

12 The Department of Human Services shall provide entities that have a
13 contract under this subchapter with appropriate access to claims and other
14 data necessary for the entity to carry out the functions under this
15 subchapter, including without limitation access to:

16 (1) Current and historical Medicaid and ARKids First claims and
17 provider database information; and

18 (2) Appropriate public-private data sharing, including data
19 sharing among multiple Medicaid managed-care entities.

20
21 20-77-2012. Reports.

22 The Department of Human Services shall submit the following to the
23 interim House Committee on Public Health, Welfare, and Labor and the interim
24 Senate Committee on Public Health, Welfare, and Labor:

25 (1) Not later than three (3) months after the completion of the
26 first implementation year under this subchapter, a report providing:

27 (A) A description of the implementation and use of
28 technologies under this subchapter during the year;

29 (B) A certification of the actual and projected savings to
30 the Medicaid and ARKids First programs as a result of the use of these
31 technologies, including estimates of the amounts of savings with respect to
32 both improper payments recovered and improper payments avoided;

33 (C) The actual and projected savings to the Medicaid and
34 ARKids First programs as a result of the return on investment for the use of
35 technologies implemented under this subchapter and in comparison to other
36 strategies or technologies used to prevent and detect fraud, waste, and

1 abuse;

2 (D) A description of any modifications or refinements that
3 should be made to increase the amount of actual or projected savings or to
4 mitigate any adverse impact of this subchapter on recipients or providers;

5 (E) An analysis of the extent to which the use of the
6 technologies under this subchapter successfully prevented and detected waste,
7 fraud, or abuse in the Medicaid and ARKids First programs;

8 (F) A review of whether the technologies under this
9 subchapter affected access to, or the quality of, items and services
10 furnished to recipients; and

11 (G) A review of what effect, if any, the use of the
12 technologies under this subchapter had on Medicaid and ARKids First
13 providers, including assessments of provider education efforts and
14 documentation of processes for providers to review and correct problems that
15 are identified;

16 (2)(A) Not later than three (3) months after the completion of
17 the second implementation year under this subchapter, a report that includes,
18 an update of the items required under subdivision (1) of this section along
19 with any other additional items the committees determine to be appropriate.

20 (B) The report required under subdivision (2)(A) of this
21 section shall be made available to the public; and

22 (3)(A) Not later than three (3) months after the completion of
23 the third implementation year under this subchapter, a report that includes
24 an update of the items required under subdivision (1) of this section, along
25 with any other additional items the committees determine to be appropriate.

26 (B) The report required under subdivision (3)(A) of this
27 section shall be made available to the public."

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