

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

As Engrossed: S3/17/15

A Bill

SENATE BILL 828

5 By: Senators D. Sanders, J. Hendren, Rapert
6 By: Representative Collins
7

For An Act To Be Entitled

9 AN ACT TO AUTHORIZE THE INSURANCE COMMISSIONER, THE
10 DEPARTMENT OF FINANCE AND ADMINISTRATION, THE
11 DEPARTMENT OF HUMAN SERVICES, AND THE ARKANSAS HEALTH
12 INSURANCE MARKETPLACE TO SEEK FEDERAL WAIVERS TO
13 FACILITATE INNOVATIVE APPROACHES TO HEALTH INSURANCE
14 COVERAGE AND HEALTH CARE; TO DECLARE AN EMERGENCY;
15 AND FOR OTHER PURPOSES.
16
17

Subtitle

19 TO CREATE THE ARKANSAS HEALTH INSURANCE
20 INNOVATION ACT OF 2015; AND TO DECLARE AN
21 EMERGENCY.
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23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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26 WHEREAS, the General Assembly is obligated to pursue appropriate means
27 to protect Arkansas citizens, employers, and healthcare providers from the
28 challenges and obstacles created by federal healthcare legislation; and
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30 WHEREAS, state-based solutions to health insurance coverage and
31 healthcare needs are inherently more efficient, more effective, and less
32 costly than federal mandates; and
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34 WHEREAS, under 31 C.F.R. Subtitle A, Part 33, federal Waivers for State
35 Innovation, commonly referred to as "Section 1332 Waivers", are authorized to
36 permit a state to waive provisions of federal laws relating to the provision



1 of healthcare items or services; and

2

3 WHEREAS, under 31 C.F.R. § 33.108, applications for Waivers for State
4 Innovation are to be submitted to and reviewed by the United States Secretary
5 of the Treasury and the United States Secretary of Health and Human Services;
6 and

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8 WHEREAS, under 31 C.F.R. § 33.108, as an initial criterion for an
9 application for Waivers for State Innovation, evidence of state legislation
10 that provides the state with authority to implement the proposed waiver is
11 required; and

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13 WHEREAS, existing state legislation may be insufficient in providing
14 the authority to permit an application under 31 C.F.R. § 33.108,

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16 NOW THEREFORE,

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

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19 SECTION 1. Arkansas Code Title 23, Chapter 61, is amended to add a
20 additional subchapter to read as follows:

21 Subchapter 9 – Arkansas Health Insurance Innovation Act of 2015

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23 23-61-901. Title.

24 This subchapter shall be known and may be cited as the “Arkansas Health
25 Insurance Innovation Act of 2015”.

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27 23-61-902. Purpose.

28 The purpose of this subchapter is to encourage the executive and
29 legislative branches to explore, develop, and facilitate innovative
30 approaches to improving access to, affordability, and quality of
31 comprehensive health insurance coverage and health care.

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33 23-61-903. Waiver authority.

34 The Governor is authorized to:

35 (1) Submit and apply for federal waivers under:

36 (A) 42 U.S.C. § 1315, § 1396n, and § 18052;

1 (B) 31 C.F.R. Subtitle A, Part 33; and

2 (C) 45 C.F.R. Subtitle A, Part 155, Subpart N; and

3 (2) Submit and apply for federal waivers necessary to effectuate
4 the purposes of this subchapter.

5 ((b) Any waiver submitted under this section shall have
6 legislative approval under this section.

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8 23-61-904. Rules.

9 (a) The Insurance Commissioner may promulgate rules to implement this
10 subchapter and any federal waivers sought in furtherance of this subchapter.

11 (b) The Department of Finance and Administration may promulgate rules
12 to implement this subchapter and any federal waivers sought in furtherance of
13 this subchapter, including without limitation rules pertaining to the
14 calculation, assessment, or collection of state taxes.

15 (c) The Department of Human Services may promulgate rules to implement
16 this subchapter and any federal waivers sought in furtherance of this
17 subchapter, including without limitation any required state plan amendments
18 to the Medicaid program, any waivers or other approvals required from the
19 Centers for Medicare and Medicaid Services, and any other rules pertaining to
20 the Medicaid program.

21 (d)(1) The Arkansas Health Insurance Marketplace may promulgate rules
22 to implement this subchapter and any federal waivers sought in furtherance of
23 this subchapter, including without limitation rules pertaining to the
24 Arkansas Health Insurance Marketplace.

25 (2) Rules adopted by the Arkansas Health Insurance Marketplace
26 under subdivision (d)(1) of this section:

27 (A) Are exempt from the Arkansas Administrative Procedure
28 Act, § 25-15-201 et seq.; and

29 (B) Shall be adopted in compliance with the procedures of
30 § 23-61-803.

31 (e)(1) Joint waiver applications shall have rules submitted as
32 authorized by the entities listed in § 23-61-904(a)-(d) that have been
33 selected for the joint waiver application.

34 (2) The Governor shall determine rule distribution and priority
35 in the case of a joint waiver application.

36 (f) In the event of a conflict between the rules promulgated under

1 this subchapter by different entities, priority shall be given to any rule
2 that has been approved or formally reviewed by the Centers for Medicare and
3 Medicaid Services or other federal agency.

4 (g) Rules promulgated under this section shall not conflict with or
5 prevent the application of regulations promulgated by the Secretary of Health
6 and Human Services, the Secretary of the Treasury, or the Commissioner of the
7 Internal Revenue under federal law.

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9 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the General
10 Assembly of the State of Arkansas that federal law sets specific timeframes
11 and deadlines for the submission of federal waiver requests under 31 C.F.R.
12 Subtitle A, Part 33; that prompt and immediate action is necessary to take
13 full advantage of opportunities for innovation under federal law; that
14 ensuring an efficient and effective process for development of a waiver will
15 promote innovation and optimize the use of taxpayer dollars; and that this
16 act is immediately necessary to initiate reforms of the state's health
17 insurance market and healthcare system. Therefore, an emergency is declared
18 to exist, and this act being immediately necessary for the preservation of
19 the public peace, health, and safety shall become effective on:

20 (1) The date of its approval by the Governor;

21 (2) If the bill is neither approved nor vetoed by the Governor,
22 the expiration of the period of time during which the Governor may veto the
23 bill; or

24 (3) If the bill is vetoed by the Governor and the veto is
25 overridden, the date the last house overrides the veto.

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27 /s/D. Sanders
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