

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013

A Bill

SENATE BILL 1039

4
5 By: Senator Irvin

For An Act To Be Entitled

8 AN ACT TO CREATE THE HEALTHCARE QUALITY AND PAYMENT
9 POLICY ADVISORY COMMITTEE; AND FOR OTHER PURPOSES.

Subtitle

12 TO CREATE THE HEALTHCARE QUALITY AND
14 PAYMENT POLICY ADVISORY COMMITTEE.

16
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

18
19 SECTION 1. Arkansas Code Title 20, Chapter 77, is amended to add an
20 additional subchapter to read as follows:

21 Subchapter 21 – Healthcare Quality and Payment Policy Advisory
22 Committee

23
24 20-77-2101. Title.

25 This subchapter shall be known and may be cited as the "Healthcare
26 Quality and Payment Policy Advisory Committee Act".

27
28 20-77-2102. Definitions.

29 As used in this subchapter:

30 (1) "Data, records, reports, and documents" means a recording of
31 an interview and an oral or written proceeding, report, statement, minute,
32 memorandum, data, and other documentation collected or compiled to establish
33 or modify episodes of care, quality measures, target prices, or another
34 purpose; and

35 (2) "Healthcare provider" means one (1) of the following
36 individuals or entities licensed by the State of Arkansas to provide



1 healthcare services:

- 2 (A) An advanced practice nurse;
- 3 (B) An athletic trainer;
- 4 (C) An audiologist;
- 5 (D) A certified orthotist;
- 6 (E) A chiropractor;
- 7 (F) A community mental health center or clinic;
- 8 (G) A dentist;
- 9 (H) A home health care provider;
- 10 (I) A hospice care provider;
- 11 (J) A hospital-based service;
- 12 (K) A hospital;
- 13 (L) A licensed ambulatory surgery center;
- 14 (M) A licensed certified social worker;
- 15 (N) A licensed dietician;
- 16 (O) A licensed durable medical equipment provider;
- 17 (P) A licensed professional counselor;
- 18 (Q) A licensed psychological examiner;
- 19 (R) A long-term care facility;
- 20 (S) An occupational therapist;
- 21 (T) An optometrist;
- 22 (U) A pharmacist;
- 23 (V) A physical therapist;
- 24 (W) A physician or surgeon;
- 25 (X) A podiatrist;
- 26 (Y) A prosthetist;
- 27 (Z) A psychologist;
- 28 (AA) A respiratory therapist;
- 29 (BB) A rural health clinic;
- 30 (CC) A speech pathologist;
- 31 (DD) Another healthcare practitioner as determined by the
- 32 Department of Human Services in rules adopted under the Arkansas
- 33 Administrative Procedure Act, § 25-15-201 et seq.; and
- 34 (EE) Another person or entity enrolled to provide health or
- 35 medical care services or goods authorized under the medical assistance
- 36 programs provided in this state under Title XIX of the Social Security Act.

1
2 20-77-2103. Healthcare Quality and Payment Policy Advisory Committee -
3 Created - Membership.

4 (a) The Healthcare Quality and Payment Policy Advisory Committee is
5 created.

6 (b) The committee shall consist of the following seven (7) voting
7 members:

8 (1) Three (3) members appointed by the President Pro Tempore of
9 the Senate including:

10 (A) One (1) physician in good standing nominated by the
11 Arkansas State Medical Board;

12 (B) One (1) member nominated by the Arkansas Hospital
13 Association who represents hospitals with more than one hundred (100) beds;
14 and

15 (C) One (1) medical director of a commercially owned
16 insurance company participating with the Division of Medical Services of the
17 Department of Human Services in the Arkansas Health Care Payment Improvement
18 Initiative;

19 (2) Three (3) members appointed by the Speaker of the House of
20 Representatives, including:

21 (A) One (1) physician nominated by the Arkansas Medical
22 Society;

23 (B) One (1) member nominated by the Arkansas Hospital
24 Association who represents hospitals with fewer than one hundred (100) beds;
25 and

26 (C) One (1) member nominated by the Arkansas Health Care
27 Association who represents nursing homes; and

28 (3) The Director of the Division of Medical Services of the
29 Department of Human Services.

30 (c) The committee may appoint subcommittees of the committee to study,
31 research, and advise the committee.

32 (d) The Department of Human Services may provide offices and staff for
33 the committee.

34 (e)(1) The members of the committee shall serve two-year terms.

35 (2) At the first meeting of the committee, the length of the
36 terms of the initial appointees shall be determined by lot.

1 (f) The members of the committee shall hold the first meeting in
2 offices made available by the department within thirty (30) days of the
3 appointment of the members of the committee.

4 (g) The committee annually shall select from its membership a chair
5 and a vice chair.

6 (h)(1) A majority of the membership of the committee constitutes a
7 quorum.

8 (2) A majority vote of the members present is required for any
9 action of the committee.

10 (i)(1) A vacancy on the committee due to death, resignation, removal,
11 or another cause shall be filled in the same manner as the initial
12 appointment.

13 (2) A member appointed to fill a vacancy shall serve for the
14 remainder of the vacated term.

15 (j) The members of the committee may be removed by the appointing
16 official for cause.

17 (k) Members of the committee, except those employed by the state may
18 receive expense reimbursement and stipends under § 25-16-902.

19
20 20-77-2104. Purpose.

21 The purpose of the Healthcare Quality and Payment Policy Advisory
22 Committee is to make recommendations and provide advice and assistance to the
23 Department of Human Services concerning the promotion of high-quality, safe,
24 effective, timely, efficient, and patient-centered care in the State of
25 Arkansas, including without limitation the development of episodes of care
26 within the Arkansas Health Care Payment Improvement Initiative and rates or
27 payment methodologies established for services provided under Title XIX of
28 the Social Security Act.

29
30 20-77-2105. Medicaid payment and reimbursement rules.

31 (a) The Department of Human Services shall not adopt a rule under the
32 Arkansas Administrative Procedure Act, § 25-15-201 et seq., related to
33 payment or reimbursement to healthcare providers without first submitting the
34 proposed rule to the Healthcare Quality and Payment Policy Advisory Committee
35 for review.

36 (b) At least sixty (60) days before initiating the promulgation

1 process under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.,
 2 for a rule related to payment or reimbursement to healthcare providers, the
 3 department shall submit the draft rule to the committee.

4 (c) A rule required to be submitted to the committee under subsection
 5 (b) of this section that is adopted without obtaining the advice of the
 6 committee is void.

7 (d)(1) If the department fails to follow the advice of the committee
 8 with respect to a proposed rule under this section, the department, before
 9 beginning the promulgation process, shall prepare a written report setting
 10 out the advice of the committee and an explanation of the reason that the
 11 department decided not to follow the committee’s advice with regard to the
 12 rule.

13 (2) The department shall make available for public review the
 14 report required under subdivision (d)(1) of this section and the text of the
 15 proposed rule during the public comment period.

16 (e) After the public comment period, the department shall retain and
 17 make available for public review the report required under subdivision (d)(1)
 18 of this section and the text of any final regulation issued.

19
 20 20-77-2106. Powers and duties of the Healthcare Quality and Payment
 21 Policy Advisory Committee.

22 The Healthcare Quality and Payment Policy Advisory Committee shall:

23 (1) Review and provide advice regarding draft rules submitted by
 24 the Department of Human Services under § 20-77-2105;

25 (2) Have the authority to obtain from the department all data
 26 and analysis required to fully meet its charge under § 20-77-2104; and

27 (3) Provide reports to the Legislative Council upon request.

28
 29 20-77-2107. Confidentiality.

30 (a) To the extent that the data, records, reports, and documents
 31 identify or could be used to identify an individual patient, a healthcare
 32 provider, an institution, or a health plan, the data, records, reports, and
 33 documents collected or compiled by or on behalf of the Healthcare Quality and
 34 Payment Policy Advisory Committee are confidential and are not subject to
 35 disclosure under the Freedom of Information Act of 1967, § 25-19-101 et seq.

36 (b) Data, records, reports, and documents collected or compiled by or

1 on behalf of the Healthcare Quality and Payment Policy Advisory Committee are
2 not admissible in a legal proceeding and are exempt from discovery and
3 disclosure to the same extent that records of and testimony before committees
4 that evaluate the quality of medical or hospital care are exempt under § 16-
5 46-105(a)(1).

6 (c) A healthcare provider's use of the information in its internal
7 operations does not operate as a waiver of the confidentiality protections
8 under this section.

9 (d) The committee shall treat data, records, reports, and documents in
10 a manner consistent with state and federal privacy requirements, including
11 without limitation the privacy requirements under the federal Health
12 Insurance Portability and Accountability Act of 1996, 45 C.F.R. § 164.512(i).

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