

1 State of Arkansas
2 93rd General Assembly
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4

As Engrossed: S4/22/21

A Bill

HOUSE BILL 1907

5 By: Representative Lowery
6 By: Senator K. Hammer
7

For An Act To Be Entitled

9 AN ACT TO ENABLE HEALTHCARE PROVIDERS TO MAKE
10 APPROPRIATE BILLING DECISIONS THAT ARE IN THE BEST
11 INTEREST OF PATIENTS; TO ESTABLISH THE BILLING IN THE
12 BEST INTEREST OF PATIENTS ACT; AND FOR OTHER
13 PURPOSES.
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Subtitle

16 TO ENABLE HEALTHCARE PROVIDERS TO MAKE
17 APPROPRIATE BILLING DECISIONS THAT ARE IN
18 THE BEST INTEREST OF PATIENTS; AND TO
19 ESTABLISH THE BILLING IN THE BEST
20 INTEREST OF PATIENTS ACT.
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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26 SECTION 1. Arkansas Code Title 23, Chapter 99, is amended to add an
27 additional subchapter to read as follows:

28 Subchapter 14 – Billing in the Best Interest of Patients Act
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30 23-99-1401. Title.

31 This subchapter shall be known and may be cited as the "Billing in the
32 Best Interest of Patients Act".
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34 23-99-1402. Definitions.

35 As used in this subchapter:

36 (1) "Enrollee" means an individual who is entitled to receive



1 healthcare services under the terms of a health benefit plan;

2 (2)(A) "Health benefit plan" means an individual, blanket, or
3 group plan, policy, or contract for healthcare services issued, renewed,
4 delivered, or extended in this state by a healthcare payor in this state.

5 (B) "Health benefit plan" includes:

6 (i) Indemnity and managed care plans; and

7 (ii) Plans providing health benefits to state and
8 public school employees under § 21-5-401 et seq.

9 (C) "Health benefit plan" does not include:

10 (i) A plan that provides only dental benefits or eye
11 and vision care benefits;

12 (ii) A disability income plan;

13 (iii) A credit insurance plan;

14 (iv) Insurance coverage issued as a supplement to
15 liability insurance;

16 (v) Medical payments under an automobile or
17 homeowners' insurance plan;

18 (vi) A health benefit plan provided under Arkansas
19 Constitution, Article 5, § 32, the Workers' Compensation Law, § 11-9-101 et
20 seq., and the Public Employee Workers' Compensation Act, § 21-5-601 et seq.;

21 (vii) A plan that provides only indemnity for
22 hospital confinement;

23 (viii) An accident-only plan; or

24 (ix) A specified disease plan;

25 (3)(A) "Healthcare payor" means:

26 (A) A health insurance company;

27 (B) A health maintenance organization;

28 (C) A hospital and medical services corporation; and

29 (D) An entity that provides or administers a self-funded
30 health benefit plan, including a governmental plan.

31 (B) "Healthcare payor" does not include an entity that
32 provides only dental benefits or eye and vision care benefits;

33 (4) "Healthcare provider" means individuals or entities licensed
34 by the State of Arkansas to provide healthcare services, limited to the
35 following:

36 (A) Advanced practice nurses;

- 1 (B) Athletic trainers;
- 2 (C) Audiologists;
- 3 (D) Certified behavioral health providers;
- 4 (E) Certified orthotists;
- 5 (F) Chiropractors;
- 6 (G) Community mental health centers or clinics;
- 7 (H) Dentists;
- 8 (I) Home health care;
- 9 (J) Hospice care;
- 10 (K) Hospital-based services;
- 11 (L) Hospitals;
- 12 (M) Licensed ambulatory surgery centers;
- 13 (N) Licensed certified social workers;
- 14 (O) Licensed dieticians;
- 15 (P) Licensed intellectual and developmental disabilities
- 16 service providers;
- 17 (Q) Licensed professional counselors;
- 18 (R) Licensed psychological examiners;
- 19 (S) Long-term care facilities;
- 20 (T) Occupational therapists;
- 21 (U) Optometrists;
- 22 (V) Pharmacists;
- 23 (W) Physical therapists;
- 24 (X) Physicians and surgeons (M.D. and D.O.);
- 25 (Y) Podiatrists;
- 26 (Z) Prosthetists;
- 27 (AA) Psychologists;
- 28 (BB) Respiratory therapists;
- 29 (CC) Rural health clinics; and
- 30 (DD) Speech pathologists;

31 (5) "Healthcare services" means services and products, including
32 prescription medication, provided by a healthcare provider within the scope
33 of the healthcare provider's license; and

34 (6) "Prescription medication" means a drug or biologic that is
35 prescribed by a healthcare provider to a patient for the purpose of
36 alleviating, curing, preventing, or healing illness, injury, or physical

1 disability.

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3 23-99-1403. Determination of best interest for enrollee – Billing
4 decision.

5 (a) A healthcare provider who provides healthcare services and
6 prescribes prescription medication to an enrollee may make a determination
7 that is in the best interest of the enrollee to bill the enrollee's:

8 (1) Healthcare payor; or

9 (2) Pharmacy benefits carrier.

10 (b) Every health benefit plan that is issued, renewed, delivered, or
11 extended in this state and every group health benefit plan that is issued,
12 renewed, delivered, or extended outside this state, for an enrollee who is a
13 resident of this state that provides coverage for prescription medication
14 shall allow a healthcare provider to make any appropriate billing decisions
15 concerning healthcare services and administering of prescription medication
16 that is in the best interest of the enrollee.

17 (c) A healthcare payor shall not require an enrollee to self-
18 administer prescription medication if a healthcare provider determines it is
19 in the best interest of the enrollee for a prescription medication to be
20 administered by a healthcare provider regardless of the formulation or
21 benefit category determination by the health benefit plan.

22 (d)(1) If a determination is made by a healthcare provider that it is
23 in the enrollee's best interest for the healthcare provider to administer any
24 prescription medication that is ordinarily covered by the healthcare payor
25 regardless of the benefit category determination by the health benefit plan,
26 then a healthcare payor shall reimburse for the cost and administration of
27 the prescription medication through the medical benefit or pharmacy benefit
28 based on the decision of the healthcare provider in consultation with the
29 enrollee.

30 (2) The healthcare payor shall not impose financial penalties,
31 copayments, coinsurance, or deductibles beyond the ordinary terms required
32 through the enrollee's medical benefit or pharmacy benefit.

33 (3) This subsection does not apply to:

34 (A) A risk-based provider organization as established
35 under the Medicaid Provider-Led Organized Care Act, § 20-77-2701 et seq.; or

36 (B) An individual qualified health insurance plan under

1 the Arkansas Health and Opportunity for Me Act of 2021, § 23-61-1001 et seq.

2 (e) This section applies to an enrollee who is being evaluated or
3 treated for:

4 (1) A hematology diagnosis;

5 (2) An oncology diagnosis; or

6 (3) Additional disease states or diagnoses that the Insurance
7 Commissioner may include through the promulgation of rules.

8 (f) This section shall not:

9 (1) Interfere with the ability of a healthcare payor to create,
10 modify, or maintain a prescription medication formulary; or

11 (2) Apply to a solid oral dosages form of a prescription
12 medication unless the medication:

13 (A) Is an oral anticancer prescription medication;

14 (B) An oral antiemetic prescription medication that is
15 given with chemotherapy treatment; or

16 (C) Possesses a safety label from the United States Food
17 and Drug Administration that indicates the relevant drug interactions,
18 warnings and precautions, or adverse reactions of the prescription medication
19 that are clinically applicable to the enrollee and determined by a healthcare
20 provider to require supervision during administration of the prescription
21 medication.

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23 23-99-1404. Rules.

24 The Insurance Commissioner shall develop and promulgate rules for the
25 implementation and administration of this subchapter.

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27 /s/Lowery
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