

**RULE 120**

**COVERAGE FOR EARLY REFILLS OF  
PRESCRIPTION EYE DROPS**

1. AUTHORITY
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3. DEFINITIONS
4. REQUIREMENT TO PROVIDE EARLY REFILLS OF PRESCRIPTION EYE DROPS
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6. EFFECTIVE DATE

**SECTION 1. AUTHORITY**

This Rule is issued pursuant to the authority granted the Arkansas Insurance Commissioner (“Commissioner”) by Act 357 of 2021, codified at Ark. Code Ann. § 23-79-2201 et seq., which provides the Commissioner with authority necessary to promulgate rules to implement Act 357 of 2021, “Arkansas Coverage for Early Refills of Prescription Eye Drops Act.” Section 2 of Act 357 of 2021 is not codified and requires the Commissioner to promulgate rules necessary to implement the Act.

**SECTION 2. APPLICABILITY AND SCOPE**

This Rule shall apply to all entities defined by Ark. Code Ann. § 23-79-2202 as “healthcare insurers” that provide coverage for prescription eye drops under a health benefit plan to a covered person on and after January 1, 2022.

**SECTION 3. DEFINITIONS**

The following words and terms, when used in this Rule, shall have the following meanings, unless the context clearly indicates otherwise.

(1) "Covered person" means a person who is and continues to remain eligible for coverage under a health benefit plan and is covered under the health benefit plan.

(2) (a) “Health benefit plan” means:

(1) An individual, blanket, or group plan, policy, or contract for healthcare services issued or delivered by a healthcare insurer; and

(2) Any health benefit program receiving state or federal appropriations from the State of Arkansas, including the Arkansas Medicaid Program and the Arkansas Works Program, or any successor program.

(b) "Health benefit plan" includes:

(1) Indemnity and managed care plans; and

(2) Nonfederal governmental plans as defined in 29 U.S.C. § 1002(32), as it existed on January 1, 2021.

(c) "Health benefit plan" does not include:

(1) A disability income plan;

(2) A credit insurance plan;

(3) Insurance coverage issued as a supplement to liability insurance;

(4) A medical payment under automobile or homeowners insurance plans;

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

(6) A plan that provides only indemnity for hospital confinement;

(7) An accident-only plan;

(8) A specified disease plan;

(9) A long-term-care-only plan;

(10) A dental-only plan; or

(11) A vision-only plan.

(3) "Healthcare insurer" means an entity subject to the insurance laws of this state or the jurisdiction of the Insurance Commissioner that contracts or offers to contract to provide health insurance coverage, including without limitation an insurance company, a health maintenance organization, a hospital medical service corporation, a self-insured governmental or church plan in this state, or the Arkansas Medicaid Program.

(4) "Healthcare professional" means a person who is licensed, certified, or otherwise authorized by the laws of this state to administer health care in the ordinary course of the practice of his or her profession.

(5) "Prescription eye drops" means a prescription topical eye medication that is delivered through eye drops and is used to treat a chronic condition of the eye.

#### **SECTION 4. REQUIREMENT TO PROVIDE EARLY REFILLS OF PRESCRIPTION EYE DROPS**

A healthcare insurer that provides coverage for prescription eye drops under a health benefit plan shall provide coverage for early refills of prescription eye drops to a covered person on and after January 1, 2022, if:

(a) For a thirty-day supply:

(1) The amount of time has passed after which a covered person should have used seventy percent (70%) of the dosage of the prescription eye drops according to a healthcare professional's instructions on the prescription; or

(2) Twenty-two (22) days have passed from:

(A) The original date the prescription eye drops were distributed to a covered person; or

(B) The date the most recent refill of the prescription eye drops was distributed to a covered person;

(b) The healthcare professional indicates on the original prescription that additional quantities of the prescription eye drops are needed;

(c) A refill request of a covered person for prescription eye drops does not exceed the number of additional quantities needed as described in section (b) of this section; and

(d) The prescription eye drops prescribed by a healthcare professional are a covered benefit under the health benefit plan of the covered person.

#### **SECTION 5. ENFORCEMENT**

Violations of this Rule shall constitute an unfair or deceptive act under Ark. Code Ann. § 23-66-206. Therefore, the penalties, actions or orders, including but not limited to monetary fines, suspension, or revocation of license, as authorized under Ark. Code Ann. §§ 23-66-209 and 23-66-210, shall apply to violations of this Rule.

#### **SECTION 6. EFFECTIVE DATE**

The effective date of this Rule is November 1, 2021.

ALAN MCCLAIN  
INSURANCE COMMISSIONER

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DATE

1 State of Arkansas  
2 93rd General Assembly  
3 Regular Session, 2021  
4

As Engrossed: H3/8/21

# A Bill

HOUSE BILL 1450

5 By: Representatives *Magie, Eubanks*  
6 By: Senator Bledsoe  
7

## For An Act To Be Entitled

9 AN ACT TO REQUIRE A HEALTH BENEFIT PLAN TO PROVIDE  
10 COVERAGE FOR EARLY REFILLS OF PRESCRIPTION EYE DROPS;  
11 TO ESTABLISH THE ARKANSAS COVERAGE FOR EARLY REFILLS  
12 OF PRESCRIPTION EYE DROPS ACT; AND FOR OTHER  
13 PURPOSES.  
14  
15

## Subtitle

16 TO REQUIRE A HEALTH BENEFIT PLAN TO  
17 PROVIDE COVERAGE FOR EARLY REFILLS OF  
18 PRESCRIPTION EYE DROPS; AND TO ESTABLISH  
19 THE ARKANSAS COVERAGE FOR EARLY REFILLS  
20 OF PRESCRIPTION EYE DROPS 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 79, is amended to add an  
27 additional subchapter to read as follows:

28 Subchapter 21 – Arkansas Coverage for Early Refills of Prescription Eye Drops

29 Act  
30

31 23-79-2101. Title.

32 This subchapter shall be known and may be cited as the "Arkansas  
33 Coverage for Early Refills of Prescription Eye Drops Act".  
34

35 23-79-2102. Definitions.

36 As used in this subchapter:



1           (1) "Covered person" means a person who is and continues to  
2 remain eligible for coverage under a health benefit plan and is covered under  
3 the health benefit plan;

4           (2)(A) "Health benefit plan" means:

5                   (i) An individual, blanket, or group plan, policy,  
6 or contract for healthcare services issued or delivered by a healthcare  
7 insurer; and

8                   (ii) Any health benefit program receiving state or  
9 federal appropriations from the State of Arkansas, including the Arkansas  
10 Medicaid Program and the Arkansas Works Program, or any successor program.

11           (B) "Health benefit plan" includes:

12                   (i) Indemnity and managed care plans; and

13                   (ii) Nonfederal governmental plans as defined in 29  
14 U.S.C. § 1002(32), as it existed on January 1, 2021.

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

16                   (i) A disability income plan;

17                   (ii) A credit insurance plan;

18                   (iii) Insurance coverage issued as a supplement to  
19 liability insurance;

20                   (iv) A medical payment under automobile or  
21 homeowners insurance plans;

22                   (v) A health benefit plan provided under Arkansas  
23 Constitution, Article 5, § 32, the Workers' Compensation Law, § 11-9-101 et  
24 seq., or the Public Employee Workers' Compensation Act, § 21-5-601 et seq.;

25                   (vi) A plan that provides only indemnity for  
26 hospital confinement;

27                   (vii) An accident-only plan;

28                   (viii) A specified disease plan;

29                   (ix) A long-term-care-only plan;

30                   (x) A dental-only plan; or

31                   (xi) A vision-only plan;

32           (3) "Healthcare insurer" means an entity subject to the  
33 insurance laws of this state or the jurisdiction of the Insurance  
34 Commissioner that contracts or offers to contract to provide health insurance  
35 coverage, including without limitation an insurance company, a health  
36 maintenance organization, a hospital medical service corporation, a self-

1 insured governmental or church plan in this state, or the Arkansas Medicaid  
2 Program;

3 (4) "Healthcare professional" means a person who is licensed,  
4 certified, or otherwise authorized by the laws of this state to administer  
5 health care in the ordinary course of the practice of his or her profession;  
6 and

7 (5) "Prescription eye drops" means a prescription topical eye  
8 medication that is delivered through eye drops and is used to treat a chronic  
9 condition of the eye.

10  
11 23-79-2103. Prescription eye drops – Early refills – Requirements.

12 A healthcare insurer that provides coverage for prescription eye drops  
13 under a health benefit plan shall provide coverage for early refills of  
14 prescription eye drops to a covered person on and after January 1, 2022, if:

15 (1) For a thirty-day supply:

16 (A) The amount of time has passed after which a covered  
17 person should have used seventy percent (70%) of the dosage of the  
18 prescription eye drops according to a healthcare professional's instructions  
19 on the prescription; or

20 (B) Twenty-two (22) days have passed from:

21 (i) The original date the prescription eye drops  
22 were distributed to a covered person; or

23 (ii) The date the most recent refill of the  
24 prescription eye drops was distributed to a covered person;

25 (2) The healthcare professional indicates on the original  
26 prescription that additional quantities of the prescription eye drops are  
27 needed;

28 (3) A refill request of a covered person for prescription eye  
29 drops does not exceed the number of additional quantities needed as described  
30 in subdivision (2) of this section; and

31 (4) The prescription eye drops prescribed by a healthcare  
32 professional are a covered benefit under the health benefit plan of the  
33 covered person.

34  
35 SECTION 2. TEMPORARY LANGUAGE. DO NOT CODIFY. Rules.

36 (a)(1) Except as provided in subdivision (a)(2) of this section, the

1 Insurance Commissioner shall promulgate rules necessary to implement this  
2 act.

3 (2) The Secretary of the Department of Human Services shall  
4 promulgate rules necessary to implement this act that may apply to the  
5 Arkansas Medicaid Program.

6 (b)(1) When adopting the initial rules to implement this act, the  
7 final rule shall be filed with the Secretary of State for adoption under §  
8 25-15-204(f):

9 (A) On or before January 1, 2022; or

10 (B) If approval under § 10-3-309 has not occurred by  
11 January 1, 2022, as soon as practicable after approval under § 10-3-309.

12 (2) The commissioner and secretary shall file the proposed rule  
13 with the Legislative Council under § 10-3-309(c) sufficiently in advance of  
14 January 1, 2022, so that the Legislative Council may consider the rule for  
15 approval before January 1, 2022.

16  
17 */s/Eubanks*  
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20 **APPROVED: 3/15/21**  
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