



Michael Preston  
SECRETARY OF COMMERCE

Alan McClain  
COMMISSIONER,  
ARKANSAS INSURANCE  
DEPARTMENT

November 1, 2021

Ms. Jessica C. Whittaker, Administrator  
Administrative Rules Review Section  
Bureau of Legislative Research  
One Capitol Mall, 5<sup>th</sup> Floor  
Little Rock, Arkansas 72201

VIA EMAIL TO: [whittakerj@blr.arkansas.gov](mailto:whittakerj@blr.arkansas.gov)

**RE: Arkansas Insurance Department  
Act 595 Monthly Update on Rulemaking Progress**

Dear Ms. Whittaker,

Pursuant to Ark. Code Ann. § 25-15-216(b)(4), the Arkansas Insurance Department submits this written update on the progress of rules determined to be required under laws enacted in the 2021 legislative session. A summary of the Department's progress is in the attached chart.

Please let me know if you have any questions or I can offer additional assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jim Brader".

Jim Brader  
General Counsel  
Arkansas Insurance Department  
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## ARKANSAS INSURANCE DEPARTMENT

### Act 595 Monthly Status Report

- I. The following Acts from the 2021 legislative session require rulemaking and were included in the *Report on the Acts of the 2021 Regular Session Requiring New Rulemaking*. The Arkansas Insurance Department (“AID”) will be taking the following rulemaking actions for these Acts:

Act	Rule Name	Rule Number	Summary of Law & Status	Action
Act 665	Pharmacy Audits	118	<p>The purpose of this Rule is to comply with Act 655 of 2021 to issue a required rule to enforce the pharmacy bill of rights as well as to make required rule changes consistent with changes to definitions made this session in Act 655 of 2021, to apply our PBM rule to self-funded plans and also to establish a network adequacy standard consistent with federal law.</p> <p><b>Status:</b> <i>Internal pre-promulgation approvals obtained; Public comment period expected to begin within 30 days.</i></p>	Amend Rule
Act 1018	Insurance Business Transfer (IBT)	126	<p>The Insurance Business Transfer rule (“IBT”) satisfies the rulemaking mandate and will govern the application and approval process for one company (“transferring insurer”) to develop and implement a plan, subject to approval by the Insurance Commissioner, to transfer some or all of its rights, obligations, and risks on a group of insurance policies, typically older “legacy” policies, another company (“assuming insurer”).</p> <p><b>Status:</b> <i>On ALC Rules agenda in November of 2021.</i></p>	Adopt New Rule
Act 1054	PANS/PANDA	127	<p>This rule implements Act 1054 and fulfills the Act’s rulemaking mandate to AID. Requires health plans to provide coverage for off-label use of intravenous immunoglobulin, also known as “IVIG”, to treat individuals diagnosed with pediatric acute-onset neuropsychiatric syndrome and pediatric autoimmune neuropsychiatric disorders associated with streptococcal infection, or both, on or after January 1, 2022.</p> <p><b>Status:</b> <i>On ALC Rules agenda in November of 2021.</i></p>	Adopt New Rule
Act 357	Prescription Eye Drops	120	<p>Patients suffering from glaucoma and other degenerative eye diseases use daily prescription eye drops to prevent further harm. Many patients,</p>	Adopt New Rule

			<p>particularly older patients, either spill some portion of the prescription eye drops or waste some portion of the drops due to failure to properly aim the drop into the eye. Such patients are then at risk of running out of their drops before a health benefit plan will provide coverage for a refill. Without the availability of early coverage, patients would either have to pay full price for an early refill or go without the drops and risk further endangering their vision. This rule explains when early refills should be allowed.</p> <p><b>Status: On ALC Rules agenda in November of 2021.</b></p>	
Act 97	Step Therapy	107	<p>Act 97 requires healthcare insurers to base step therapy protocols on appropriate clinical practice guidelines or published peer-reviewed data developed by independent experts with knowledge of the condition or conditions under consideration. Acts 97 also ensures that patients have access to a fair, transparent, and independent process for requesting a step therapy protocol exception when the patient's physician deems it appropriate.</p> <p><b>Status: On ALC Rules agenda in November of 2021.</b></p>	Adopt New Rule
Act 672	Credit for Reinsurance	65	<p>Rule 65 also needs to be amended to properly align itself with and support the revised statutory requirements. The proposed amendments to Rule 65 provide guidelines and reporting forms for the new process by which unauthorized reinsurers may qualify to post reduced collateral to satisfy state credit for reinsurance standards. Adoption of the revised rule is necessary for the Arkansas Insurance Department to meet national accreditation standards.</p> <p><b>Status: Waiting on Governor's Office approval.</b></p>	Amend Rule
Act 343	Perpetual Cemeteries	Rule 2	<p>Allows perpetual care cemeteries to make a withdrawal from the principal of the permanent maintenance fund once every ten years in order to make capital improvements and infrastructure repairs.</p> <p><b>Status: On ALC Rules agenda in November of 2021.</b></p>	Adopt New Rule
Act 1103	340B Drug Pricing	123	<p>The purpose of this Rule is to simply to comply with Act 1103 of 2021 by issuing a mandated rule to implement Act 1103. The proposed rule simply copies and pastes the statutory code enacted in Act 1103 of 2021. AID is aware of no interpretation of issues or ambiguities at this time needing clarification in a rule. This may change during rulemaking.</p> <p><b>Status: In Litigation, Drafting Rule</b></p>	Adopt New Rule

**II.** The following Acts from the 2021 legislative session require rulemaking and were **not** included in the *Report on the Acts of the 2021 Regular Session Requiring New Rulemaking*. However, AID believes rulemaking is needed for the operation of the laws and will be taking the following rulemaking actions for these Acts:

Act 397	Agent/Adjustor Licensing	31	<p>Requires adjuster applicants to complete a minimum of 20 hours of pre-licensing education before taking their Arkansas adjuster examination. Specifies the number of hours in each subject area an adjuster applicant must complete, and a pre-license education course must offer. Clarifies that electronic signatures may be used for all pre-licensing education forms that must be submitted to the Department.</p> <p><b>Status: Public Hearing set November 18<sup>th</sup> at 10:00</b></p>	Amend Rule
Act 955	Cranio- Facial	111	<p>The proposed Rule implements the new amendments by (1) creating a mechanism to review and evaluate craniofacial services for insurance adjudications; (2) the proposed Rule also permits fees or charges to insurers for evaluations of proposed services to help resource and pay for team efforts to review and approve services; and (3) the proposed Rule also provides needed definitions not in Act 955 of 2021 to help clarify the craniofacial coverage laws.</p> <p><b>Status: Public Hearing set December 7<sup>th</sup> at 10:00</b></p>	Amend Rule