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DEPARTMENT

November 16, 2023

Via Email: [miller-ricer@blr.arkansas.gov](mailto:miller-ricer@blr.arkansas.gov)

Administrative Rules Subcommittee  
Arkansas Legislative Council  
Senator Kim Hammer, Co-Chair  
Representative Brian Evans, Co-Chair  
c/o Rebecca Miller-Rice  
Bureau of Legislative Research

RE: Ark. Code Ann. § 25-15-216(c) Exclusion from Rulemaking

Dear Senator Hammer and Representative Evans:

Pursuant to Ark. Code Ann. § 25-15-216(c), the Arkansas Insurance Department respectfully requests an exclusion from rulemaking pursuant to Ark. Code Ann. § 25-15-216(b).

Act 523 of 2023 indirectly references rulemaking by stating in pertinent part, “(f)(1) If an insurer or producer does not have sufficient evidence but has a good faith belief that the value-based product or service meets the criteria under subdivision (9)(B)(vi)(a)(2) of this section, the insurer or producer may provide the value-based product or service in a manner that is not unfairly discriminatory as part of a pilot or testing program for no more than one (1) year as **determined by rule of the commissioner.**” (emphasis added).

The programs referred to in subdivision (9)(B)(vi)(a)(2) have been offered by insurers in the past, and these programs have always been required to be filed with the Department. These programs are already regulated by way of Department review of the program filings. The Department has reviewed Act 523 and determined that a rule is not needed.

In accordance with Ark. Code Ann. § 25-15-216(c)(2), the Arkansas Insurance Department requests that the Subcommittee exclude it from reporting requirements related to Act 523.

Thank you for your consideration.

Sincerely,

Alan McClain  
Arkansas Insurance Commissioner