



Hugh McDonald
SECRETARY OF COMMERCE

Jimmy Harris
COMMISSIONER,
ARKANSAS INSURANCE
DEPARTMENT

September 29, 2025

Senator Tyler Dees, Co-Chair
Representative Matthew Shepherd, Co-Chair
Administrative Rules Subcommittee
Arkansas Legislative Council
Via Rebecca Miller-Rice miller.ricer@blr.arkansas.gov

Re: State Insurance Department Arkansas Code § 25-15-216(c) Request to be Excluded from Promulgating Rules for Act 424 of 2025, An Act to Mandate Coverage for Breast Reconstruction Surgeries, to Require Prior Authorization for Breast Reconstruction Surgeries, and to Establish a Minimum Reimbursement Rate for Breast Construction Surgeries.

Dear Senator Dees and Representative Shepherd;

Pursuant to Arkansas Code § 25-15-216(c), the State Insurance Department respectfully requests that it be excluded from the requirements of Arkansas Code § 25-15-216(b)(3)-(5), because it believes that promulgation of a rule to implement Act 424 of 2025 is not yet necessary.

Act 424 requires a health insurance plan to provide coverage for all services provided for breast reconstruction surgeries and to cover any surgery determined to be best course of treatment by a healthcare professional consistent with prevailing medical standards. It also establishes prior authorization requirements and reimbursement for out-of-network providers.

Act 424 directs the Department to promulgate rules for implementation and also describes two specific rules for the Department to promulgate. First, the Act specifically defines breast reconstruction surgery within Section One, Arkansas Code § 23-79-2901(2), that qualifies for coverage and tasks the Department with including additional types of covered breast reconstruction techniques by rule in the future when additional breast reconstruction techniques are developed. The Department is unaware of any other types of breast reconstruction techniques and does not yet have a duty to include any additional breast reconstruction techniques by rule.

The second rulemaking directive is in Section One, Arkansas Code § 23-79-2904(c)(2), and requires a healthcare insurer that does not reimburse an out-of-network provider or healthcare facility as required to pay interest to the provider in a manner specified by the Department by rule. Promulgating a rule for calculation of this interest payment is unnecessary, because the Department

already has such a calculation in its Unfair Claims Settlement Practices Rule, 23 CAR pt 15. Pursuant to 23 CAR § 15-110 and 111, a health carrier shall pay an interest penalty to a healthcare provider that is calculated as the amount of the claim payment due multiplied by twelve percent (12%) per annum multiplied by the number of days in the delinquent payment period, divided by three hundred sixty-five (365).

For the reasons described above, the Department requests that the Administrative Rules Subcommittee and Arkansas Legislative Council determine that rulemaking is unnecessary and excuse the Department from having to promulgate a rule for Act 424 of 2025.

Sincerely,

A handwritten signature in blue ink that reads "Crystal Phelps". The signature is written in a cursive, flowing style.

Crystal Phelps
Managing Attorney
Arkansas Insurance Department