1   State of Arkansas

2   90th General Assembly   A Bill   DRAFT JMB/JMB

3   Second Extraordinary Session, 2016   SENATE BILL

4

5   By: Senator <NA>

6   By: Representative <NA>

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8   **For An Act To Be Entitled**

9   AN ACT TO AMEND THE PROVISIONS OF THE MEDICAID

10   FAIRNESS ACT; TO ALLOW PRIOR AUTHORIZATIONS TO BE

11   BASED ON STANDARDS OR EVIDENCE-BASED PRACTICE OR

12   PROFESSIONALLY RECOGNIZED STANDARDS FOR HEALTH CARE;

13   AND FOR OTHER PURPOSES.

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16   **Subtitle**

17   TO AMEND THE PROVISIONS OF THE MEDICAID

18   FAIRNESS ACT; AND TO ALLOW PRIOR

19   AUTHORIZATIONS TO BE BASED ON STANDARDS

20   OR EVIDENCE-BASED PRACTICE OR

21   PROFESSIONALLY RECOGNIZED STANDARDS FOR

22   HEALTH CARE.

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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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27   SECTION 1. Arkansas Code § 20-77-1702(7), concerning the definition of

28 "department" within the Medicaid Fairness Act, is amended to read as follows:

29   (7)(A) "Department" means:

30   (A)(i) The Department of Human Services;

31   (B)(ii) All the divisions and programs of the

32 department, including the state Medicaid program; and

33   (C)(iii) All the department's contractors, fiscal

34 agents, and other designees and agents;.

35   (B) "Department" does not include a managed care

36 organization or administrative service organization that provides or pays for

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1   medical services for beneficiaries through a comprehensive risk contractual
2   relationship with the Department of Human Services;
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4   SECTION 2. Arkansas Code § 20-77-1702(11), concerning the definition
5   for "Medicaid" within the Medicaid Fairness Act, is amended to read as
6   follows:
7   (11)(A) "Medicaid" means the medical assistance program under
8   Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq., and Title XXI
9   of the Social Security Act, 42 U.S.C. § 1397aa et seq., that is operated by
10   the department, including contractors, fiscal agents, and all other designees
11   and agents;.
12   (B) "Medicaid" does not include a managed care
13   organization or administrative service organization that provides or pays for
14   medical services for beneficiaries through a comprehensive risk contractual
15   relationship with the Department of Human Services;
16
17   SECTION 3. Arkansas Code § 20-77-1708, concerning medical necessity,
18   is amended to add an additional subsection to read as follows:
19   (c) The presumption under subsection (a) of this section does not
20   apply if the department determines that the medical judgment of the
21   performing or prescribing physician is contrary to either:
22   (1) Appropriate clinical guidelines or standards of evidence-
23   based practice; or
24   (2) Professionally recognized standards for health care.
25
26   SECTION 4. Arkansas Code § 20-77-1709 is amended to read as follows:
27   20-77-1709. Promulgation before enforcement.
28   (a) The Department of Human Services may not use state policies,
29   guidelines, manuals, or other such criteria in enforcement actions against
30   providers unless the criteria have been promulgated.
31   (b) Nothing in this This section does not: requires
32   (1) Require or authorizes authorize the department to attempt to
33   promulgate standards of care that practitioners use in determining medical
34   necessity or rendering medical decisions, diagnoses, or treatment.; or
35   (2) Require the department to promulgate standards used in
36   determining medical necessity, including without limitation:

1   (A)   Appropriate clinical guidelines or standards of

2 evidence-based practice; or

3   (B)   Professionally recognized standards for health care.

4   (c)   Medicaid contractors may not use a different provider manual than

5 the Centers for Medicare and Medicaid Services Provider Reimbursement Manual

6 promulgated for each service category.

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