

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4

As Engrossed: S4/2/13

# A Bill

SENATE BILL 1020

5 *By: Senators J. Dismang, Bookout, D. Sanders*  
6 *By: Representatives J. Burris, Westerman, Carter, Biviano*  
7

## For An Act To Be Entitled

9 *AN ACT CONCERNING HEALTH INSURANCE FOR CITIZENS OF*  
10 *THE STATE OF ARKANSAS; TO CREATE THE HEALTH CARE*  
11 *INDEPENDENCE ACT OF 2013; TO DECLARE AN EMERGENCY;*  
12 *AND FOR OTHER PURPOSES.*  
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14

## Subtitle

15 *TO CREATE THE HEALTH CARE INDEPENDENCE*  
16 *ACT OF 2013; AND TO DECLARE AN EMERGENCY.*  
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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22 *SECTION 1. Arkansas Code Title 20, Chapter 77, is amended to create a*  
23 *new subchapter to read as follows:*  
24

25 *Subchapter 21 – Health Care Independence Act of 2013*

26  
27 *20-77-2101. Title.*

28 *This act shall be known and may be cited as the "Health Care*  
29 *Independence Act of 2013".*  
30

31 *20-77-2102. Legislative intent.*

32 *(a) Notwithstanding any general or specific laws to the contrary, the*  
33 *Department of Human Services is to explore design options that reform the*  
34 *Medicaid Program utilizing the Health Care Independence Act of 2013 so that*  
35 *it is a fiscally sustainable, cost-effective, personally responsible, and*  
36 *opportunity-driven program utilizing competitive and value-based purchasing*



1 to:

2 (1) Maximize the available service options;

3 (2) Promote accountability, personal responsibility, and  
4 transparency;

5 (3) Encourage and reward healthy outcomes and responsible  
6 choices; and

7 (4) Promote efficiencies that will deliver value to the  
8 taxpayers.

9 (b)(1) It is the intent of the General Assembly that the State of  
10 Arkansas through the Department of Human Services shall utilize a private  
11 insurance option for "low-risk" adults.

12 (2) The Health Care Independence Act of 2013 shall ensure that:

13 (A) Private health care options increase and government-  
14 operated programs such as Medicaid decrease; and

15 (B) Decisions about the design, operation and  
16 implementation of this option, including cost, remain within the purview of  
17 the State of Arkansas and not with Washington, D.C.

18  
19 20-77-2103. Purpose.

20 (a) The purpose of this subchapter is to:

21 (1) Improve access to quality health care;

22 (2) Attract insurance carriers and enhance competition in the  
23 Arkansas insurance marketplace;

24 (3) Promote individually-owned health insurance;

25 (4) Strengthen personal responsibility through cost-sharing;

26 (5) Improve continuity of coverage;

27 (6) Reduce the size of the state-administered Medicaid program;

28 (7) Encourage appropriate care, including early intervention,  
29 prevention, and wellness;

30 (8) Increase quality and delivery system efficiencies;

31 (9) Facilitate Arkansas's continued payment innovation, delivery  
32 system reform, and market-driven improvements;

33 (10) Discourage over-utilization; and

34 (11) Reduce waste, fraud, and abuse.

35 (b) The State of Arkansas shall take an integrated and market-based  
36 approach to covering low-income Arkansans through offering new coverage

1 opportunities, stimulating market competition, and offering alternatives to  
2 the existing Medicaid program.

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4 20-77-2104. Definitions.

5 As used in this subchapter:

6 (1) "Carrier" means a private entity certified by the State  
7 Insurance Department and offering plans through the Health Insurance  
8 Marketplace;

9 (2) "Cost sharing" means the portion of the cost of a covered  
10 medical service that must be paid by or on behalf of eligible individuals,  
11 consisting of copayments or coinsurance but not deductibles;

12 (3) "Eligible individuals" means individuals who:

13 (A) Are adults between nineteen (19) years of age and  
14 sixty-five (65) years of age with an income that is equal to or less than one  
15 hundred thirty-eight percent (138%) of the federal poverty level, including  
16 without limitation individuals who would not be eligible for Medicaid under  
17 laws and rules in effect on January 1, 2013;

18 (B) Have been authenticated to be a United States citizen  
19 or documented qualified alien according to the federal Personal  
20 Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No.  
21 104-193; and

22 (C) Are not determined to be more effectively covered  
23 through the standard Medicaid program, such as an individual who is  
24 medically frail or other individuals with exceptional medical needs for whom  
25 coverage through the Health Insurance Marketplace is determined to be  
26 impractical, overly complex, or would undermine continuity or effectiveness  
27 of care;

28 (4) "Healthcare coverage" means healthcare benefits as defined  
29 by certification or rules, or both, promulgated by the State Insurance  
30 Department for the Qualified Health Plans or available on the marketplace;

31 (5) "Health Insurance Marketplace" means the vehicle created to  
32 help individuals, families, and small businesses in Arkansas shop for and  
33 select health insurance coverage in a way that permits comparison of  
34 available Qualified Health Plan based upon price, benefits, services, and  
35 quality, regardless of the governance structure of the marketplace;

36 (6) "Premium" means a charge that must be paid as a condition of

1 enrolling in health care coverage;

2 (7) "Program" means the Health Care Independence Program  
3 established by this subchapter; and

4 (8) "Qualified Health Plan" means a State Insurance Department  
5 certified individual health insurance plan offered by a carrier through the  
6 Health Insurance Marketplace.

7  
8 20-77-2105. Administration of the Health Care Independence Program.

9 (a) The Department of Human Services shall:

10 (1) Create and administer the Health Care Independence Program;  
11 and

12 (2) Submit Medicaid State Plan Amendments and apply for any  
13 federal waivers necessary to implement the program in a manner consistent  
14 with this subchapter.

15 (b) Implementation of the program is conditioned upon the receipt of  
16 necessary federal approvals.

17 (c) The program shall include premium assistance for eligible  
18 individuals to enable their enrollment in a Qualified Health Plan through the  
19 Health Insurance Marketplace.

20 (d)(1) The Department of Human Services is specifically authorized to  
21 pay premiums and supplemental cost-sharing subsidies directly to the  
22 Qualified Health Plans for enrolled eligible individuals.

23 (2) The intent of the payments under subdivision (d)(1) of this  
24 section is to increase participation and competition in the health insurance  
25 market, intensify price pressures, and reduce costs for both publicly and  
26 privately funded health care.

27 (e) To the extent allowable by law:

28 (1) The Department of Human Services shall pursue strategies  
29 that promote insurance coverage of children in their parents' or caregivers'  
30 plan, including children eligible for the ARKids First Program Act, § 20-77-  
31 1101, commonly known as the "ARKids B program"; and

32 (2) During calendar year 2015, the Department of Human Services  
33 shall include and seek federal approval for the transition to the Health  
34 Insurance Marketplace of:

35 (A) Children eligible for the ARKids First Program Act, §  
36 20-77-1101; and

1 (B) Populations under Medicaid from zero percent (0%) of  
2 the federal poverty level to seventeen percent (17%) of the federal poverty  
3 level.

4 (3) The Department of Human Services shall develop a strategy to  
5 inform Medicaid recipient populations whose needs would be reduced or better  
6 served through participation in the Health Insurance Marketplace.

7 (f) The program shall include allowable cost sharing for eligible  
8 individuals that is comparable to that for individuals in the same income  
9 range in the private insurance market and is structured to enhance eligible  
10 individuals' investment in their health care purchasing decisions.

11 (g)(1) The State Insurance Department and Department of Human Services  
12 shall administer and promulgate rules to administer the program authorized  
13 under this subchapter.

14 (2) No less than thirty (30) days before the State Insurance  
15 Department and Department of Human Services begin promulgating a rule under  
16 this subchapter, the proposed rule shall be presented to the Legislative  
17 Council.

18 (h) The program authorized under this subchapter shall terminate  
19 within one hundred twenty (120) days after a reduction in any of the  
20 following federal medical assistance percentages:

21 (1) One hundred percent (100%) in 2014, 2015,  
22 or 2016;

23 (2) Ninety-five percent (95%) in 2017;

24 (3) Ninety-four percent (94%) in 2018;

25 (4) Ninety-three percent (93%) in 2019; and

26 (5) Ninety percent (90%) in 2020 or any year after 2020.

27 (i) An eligible individual enrolled in the program shall affirmatively  
28 acknowledge that:

29 (1) The program is not a perpetual federal or state right or a  
30 guaranteed entitlement;

31 (2) The program is subject to cancellation upon appropriate  
32 notice; and

33 (3) The program is not an entitlement program.

34 (j)(1) The Department of Human Services shall develop a model and seek  
35 approval from the Center for Medicare and Medicaid Services to allow a  
36 limited number of enrollees to participate in a pilot program testing the

1 viability of a Health Saving Account or a Medical Savings Account.

2 (2) The pilot program shall be implemented during calendar year  
3 2015.

4 (k)(1) State obligations for uncompensated care shall be projected,  
5 tracked, and reported to identify potential incremental future decreases.

6 (2) The Department of Human Services shall recommend appropriate  
7 adjustments to the General Assembly.

8 (3) Adjustments shall be made by the General Assembly as  
9 appropriate.

10 (l) The Department of Human Services shall track the Hospital  
11 Assessment Fee as defined in § 20-77-1902 and report to the General Assembly  
12 subsequent decreases based upon reduced uncompensated care.

13 (m) On a quarterly basis, the Department of Human Services and the  
14 State Insurance Department shall report to the Legislative Council or to the  
15 Joint Budget Committee if the General Assembly is in session, available  
16 information regarding:

17 (1) Program enrollment;

18 (2) Patient experience;

19 (3) Economic impact including enrollment distribution;

20 (4) Carrier competition; and

21 (5) Avoided uncompensated care.

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23 20-77-2106. Standards of healthcare coverage through the Health  
24 Insurance Marketplace.

25 (a) Healthcare coverage shall be achieved through a qualified health  
26 plan at the silver level as provided in 42 U.S.C. §§ 18022 and 18071, as  
27 existing on January 1, 2013, that restricts cost sharing to amounts that do  
28 not exceed Medicaid cost-sharing limitations.

29 (b) All participating carriers in the Health Insurance Marketplace  
30 shall offer healthcare coverage conforming to the requirements of this  
31 subchapter.

32 (c) To assure price competitive choice among healthcare coverage  
33 options, the State Insurance Department shall assure that at least two (2)  
34 qualified health plans are offered in each county in the state.

35 (d) Health insurance carriers offering health care coverage for  
36 program eligible individuals shall participate in Arkansas Payment

1 Improvement Initiatives including:

2 (1) Assignment of primary care clinician;

3 (2) Support for patient-centered medical home; and

4 (3) Access of clinical performance data for providers.

5 (e) On or before July 1, 2013, the State Insurance Department shall  
6 implement through certification requirements, rule, or both implement the  
7 applicable provisions of this subchapter.

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9 20-77-2107. Enrollment.

10 (a) The General Assembly shall assure that a mechanism within the  
11 Health Insurance Marketplace is established and operated to facilitate  
12 enrollment of eligible individuals.

13 (b) The enrollment mechanism shall include an automatic verification  
14 system to guard against waste, fraud, and abuse in the program.

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16 20-77-2108. Effective date.

17 This subchapter shall be in effect until June 30, 2017, unless amended  
18 or extended by the General Assembly.

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20 SECTION 2. Arkansas Code Title 19, Chapter 5, Subchapter 11, is  
21 amended to add an additional section to read as follows:

22 19-5-1140. Health Care Independence Program Trust Fund.

23 (a) There is created on the books of the Treasurer of State, the  
24 Auditor of State, and the Chief Fiscal Officer of the State a trust fund to  
25 be known as the "Health Care Independence Program Trust Fund".

26 (b)(1) The Health Care Independence Program Trust Fund shall consist  
27 of moneys saved and accrued under the Health Care Independence Act of 2013, §  
28 20-77-2101 et seq.

29 (2) The fund shall also consist of other revenues and funds  
30 authorized by law.

31 (c) The fund may be used by the Department of Human Services to pay  
32 for future obligations under the Health Care Independence Program created by  
33 the Health Care Independence Act of 2013, § 20-77-2101 et seq.

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35 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the  
36 General Assembly of the State of Arkansas that the Health Care Independence

1 Program requires private insurance companies to create, present to the  
2 Department of Human Services for approval, implement, and market a new kind  
3 of insurance policy; and that the private insurance companies need certainty  
4 about the law creating the Health Care Independence Program before fully  
5 investing time, funds, personnel, and other resources to the development of  
6 the new insurance policies. Therefore, an emergency is declared to exist,  
7 and this act being immediately necessary for the preservation of the public  
8 peace, health, and safety shall become effective on:

9 (1) The date of its approval by the Governor;

10 (2) If the bill is neither approved nor vetoed by the Governor,  
11 the expiration of the period of time during which the Governor may veto the  
12 bill; or

13 (3) If the bill is vetoed by the Governor and the veto is  
14 overridden, the date the last house overrides the veto.

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16 /s/Bookout  
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