

1 State of Arkansas  
2 90th General Assembly  
3 Regular Session, 2015

# A Bill

SENATE BILL 701

4  
5 By: Senator Irvin  
6

## For An Act To Be Entitled

8 AN ACT TO PROHIBIT THE USE OF CERTAIN RISK FACTORS BY  
9 A HEALTHCARE PAYOR TO REIMBURSE A PHYSICIAN UNDER AN  
10 ALTERNATIVE PAYMENT SYSTEM; AND FOR OTHER PURPOSES.  
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## Subtitle

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14 TO PROHIBIT THE USE OF CERTAIN RISK  
15 FACTORS BY A HEALTHCARE PAYOR TO  
16 REIMBURSE A PHYSICIAN UNDER AN  
17 ALTERNATIVE PAYMENT SYSTEM.  
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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 23, Chapter 99, is amended to add an  
23 additional subchapter to read as follows:

24 Subchapter 9 – Limitation on Financial Penalties In Alternative Payment  
25 Systems  
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27 23-99-901. Legislative findings.

28 The General Assembly finds that:

29 (1) Under an alternative payment system, a healthcare payor  
30 assigns certain risk factors to a physician when determining patient care  
31 costs even if the risk factors are beyond the physician's control;

32 (2) A physician may not receive an appropriate share of savings  
33 or reduction in costs under an alternative payment system if the physician  
34 has higher patient care costs; and

35 (3) A physician should not be penalized for higher patient care  
36 costs if the physician has no control over those risk factors.



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2 23-99-902. Definitions.

3 As used in this subchapter:

4 (1) "Alternative payment system" means a payment method used by  
5 a healthcare payor that uses a risk-sharing or gain-sharing process for a  
6 physician that participates in a plan, program, or network offered by the  
7 healthcare payor;

8 (2) "Gain-sharing payment" means an increase in a payment or  
9 additional payments made by a healthcare payor to a physician as a result of  
10 meeting or exceeding cost thresholds or quality standards;

11 (3)(A) "Healthcare payor" means an entity that reimburses a  
12 physician for the delivery of healthcare services that are covered by the  
13 healthcare payor.

14 (B) "Healthcare payor" does not include a provider-based  
15 network or system that utilizes risk-sharing including an accountable care  
16 organization or a clinically integrated network; and

17 (4) "Risk-sharing payment" means a reduction in a payment to,  
18 recoupment of a payment from, or repayment of a payment received by a  
19 physician as a result of the provider's failure to meet cost thresholds or  
20 quality standards.

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22 23-99-903. Physician penalties – Limitation.

23 A healthcare payor doing business in this state when determining a  
24 physician's gain-sharing payment or risk-sharing payment shall not include a  
25 risk factor that varies from a healthcare payor's freely negotiated contract  
26 pricing for another person outside the physician's control if a higher risk-  
27 sharing payment or a lower gain-sharing payment than normal would result if  
28 the variations are included.