

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

A Bill

HOUSE BILL 1271

5 By: Representative Hammer
6

For An Act To Be Entitled

8 AN ACT TO CREATE THE ARKANSAS HEALTH INSURANCE
9 INNOVATION ACT OF 2017; TO AUTHORIZE THE INSURANCE
10 COMMISSIONER, THE DEPARTMENT OF FINANCE AND
11 ADMINISTRATION, THE DEPARTMENT OF HUMAN SERVICES, AND
12 THE ARKANSAS HEALTH INSURANCE MARKETPLACE TO SEEK
13 FEDERAL WAIVERS TO FACILITATE INNOVATIVE APPROACHES
14 TO HEALTH INSURANCE COVERAGE AND HEALTH CARE; TO
15 DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.
16
17

Subtitle

18 TO CREATE THE ARKANSAS HEALTH INSURANCE
19 INNOVATION ACT OF 2017; AND TO DECLARE AN
20 EMERGENCY.
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25 WHEREAS, the General Assembly is obligated to pursue appropriate means
26 to protect Arkansas citizens, employers, and healthcare providers from the
27 challenges and obstacles created by federal healthcare legislation; and
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29 WHEREAS, state-based solutions to health insurance coverage and
30 healthcare needs are inherently more efficient, more effective, and less
31 costly than federal mandates; and
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33 WHEREAS, under 31 C.F.R. Subtitle A, Part 33, federal Waivers for State
34 Innovation, commonly referred to as "Section 1332 Waivers", are authorized to
35 permit a state to waive provisions of federal laws relating to the provision
36 of healthcare items or services; and



1
 2 WHEREAS, under 31 C.F.R. § 33.108, applications for Waivers for State
 3 Innovation are to be submitted to and reviewed by the United States Secretary
 4 of Health and Human Services and the United States Secretary of the Treasury;
 5 and

6
 7 WHEREAS, under 31 C.F.R. § 33.108, as an initial criterion for an
 8 application for Waivers for State Innovation, evidence of state legislation
 9 that provides the state with authority to implement the proposed waiver is
 10 required; and

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 12 WHEREAS, existing state legislation may be insufficient in providing
 13 the authority to permit an application under 31 C.F.R. § 33.108,

14
 15 NOW THEREFORE,

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

17
 18 SECTION 1. Arkansas Code Title 23, Chapter 61, is amended to add a
 19 additional subchapter to read as follows:

20 Subchapter 11 – Arkansas Health Insurance Innovation Act of 2017

21
 22 23-61-1101. Title.

23 This subchapter shall be known and may be cited as the “Arkansas Health
 24 Insurance Innovation Act of 2017”.

25
 26 23-61-1102. Purpose.

27 The purpose of this subchapter is to encourage the executive and
 28 legislative branches to explore, develop, and facilitate innovative
 29 approaches to improving access to, affordability, and quality of
 30 comprehensive health insurance coverage and health care.

31
 32 23-61-1103. Waiver authority.

33 (a) Individually or collectively, the Insurance Commissioner, the
 34 Director of the Department of Finance and Administration, the Director of the
 35 Department of Human Services, and the Board of Directors of the Arkansas
 36 Health Insurance Marketplace may:

1 (1) Submit and apply for one (1) or more federal waivers under:

2 (A) 42 U.S.C. § 1315, § 1396n, and § 18052;

3 (B) 31 C.F.R. Subtitle A, Part 33; and

4 (C) 45 C.F.R. Subtitle A, Part 155, Subpart N; and

5 (2) Submit and apply for federal waivers necessary to effectuate
 6 the purposes of this subchapter.

7 (b) For purposes of federal law, a waiver submitted under this section
 8 has legislative approval under this section upon presentation to and review
 9 and approval by the Legislative Council.

10
 11 23-61-1104. Rules.

12 (a) The following may promulgate rules to implement this subchapter
 13 and any federal waivers sought in furtherance of this subchapter:

14 (1) The Insurance Commissioner;

15 (2)(A) The Department of Finance and Administration.

16 (B) Rules promulgated by the Department of Finance and
 17 Administration under subdivision (a)(2)(A) of this section include without
 18 limitation rules pertaining to the calculation, assessment, or collection of
 19 state taxes;

20 (3)(A) The Department of Human Services.

21 (B) Rules promulgated by the Department of Human Services
 22 under subdivision (a)(3)(A) of this section include without limitation:

23 (i) Any required state plan amendments to the
 24 Arkansas Medicaid Program;

25 (ii) Any waivers or other approvals required from
 26 the Centers for Medicare and Medicaid Services; and

27 (iii) Any other rules pertaining to the Arkansas
 28 Medicaid Program; and

29 (4)(A) The Arkansas Health Insurance Marketplace.

30 (B) Rules promulgated by the Arkansas Health Insurance
 31 Marketplace under subdivision (a)(4)(A) of this section:

32 (i) Include without limitation rules pertaining to
 33 the Arkansas Health Insurance Marketplace;

34 (ii) Are exempt from the Arkansas Administrative
 35 Procedure Act, § 25-15-201 et seq.; and

36 (iii) Shall be adopted in compliance with the

1 procedures of § 23-61-803.

2 (b)(1) Joint waiver applications shall be accompanied by rules
 3 submitted as authorized by the entities listed in subsection (a) of this
 4 section that have been selected for the joint waiver application.

5 (2) The Governor shall determine rule distribution and priority
 6 in the case of a joint waiver application.

7 (c) In the event of a conflict between the rules promulgated under
 8 this subchapter by different entities, priority shall be given to any rule
 9 that has been approved or formally reviewed by the Centers for Medicare and
 10 Medicaid Services or other federal agency.

11 (d) Rules promulgated under this section shall not conflict with or
 12 prevent the application of regulations promulgated by the United States
 13 Secretary of Health and Human Services, the United States Secretary of the
 14 Treasury, or the Commissioner of Internal Revenue under federal law.

15
 16 SECTION 2. Arkansas Code § 23-61-803(1), concerning the authority of
 17 the Board of Directors of the Arkansas Health Insurance Marketplace to apply
 18 for and expend grant funds, is amended to read as follows:

19 ~~(1)(1)(A) On and after July 1, 2015, the board shall have the~~
 20 ~~authority to apply for and expend on behalf of the Arkansas Health Insurance~~
 21 ~~Marketplace any state, federal, or private grant funds available to assist~~
 22 ~~with the implementation and operation of the Arkansas Health Insurance~~
 23 ~~Marketplace.~~

24 ~~(B) Before July 1, 2015, the board shall coordinate with~~
 25 ~~the commissioner the application for state, federal, or private grant funds~~
 26 ~~to plan, implement, and operate the Arkansas Health Insurance Marketplace.~~

27 ~~(2)(A) Before July 1, 2015, the commissioner may apply for any~~
 28 ~~state, federal, or private grant funds available to assist with the~~
 29 ~~implementation and operation of the Arkansas Health Insurance Marketplace.~~

30 ~~(B) If the commissioner applies for and receives any~~
 31 ~~state, federal, or private grant funds available to assist with the~~
 32 ~~implementation and operation of the Arkansas Health Insurance Marketplace,~~
 33 ~~the commissioner shall enter into a memorandum of understanding with the~~
 34 ~~Arkansas Health Insurance Marketplace concerning the use and expenditure of~~
 35 ~~the grant funds.~~

36 (2)(A) On and after the effective date of this act, the board

1 may apply to the United States Secretary of Health and Human Services for a
2 state innovation waiver with respect to health insurance coverage that is
3 authorized under 31 C.F.R. Subtitle A, Part 33, which collectively are
4 commonly referred to as "Section 1332 Waivers".

5 (B) A waiver submitted under subdivision (1)(2)(A) of this
6 section has legislative approval upon presentation to and approval by a
7 majority vote of the Arkansas Health Insurance Marketplace Legislative
8 Oversight Committee.

9
10 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the General
11 Assembly of the State of Arkansas that federal law sets specific time frames
12 and deadlines for the submission of federal waiver requests under 31 C.F.R.
13 Subtitle A, Part 33; that prompt and immediate action is necessary to take
14 full advantage of opportunities for innovation under federal law; that
15 ensuring an efficient and effective process for development of a waiver will
16 promote innovation and optimize the use of taxpayer dollars; and that this
17 act is immediately necessary to initiate reforms of the state's health
18 insurance market and healthcare system. Therefore, an emergency is declared
19 to exist, and this act being immediately necessary for the preservation of
20 the public peace, health, and safety shall become effective on:

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

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

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