

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

A Bill

HOUSE BILL 1804

5 By: Representative Evans
6 By: Senator Caldwell
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE ARKANSAS PHARMACY AUDIT BILL OF
10 RIGHTS; TO AMEND THE ARKANSAS PHARMACY BENEFITS
11 MANAGER LICENSURE ACT; AND FOR OTHER PURPOSES.
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Subtitle

14 TO AMEND THE ARKANSAS PHARMACY AUDIT BILL
15 OF RIGHTS; AND TO AMEND THE ARKANSAS
16 PHARMACY BENEFITS MANAGER LICENSURE ACT.
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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 § 17-92-1201, concerning the Arkansas
23 Pharmacy Audit Bill of Rights, is amended to add an additional subsection to
24 read as follows:

25 (h) The Insurance Commissioner shall:

26 (1) Administer and enforce this subchapter; and

27 (2) Promulgate rules to implement the purposes and requirements
28 of this subchapter.
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30 SECTION 2. Arkansas Code § 23-92-503(2)(A), concerning the definition
31 of "health benefit plan" used in the Arkansas Pharmacy Benefits Manager
32 Licensure Act, is amended to read as follows:

33 (2)(A) "Health benefit plan" means any individual, blanket, or
34 group plan, policy, or contract for healthcare services issued or delivered
35 by a healthcare ~~insurer~~ payor in this state.
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1 SECTION 3. Arkansas Code § 23-92-503(3), concerning the definition of
 2 "healthcare insurer", is repealed.

3 ~~(3) "Healthcare insurer" means an insurance company, a health~~
 4 ~~maintenance organization, or a hospital and medical service corporation;~~

6 SECTION 4. Arkansas Code § 23-92-503, concerning definitions used in
 7 the Arkansas Pharmacy Benefits Manager Licensure Act, is amended to add an
 8 additional subdivision to read as follows:

9 (16) "Healthcare payor" means:

10 (A) A health insurance company;

11 (B) A health maintenance organization;

12 (C) A hospital and medical services corporation; and

13 (D) An entity that provides or administers a self-funded
 14 health benefit plan, including a governmental plan.

16 SECTION 5. Arkansas Code § 23-92-505(b)(1), concerning a report by a
 17 pharmacy benefits manager to the Insurance Commissioner under the Arkansas
 18 Pharmacy Benefits Manager Licensure Act, is amended to read as follows:

19 (b)(1) A pharmacy benefits manager shall report to the Insurance
 20 Commissioner on a quarterly basis for each healthcare ~~insurer~~ payor the
 21 following information:

22 (A) The aggregate amount of rebates received by the
 23 pharmacy benefits manager;

24 (B) The aggregate amount of rebates distributed to the
 25 appropriate healthcare ~~insurer~~ payor;

26 (C) The aggregate amount of rebates passed on to the
 27 enrollees of each healthcare ~~insurer~~ payor at the point of sale that reduced
 28 the enrollees' applicable deductible, copayment, coinsurance, or other cost-
 29 sharing amount;

30 (D) The individual and aggregate amount paid by the
 31 healthcare ~~insurer~~ payor to the pharmacy benefits manager for pharmacist
 32 services itemized by pharmacy, by product, and by goods and services; and

33 (E) The individual and aggregate amount a pharmacy
 34 benefits manager paid for pharmacist services itemized by pharmacy, by
 35 product, and by goods and services.

1 SECTION 6. Arkansas Code § 23-92-506(b)(6), concerning prohibited
2 practices of a pharmacy benefits manager under the Arkansas Pharmacy Benefits
3 Manager Licensure Act, is amended to read as follows:

4 (6) Make or permit any reduction of payment for pharmacist
5 services by a pharmacy benefits manager or a healthcare ~~insurer~~ payor
6 directly or indirectly to a pharmacy under a reconciliation process to an
7 effective rate of reimbursement, including without limitation generic
8 effective rates, brand effective rates, direct and indirect remuneration
9 fees, or any other reduction or aggregate reduction of payment; or
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11 SECTION 7. Arkansas Code § 23-92-509(b), concerning the rules for the
12 Arkansas Pharmacy Benefits Manager Licensure Act, is amended to read as
13 follows:

14 (b)(1) Rules adopted under this subchapter shall set penalties or
15 fines, including without limitation monetary fines, suspension of licensure,
16 and revocation of licensure for violations of this subchapter and rules
17 adopted under this subchapter.

18 (2) The rules adopted under this subchapter shall not require a
19 pharmacy to maintain a distance greater than five (5) miles for purposes of
20 pharmacy network adequacy.
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22 SECTION 8. DO NOT CODIFY. SEVERABILITY CLAUSE. If any provision of
23 this act or the application of this act to any person or circumstance is held
24 invalid, the invalidity shall not affect other provisions or applications of
25 this act which can be given effect without the invalid provision or
26 application, and to this end, the provisions of this act are declared
27 severable.
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29 SECTION 9. DO NOT CODIFY. Rules.

30 (a) When adopting the initial rules required under Section 1 of this
31 act, the Insurance Commissioner shall file the final rules with the Secretary
32 of State for adoption under § 25-15-204(f):

33 (1) On or before January 1, 2022; or

34 (2) If approval under § 10-3-309 has not occurred by January 1,
35 2022, as soon as practicable after approval under § 10-3-309.

36 (b) The commissioner shall file the proposed rules with the

1 Legislative Council under § 10-3-309(c) sufficiently in advance of January 1,
2 2022, so that the Legislative Council may consider the rules for approval
3 before January 1, 2022.

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