

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

As Engrossed: H3/30/21

# 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.  
12  
13

## Subtitle

15 TO AMEND THE ARKANSAS PHARMACY AUDIT BILL  
16 OF RIGHTS; AND TO AMEND THE ARKANSAS  
17 PHARMACY BENEFITS MANAGER LICENSURE ACT.  
18  
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
21

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.  
29

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.  
36



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2 "healthcare insurer", is repealed.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.

36

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  
10

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)(A) The commissioner shall adopt rules relating to a pharmacy  
19 benefits manager's network adequacy.

20 (B) The rules described in subdivision (b)(2)(A) of this  
21 section shall require that an individual covered by a health benefit plan  
22 have access to a community pharmacy at a standard no less strict than the  
23 federal standards established under Tricare or Medicare Part D, 42 U.S.C. §  
24 §§ 1395w-101 – 1395w-154, as it existed on January 1, 2021, if that standard  
25 requires, on average:

26 (i) At least ninety percent (90%) of individuals  
27 covered by a health benefit plan in an urban area served by the health  
28 benefit plan to live within two (2) miles of a network pharmacy that is a  
29 retail community pharmacy;

30 (ii) At least ninety percent (90%) of individuals  
31 covered by a health benefit plan in suburban areas served by the health  
32 benefit plan to live within five (5) miles of a network pharmacy that is a  
33 retail community pharmacy; and

34 (iii) At least seventy percent (70%) of individuals  
35 covered by a health benefit plan in a rural area served by the health benefit  
36 plan to live within fifteen (15) miles of a network pharmacy that is a retail

1 community pharmacy.

2  
3 SECTION 8. DO NOT CODIFY. SEVERABILITY CLAUSE. If any provision of  
4 this act or the application of this act to any person or circumstance is held  
5 invalid, the invalidity shall not affect other provisions or applications of  
6 this act which can be given effect without the invalid provision or  
7 application, and to this end, the provisions of this act are declared  
8 severable.

9  
10 SECTION 9. DO NOT CODIFY. Rules.

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

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

15 (2) If approval under § 10-3-309 has not occurred by January 1,  
16 2022, as soon as practicable after approval under § 10-3-309.

17 (b) The commissioner shall file the proposed rules with the  
18 Legislative Council under § 10-3-309(c) sufficiently in advance of January 1,  
19 2022, so that the Legislative Council may consider the rules for approval  
20 before January 1, 2022.

21  
22 */s/Evans*  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36