Stricken language would be deleted from and underlined language would be added to present law.
Act 1236 of the Regular Session

State of Arkansas *As Engrossed: S3/17/15 S3/26/15*
90th General Assembly
Regular Session, 2015

A Bill

SENATE BILL 1019

By: Senator Irvin

For An Act To Be Entitled

AN ACT TO AMEND THE ACCESS TO CARE ACT, *§ 20-77-129*; TO LOWER THE COST OF CARE AND INCREASE ACCESS TO CARE FOR MEDICAID *PATIENTS; TO DECLARE AN EMERGENCY; AND* FOR OTHER PURPOSES.

Subtitle

TO AMEND THE ACCESS TO CARE ACT, § 20-77-129; AND TO LOWER THE COST OF CARE AND INCREASE ACCESS TO CARE FOR MEDICAID PATIENTS.

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

SECTION 1. Arkansas Code § 20-77-129 is amended to read as follows:

20-77-129. Ambulatory surgery centers — Medicaid reimbursement.

(a) As used in this section:

(1) "Ambulatory surgery center" means ~~a distinct~~ an entity certified by Medicare as an ambulatory surgical center that operates ~~exclusively~~ for the purpose of providing surgical services to patients ~~not requiring hospitalization~~ and that is eligible to receive reimbursement from Medicaid for ambulatory surgery services;

(2) "Ambulatory Surgery Center Medicaid Procedure Code" means appropriate:

(A) Current Procedural Terminology codes representing procedures that do not appear on the Medicare hospital inpatient-only list or Medicaid hospital inpatient-only list and that are medically necessary and not solely for cosmetic treatment or surgery; or

(B) Comparable Current Procedural Terminology codes adopted and assigned under this section, representing procedures that do not appear on the Medicaid hospital inpatient only list, are medically necessary, and are not solely for cosmetic treatment or surgery;

(3) ~~"Ambulatory Surgery Center Medicaid reimbursement formula for appropriate implantable devices" means appropriate implantable devices used during appropriate procedures that are reimbursed at a pass-through cost if the combined cost of the appropriate implantable devices is greater than fifty percent (50%) of the reimbursement for the Ambulatory Surgery Center Medicaid Procedure Code;~~

~~(4)~~ "Ambulatory Surgical Center Medicaid reimbursement rate for appropriate procedures" means ~~eighty percent (80%)~~ ninety-five percent (95%) of ~~hospital outpatient procedure department~~ ambulatory surgical center Medicare reimbursement that is currently effective for applicable Ambulatory Surgical Center Medicaid Procedure Codes;

~~(5) "Appropriate implantable device" means a device used during an appropriate procedure;~~

~~(6)~~(4) "Appropriate procedure" means a surgical procedure or other procedure commonly performed in an ambulatory surgery center setting that is not on:

(A) ~~the~~ The Medicaid hospital inpatient-only list or Medicare hospital inpatient-only list; or

(B) The Medicaid hospital inpatient-only list for which a comparable Current Procedural Terminology code has been adopted and assigned under this section;

~~(7) "Healthcare Financing Administration Common Procedure Coding System" means the coding system under the Centers for Medicare and Medicaid Services;~~

(5) "Current Procedural Terminology code" means the codes that are commonly used in the healthcare industry to identify services that are provided;

~~(8)~~(6) "Hospital inpatient-only list" means a listing kept by the Centers for Medicare and Medicaid Services of procedures that should be performed on an inpatient basis only with separately recorded lists for Medicare and Medicaid ~~for the Medicare population due to one (1) or more of the following reasons:~~

~~(A) The nature of the procedure;~~

~~(B) The need for at least twenty-four (24) hours of postoperative care; and~~

~~(C) The underlying physical condition of those patients most often having the particular procedure~~;

~~(9)~~(7) "Hospital outpatient procedure department" means a hospital-based ambulatory surgery center that bills in accordance with the Outpatient Hospital Services Medicaid Provider Guide; and

~~(10)~~(8) "Relative Value Unit" means a service unit value measured in relation to the values of other services and involving a Current Procedural Terminology code that, when multiplied by the conversion factor and a geographical adjustment, creates the compensation level for a particular service.

(b) The purpose of this act is to decrease ~~the cost of~~ costs to Medicaid while increasing access to care to Arkansas's Medicaid population.

(c)(1) An appropriate procedure may be performed at an ambulatory surgery center or a hospital outpatient procedure department.

(2) If an appropriate procedure is performed at an ambulatory surgery center ~~or at a hospital outpatient procedure department~~, the appropriate procedure and any appropriate implantable devices shall be billed using the Ambulatory Surgery Center Medicaid Procedure Codes and reimbursed pursuant to the Ambulatory Surgery Center Medicaid reimbursement ~~formula~~ rate for appropriate procedures ~~and the Ambulatory Surgical Center Medicaid reimbursement formula for appropriate implantable devices~~.

~~(d) If an Ambulatory Surgery Center Medicaid Procedure Code is not on the Medicaid hospital inpatient-only list but is on the Medicare hospital inpatient-only list, the Ambulatory Surgery Center Medicaid reimbursement formula for appropriate procedures shall be eighty percent (80%) of the Medicare hospital outpatient procedure department reimbursement for a comparable procedure, based on a Relative Value Unit that is not on the Medicare hospital inpatient-only list.~~

(d)(1) Upon request by, and in consultation with, the Arkansas Ambulatory Surgery Association, its successor, or an ambulatory surgery center, the Department of Human Services may adopt and assign an appropriate Current Procedural Terminology code for an appropriate procedure, based on a Relative Value Unit for a comparable procedure not on the Medicaid hospital

inpatient-only list, if the appropriate procedure:

(A) Is not on the Medicaid hospital inpatient-only list but is on the Medicare hospital inpatient-only list; or

(B) Is a medically necessary surgical service that is not on the Medicaid hospital inpatient-only list, for which there is no corresponding reimbursement value recited in the current Medicare ambulatory surgery center fee schedule.

(2) A comparable Current Procedural Terminology code adopted and assigned under this section shall be reimbursed at ninety-five percent (95%) of the Medicare ambulatory surgical center reimbursement rate for the comparable procedure.

(3) A request for the adoption and assignment of a comparable Current Procedural Terminology code shall be submitted and approved before the appropriate procedure is performed.

(e) A reimbursement payment made under this section may not exceed the Medicaid upper payment limit as established by the Centers for Medicare and Medicaid Services.

SECTION 2. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that reimbursements under the Arkansas Medicaid Program are subject to federal upper payment limits; that reimbursements under the current law may exceed the federal upper payment limits, requiring the excess cost to be funded entirely through state general revenues; and that this act is immediately necessary to protect the fiscal integrity of the Arkansas Medicaid Program. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

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

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

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

APPROVED: 04/07/2015