

State of Arkansas
93rd General Assembly
Regular Session, 2021

As Engrossed: H3/30/21
A Bill

HOUSE BILL 1804

By: Representative Evans
By: Senator Caldwell

For An Act To Be Entitled

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

Subtitle

TO AMEND THE ARKANSAS PHARMACY AUDIT BILL OF RIGHTS; AND TO AMEND THE ARKANSAS PHARMACY BENEFITS MANAGER LICENSURE ACT.

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

SECTION 1. Arkansas Code § 17-92-1201, concerning the Arkansas Pharmacy Audit Bill of Rights, is amended to add an additional subsection to read as follows:

(h) The Insurance Commissioner shall:

(1) Administer and enforce this subchapter; and

(2) Promulgate rules to implement the purposes and requirements of this subchapter.

SECTION 2. Arkansas Code § 23-92-503(2)(A), concerning the definition of "health benefit plan" used in the Arkansas Pharmacy Benefits Manager Licensure Act, is amended to read as follows:

(2)(A) "Health benefit plan" means any individual, blanket, or group plan, policy, or contract for healthcare services issued or delivered by a healthcare ~~insurer~~ payor in this state.



SECTION 3. Arkansas Code § 23-92-503(3), concerning the definition of "healthcare insurer", is repealed.

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

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

(16) "Healthcare payor" means:

(A) A health insurance company;

(B) A health maintenance organization;

(C) A hospital and medical services corporation; and

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

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

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

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

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

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

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

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

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

(6) Make or permit any reduction of payment for pharmacist services by a pharmacy benefits manager or a healthcare ~~insurer~~ payor directly or indirectly to a pharmacy under a reconciliation process to an effective rate of reimbursement, including without limitation generic effective rates, brand effective rates, direct and indirect remuneration fees, or any other reduction or aggregate reduction of payment; or

SECTION 7. Arkansas Code § 23-92-509(b), concerning the rules for the Arkansas Pharmacy Benefits Manager Licensure Act, is amended to read as follows:

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

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

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

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

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

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

community pharmacy.

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

SECTION 9. DO NOT CODIFY. Rules.

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

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

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

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

/s/Evans

APPROVED: 4/12/21