

Stricken language would be deleted from and underlined language would be added to present law.
Act 876 of the Regular Session

State of Arkansas
94th General Assembly
Regular Session, 2023

As Engrossed: S4/3/23 H4/5/23

A Bill

SENATE BILL 181

By: Senator K. Hammer
By: Representative Warren

For An Act To Be Entitled

AN ACT TO MANDATE COVERAGE FOR USE OF INTRAVENOUS IMMUNOGLOBULIN TO TREAT PEDIATRIC ACUTE-ONSET NEUROPSYCHIATRIC SYNDROME OR PEDIATRIC AUTOIMMUNE NEUROPSYCHIATRIC DISORDERS ASSOCIATED WITH STREPTOCOCCAL INFECTION; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO MANDATE COVERAGE FOR USE OF INTRAVENOUS IMMUNOGLOBULIN TO TREAT CERTAIN PEDIATRIC DISORDERS CAUSED BY INFECTIONS; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Effective January 1, 2024, Arkansas Code § 23-79-1903 is repealed.

~~*23-79-1903. Arkansas PANS/PANDAS Advisory Council—Creation—Membership—Duties.*~~

~~*(a) There is created the Arkansas PANS/PANDAS Advisory Council to consist of the following members:*~~

~~*(1) Two (2) members of the House of Representatives appointed by the Speaker of the House of Representatives;*~~

~~*(2) Two (2) members of the Senate appointed by the President Pro Tempore of the Senate;*~~

~~*(3) One (1) member who is a medical professional with two (2)*~~



~~years of professional experience working with PANS/PANDAS patients, appointed by the Governor;~~

~~(4) One (1) member who is a medical professional with two (2) years of professional experience working with PANS/PANDAS patients, appointed by the council;~~

~~(5) The Secretary of the Department of Health or his or her designee, serving as an ex officio nonvoting member;~~

~~(6) The Insurance Commissioner or his or her designee, serving as an ex officio nonvoting member;~~

~~(7) Three (3) members appointed by the Governor who are employed by a public school district, one (1) member to be a public school nurse, one (1) member to be a public school counselor, and one (1) member to be a public school teacher;~~

~~(8) One (1) member who is designated by the Arkansas Hospital Association, Inc.;~~

~~(9) One (1) member who is designated by the Arkansas State Board of Nursing;~~

~~(10) One (1) member who is designated by the Arkansas Pharmacist's Association;~~

~~(11) One (1) member who is designated by the American Academy of Allergy, Asthma, and Immunology;~~

~~(12) Two (2) members who are parents, appointed by the Governor;~~
~~and~~

~~(13) One (1) member who is designated by the Arkansas Medical, Dental, and Pharmaceutical Association, Inc.~~

~~(b)(1) Upon appointment to the council, the initial members shall draw lots to determine the length of their terms.~~

~~(2) Appointments shall be for a term of four (4) years.~~

~~(3) Vacancies on the council shall be filled in the same manner as provided for the initial appointment.~~

~~(4) The new appointee shall serve for the remainder of the unexpired term.~~

~~(c) Members shall serve at the pleasure of the organizations they represent or of the Governor, as indicated.~~

~~(d)(1) The President Pro Tempore of the Senate shall appoint the Chair of the Arkansas PANS/PANDAS Advisory Council who shall be one (1) of the~~

~~legislative members of the council.~~

~~(2) The Speaker of the House of Representatives shall appoint the Vice Chair of the Arkansas PANS/PANDAS Advisory Council who shall be one (1) of the legislative members of the council.~~

~~(e)(1) A majority of the membership shall constitute a quorum.~~

~~(2) A majority vote of those members present shall be required for any action of the council.~~

~~(f)(1) The council shall meet as often as is deemed necessary by the chair.~~

~~(2) The council shall meet at the State Capitol Building in Little Rock, Arkansas.~~

~~(g) Legislators shall be paid per diem and mileage as authorized by law for attendance at meetings of interim committees of the General Assembly.~~

~~(h)(1) The council shall receive staff support from the Bureau of Legislative Research.~~

~~(2) The council shall receive assistance from the Children's Postinfectious Autoimmune Encephalopathy Center of Excellence at the University of Arizona Steele Children's Research Center with the preparation of any reports required by this subchapter.~~

~~(i) The council may:~~

~~(1) Make recommendations designed to improve and increase knowledge and develop mechanisms to increase clinical awareness and treatment throughout the state for pediatric acute-onset neuropsychiatric syndrome, also known as "PANS", and pediatric autoimmune neuropsychiatric disorders associated with streptococcal infections, also known as "PANDAS", especially for healthcare professionals;~~

~~(2) Operate along with the interdisciplinary panel on PANS/PANDAS at the University of Arkansas for Medical Sciences to determine quarterly information, including case statistics, outcome measures, and other relevant information;~~

~~(3) Make recommendations concerning standard practice guidelines for the diagnosis and treatment of PANS/PANDAS for adult and pediatric patients who have been diagnosed with PANS/PANDAS;~~

~~(4) Provide outreach to educators and parents;~~

~~(5) Develop a network of volunteer experts on PANS/PANDAS to serve as resources within this state; and~~

~~(6) Consider any related topics associated with the council's charge.~~

~~(j)(1) The council shall report to the Senate Committee on Insurance and Commerce, the House Committee on Insurance and Commerce, the Senate Committee on Public Health, Welfare, and Labor, and the House Committee on Public Health, Welfare, and Labor, as requested.~~

~~(2) The report described in subdivision (j)(1) of this section shall be submitted to the Legislative Council for final review.~~

SECTION 2. Arkansas Code § 23-79-1904 is repealed.

~~23-79-1904. Sunset.~~

~~This subchapter shall expire on December 31, 2023, unless extended by the General Assembly.~~

SECTION 3. Arkansas Code § 23-79-1905 is amended to read as follows:

23-79-1905. Off-label use and coverage of drug treatment to treat pediatric acute-onset neuropsychiatric syndrome and pediatric autoimmune neuropsychiatric disorders associated with streptococcal infection – Legislative findings – Definitions.

(a) The General Assembly finds that:

(1) Pediatric acute-onset neuropsychiatric syndrome, also known as “PANS”, is a clinically defined disorder characterized by the sudden onset of obsessive-compulsive symptoms or eating restrictions, accompanied by two (2) or more symptoms of acute behavioral deterioration or motor and sensory changes, or both;

(2) Pediatric autoimmune neuropsychiatric disorders associated with streptococcal infection, also known as “PANDAS”, is a term used to describe a subset of symptoms affecting children and adolescents within the broader PANS classification;

(3) Other states may require coverage for off-label use of drug treatments to treat pediatric acute-onset neuropsychiatric syndrome and pediatric autoimmune neuropsychiatric disorders associated with streptococcal infection; and

(4) Arkansas does not require coverage for off-label use of drug treatments to treat patients who are diagnosed with pediatric acute-onset neuropsychiatric syndrome and pediatric autoimmune neuropsychiatric disorders

associated with streptococcal infections.

(b) As used in this section:

(1)(A) "Health benefit plan" means an individual, blanket, or any group plan, policy, or contract for healthcare services issued, renewed, or extended in this state by a healthcare insurer, health maintenance organization, hospital medical service corporation, or self-insured governmental or church plan in this state.

(B) "Health benefit plan" includes:

(i) A plan offered by a risk-based provider organization as established under the Medicaid Provider-Led Organized Care Act, § 20-77-2701 et seq.;

(ii) Indemnity and managed care plans; and

(iii) Plans providing health benefits to state and public school employees under § 21-5-401 et seq.

(C) "Health benefit plan" does not include:

(i) A plan that provides only dental benefits or eye and vision care benefits;

(ii) A disability income plan;

(iii) A credit insurance plan;

(iv) Insurance coverage issued as a supplement to liability insurance;

(v) Medical payments under an automobile or homeowners insurance plan;

(vi) A health benefit plan provided under Arkansas Constitution, Article 5, § 32, the Workers' Compensation Law, § 11-9-101 et seq., and the Public Employee Workers' Compensation Act, § 21-5-601 et seq.;

(vii) A plan that provides only indemnity for hospital confinement;

(viii) An accident-only plan; or

(ix) A specified disease plan; and

(2)(A) "Healthcare insurer" means any insurance company, hospital and medical service corporation, or health maintenance organization that issues or delivers health benefit plans in this state and is subject to any of the following laws:

(i) The insurance laws of this state;

(ii) Section 23-75-101 et seq., pertaining to

hospital and medical service corporations;

(iii) Section 23-76-101 et seq., pertaining to health maintenance organizations; or

(iv) A risk-based provider organization established under the Medicaid Provider-Led Organized Care Act, § 20-77-2701 et seq.

(B) "Healthcare insurer" does not include an entity that provides only dental benefits or eye and vision care benefits.

(c)(1) A Except as provided in subsection (f) of this section, a health benefit plan that is offered, issued, or renewed in this state, including a plan offered by a risk-based provider organization established under the Medicaid Provider-Led Organized Care Act, § 20-77-2701 et seq., shall provide coverage for off-label use of intravenous immunoglobulin, also known as "IVIG", to treat individuals diagnosed with pediatric acute-onset neuropsychiatric syndrome or pediatric autoimmune neuropsychiatric disorders associated with streptococcal infection, or both, on or after January 1, 2022, under a patient-specific treatment plan established by the Childhood Post-infectious Autoimmune Encephalopathy Clinic established by the University of Arkansas for Medical Sciences in collaboration with Arkansas Children's Hospital consistent with established protocols and rules to be developed by the Insurance Commissioner, in consultation with the Childhood Post-infectious Autoimmune Encephalopathy Center of Excellence.

(2) Rules to implement this subdivision have to be promulgated by August 31, 2023.

(d) The coverage for ~~off-label~~ use of drug treatment to treat pediatric acute-onset neuropsychiatric syndrome and pediatric autoimmune neuropsychiatric disorders associated with streptococcal infection under this section:

(1) May be subject to policy deductions or copayment requirements ~~and any standard prior authorization review~~ of a healthcare insurer or a health benefit plan; and

(2) Does not diminish or limit benefits otherwise allowable under a health benefit plan.

(e) The Insurance Commissioner shall develop and promulgate rules for the implementation and administration of this section.

(f)(1)(A) A health benefit plan that is offered, issued, or renewed in this state shall provide coverage for the use of intravenous immunoglobulin

to treat individuals diagnosed with pediatric acute-onset neuropsychiatric syndrome or pediatric autoimmune neuropsychiatric disorders associated with streptococcal infection, or both, on or after January 1, 2024, if the pediatric patient's primary care physician, in consultation with an Arkansas licensed pediatric psychiatrist and an Arkansas licensed physician who practices in at least one (1) pediatric subspecialty, including a neurologist, rheumatologist, or infectious disease physician who has treated the pediatric patient determines and agrees that the treatment is necessary and follows a patient-specific treatment plan.

(B) A primary care physician may continue to consult with the Childhood Post-infectious Autoimmune Encephalopathy Center of Excellence.

(C) The appeal process for a denial of coverage or adverse determination under this subdivision (f)(1):

(i) Shall align with the normal appeal process of any other type of denial under the health benefit plan; and

(ii) Applies to all health benefit plans.

(2) Upon approval by the United States Food and Drug Administration of the use of intravenous immunoglobulin to treat individuals diagnosed with pediatric acute-onset neuropsychiatric syndrome or pediatric autoimmune neuropsychiatric disorders associated with streptococcal infection, or both, the Insurance Commissioner, with consultation and upon approval of the Arkansas State Medical Board and the Arkansas State Board of Pharmacy, shall adopt by rule a written statewide protocol that provides clarification that the consultation required under subdivision (f)(1) of this section and the patient-specific treatment plan required under subsection (c) of this section are no longer required for coverage under a health benefit plan.

(g) A primary care physician who prescribes intravenous immunoglobulin to treat individuals diagnosed with pediatric acute-onset neuropsychiatric syndrome or pediatric autoimmune neuropsychiatric disorders associated with streptococcal infection, or both, shall report the data to the Childhood Post-infectious Autoimmune Encephalopathy Center of Excellence.

SECTION 4. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that certain children in this state who are diagnosed with pediatric acute-onset neuropsychiatric syndrome or

pediatric autoimmune neuropsychiatric disorders associated with streptococcal infection, or both, are receiving limited treatment options; that requiring healthcare insurers to provide coverage of intravenous immunoglobulin, also known as "IVIG", to treat individuals diagnosed with pediatric acute-onset neuropsychiatric syndrome or pediatric autoimmune neuropsychiatric disorders associated with streptococcal infection, or both, could alleviate some symptoms; and that this act is immediately necessary to ensure that children receive the greatest chance to be healthy and live productive lives. 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.

SECTION 5. TEMPORARY LANGUAGE. DO NOT CODIFY. Rules.

(a) The Insurance Commissioner, in consultation with the Staff of the Childhood Post-infectious Autoimmune Encephalopathy Center of Excellence, shall promulgate rules necessary to implement Section 3 of this act.

(b)(1) When adopting the initial rules to implement this act, the final rule shall be filed with the Secretary of State for adoption under § 25-15-204(f):

(A) On or before August 31, 2023; or

(B) If approval under § 10-3-309 has not occurred by August 31, 2023, as soon as practicable after approval under § 10-3-309.

(2) The commissioner shall file the proposed rule with the Legislative Council under § 10-3-309(c) sufficiently in advance of August 31, 2023, so that the Legislative Council may consider the rule for approval before August 31, 2023.

/s/K. Hammer

APPROVED: 4/13/23