

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
89th General Assembly
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As Engrossed: H3/13/13 H3/15/13
A Bill

HOUSE BILL 1853

By: Representatives Wardlaw, Alexander, C. Armstrong, E. Armstrong, Catlett, Cozart, J. Dickinson, Ferguson, Hammer, Hillman, Kerr, Lampkin, Leding, Love, B. Overbey, Richey, W. Wagner, B. Wilkins, Word, Wren

By: Senators Bookout, Burnett, E. Cheatham, S. Flowers, Irvin, R. Thompson, E. Williams

For An Act To Be Entitled

AN ACT TO CLARIFY THE LAW CONCERNING RECOUPMENT OF PAYMENTS FOR HEALTHCARE PROVIDERS; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO CLARIFY THE LAW CONCERNING RECOUPMENT OF PAYMENTS FOR HEALTHCARE PROVIDERS; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code Title 20, Chapter 77, Subchapter 1, is amended to add two additional sections to read as follows:

20-77-125. Contingency fee audits prohibited.

(a) As used in this section:

(1) "Healthcare provider" means a person enrolled to provide health or medical care services or goods authorized under Medicaid;

(2) "Medicaid" means the medical assistance program provided in this state under Title XIX of the Social Security Act of 1965, including components of the program;

(3) "Medicaid integrity audit contract" means a contract required under federal law between the Department of Human Services and a Medicaid integrity audit program contractor to:

(A) Review the actions of healthcare providers furnishing



services or goods for which payment may be made under the Medicaid program to determine whether fraud, waste, or abuse has occurred or is likely to occur, or whether fraud, waste, or abuse has the potential for resulting in an expenditure of Medicaid funds that is not intended under the Medicaid program;

(B) Audit Medicaid claims to ensure proper payments were made; or

(C) Identify overpayments made to individuals or entities receiving Medicaid funds; and

(4) "Person" means any individual, company, firm, organization, association, corporation, or other legal entity.

(b) The Division of Medical Services of the Department of Human Services shall not enter into a Medicaid integrity audit contract that authorizes all or part of an auditor's compensation to be based, directly or indirectly, on the amount of overpayments identified or collected by the auditor.

(c)(1) Within forty-five (45) days after the effective date of this section, the division shall seek a waiver from the Centers for Medicare and Medicaid Services of the requirement that recovery audit contractors, as identified in 42 U.S.C. § 1396a(a)(42)(B), be paid on a contingent fee basis by submitting an amendment to the Medicaid state plan to implement the requirements of this section.

(2)(A) Except as under subdivision (c)(2)(B) of this section, this section does not apply to:

(i) A contract with a Medicaid integrity audit contract entered into before the state plan amendment is approved by the Centers for Medicare and Medicaid Services; or

(ii) An existing contingent fee contract entered into before July 1, 2013.

(B) An existing contingent fee contract shall not be renewed from and after July 1, 2013, the effective date of this section, or the date a waiver from the Centers for Medicare & Medicaid Services becomes effective, whichever is later.

20-77-126. Relation to Arkansas Pharmacy Audit Bill of Rights.

(a) From and after the date that a state plan amendment submitted

under § 20-77-125 is approved by the Centers for Medicare and Medicaid Services, § 20-77-125 shall supersede and replace § 17-92-1201(f) with regard to Medicaid integrity audits of pharmacies and pharmacists, but all other subsections of § 17-92-1201 shall continue in full force and effect with regard to Medicaid integrity audits.

(b) Section 17-92-1201 is not affected by § 20-77-125 with regard to audits conducted by or on behalf of a person or entity other than Medicaid integrity audits under subsection (a) of this section.

SECTION 3. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that Medicaid providers are subject to an increasing number of contracted entities performing provider audits and that such entities should be compensated based on the volume of work that they do and not be given an incentive to identify more overpayments in order to increase the payments they receive, and that it is imperative that changes be made in state law to remedy this problem. 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.

/s/Wardlaw