

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

State of Arkansas  
90th General Assembly  
Regular Session, 2015

As Engrossed: S3/9/15  
**A Bill**

SENATE BILL 701

By: Senator Irvin

### For An Act To Be Entitled

*AN ACT TO LIMIT THE USE OF FACTORS THAT ARE NOT UNDER  
A PHYSICIAN'S CONTROL IN DETERMINING REIMBURSEMENT IN  
ALTERNATIVE PAYMENT SYSTEMS.*

### Subtitle

*TO LIMIT FINANCIAL PENALTIES ON  
PHYSICIANS IN ALTERNATIVE PAYMENT  
SYSTEMS.*

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

SECTION 1. Arkansas Code Title 23, Chapter 99, is amended to add an additional subchapter to read as follows:

Subchapter 9 – Limitation on Financial Penalties In Alternative Payment  
Systems

23-99-901. Legislative findings.

The General Assembly finds that:

(1) Under an alternative payment system, a *healthcare payor*, when determining a physician's patient care costs, may use factors that are not under the control of the physician;

(2) A physician may not receive an appropriate share of savings or reduction in recoupment under an alternative payment system if the physician's patients have a higher cost of care; and

(3) A physician should not be penalized for higher patient care costs if any of the costs are not under the control of the physician.



23-99-902. Definitions.

As used in this subchapter:

(1) "Alternative payment system" means a payment methodology used by a healthcare payor that includes a risk-sharing or gain-sharing component for a physician that participates in a plan, program, or network offered by the healthcare payor;

(2) "Gain-sharing payment" means an increase in a payment or additional payments made by a healthcare payor to a physician as a result of patient care costs that fall below cost thresholds of any form;

(3)(A) "Healthcare payor" means an entity that reimburses a physician for the delivery of healthcare services that are covered by the healthcare payor.

(B) "Healthcare payor" does not include a provider-based network or system that utilizes risk-sharing including an accountable care organization or a clinically integrated network; and

(4) "Risk-sharing payment" means a reduction in a payment to or refund of a payment already made to a physician as a result of patient care costs that exceed cost thresholds of any form.

23-99-903. Physician penalties – Limitation.

A healthcare payor doing business in this state, when determining any gain-sharing or risk-sharing for a physician, shall not attribute to a physician any costs that are a result of variations in the healthcare payor's freely negotiated contract pricing with other persons or entities outside the physician's practice if including the costs reduces a physician's gain-sharing amount or increases a physician's risk-sharing amount.

/s/Irvin