

1 State of Arkansas  
2 91st General Assembly  
3 Regular Session, 2017  
4

*As Engrossed: H2/15/17*

# A Bill

HOUSE BILL 1439

5 By: Representatives M. Gray, Wardlaw, *D. Ferguson*  
6 By: Senator Irvin  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND THE HEALTHCARE QUALITY AND PAYMENT  
10 POLICY ADVISORY COMMITTEE; AND FOR OTHER PURPOSES.  
11

## Subtitle

14 TO AMEND THE HEALTHCARE QUALITY AND  
15 PAYMENT POLICY ADVISORY COMMITTEE.  
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
19

20 SECTION 1. Arkansas Code §§ 20-77-2203 - 2206 is amended to read as  
21 follows:

22 20-77-2203. Healthcare Quality and Payment Policy Advisory Committee -  
23 Created - Membership.

24 (a) The Healthcare Quality and Payment Policy Advisory Committee is  
25 created.

26 (b)(1) Except as provided under subdivision (b)(2) of this section,  
27 the committee shall consist of the following ~~seven (7)~~ ten (10) voting  
28 members:

29 (A) ~~Three (3)~~ Five (5) members appointed by the President  
30 Pro Tempore of the Senate and recommended by the Arkansas Medical Society,  
31 including:

32 ~~(i) One (1) physician in good standing with the~~  
33 ~~Arkansas State Medical Board;~~

34 ~~(ii) One (1) member nominated by the Arkansas~~  
35 ~~Hospital Association who represents hospitals with more than one hundred~~  
36 ~~(100) beds; and~~



1 ~~(iii) One (1) medical director of a commercially~~  
 2 ~~owned insurance company participating with the Division of Medical Services~~  
 3 ~~of the Department of Human Services in the Arkansas Health Care Payment~~  
 4 ~~Improvement Initiative;~~

5 (i) One (1) family physician;

6 (ii) One (1) pediatrician;

7 (iii) One (1) internal medicine physician;

8 (iv) One (1) physician of any specialty in good  
 9 standing with the Arkansas State Medical Board; and

10 (v) One (1) physician who is a medical director of  
 11 an insurance company; and

12 (B) ~~Three (3)~~ Five (5) members appointed by the Speaker of  
 13 the House of Representatives and recommended by the Arkansas Medical Society,  
 14 including:

15 ~~(i) Two (2) physicians nominated by the Arkansas~~  
 16 ~~Medical Society; and~~

17 ~~(ii) One (1) member nominated by the Arkansas~~  
 18 ~~Hospital Association who represents hospitals with fewer than one hundred~~  
 19 ~~(100) beds; and~~

20 ~~(C) The Director of the Division of Medical Services of~~  
 21 ~~the Department of Human Services~~

22 (i) One (1) family physician;

23 (ii) One (1) pediatrician;

24 (iii) One (1) internal medicine physician;

25 (iv) One (1) physician of any specialty in good  
 26 standing with the Arkansas State Medical Board; and

27 (v) One (1) physician who is a specialist.

28 (2)(A) For purposes of reviewing a draft rule related to long-  
 29 term care services and supports, the committee shall include the following  
 30 ~~five (5)~~ four (4) additional voting members:

31 (i) One (1) member nominated by the Arkansas Health  
 32 Care Association to represent nursing homes and appointed by the President  
 33 Pro Tempore of the Senate;

34 (ii) One (1) member nominated by the ~~Arkansas~~  
 35 ~~Association of Area Agencies on Aging~~ Arkansas Pharmacists Association and  
 36 appointed by the President Pro Tempore of the Senate;

1 (iii) One (1) member nominated by the ~~Arkansas~~  
2 ~~Residential Assisted Living Association~~ Arkansas Hospital Association and  
3 appointed by the President Pro Tempore of the Senate; and

4 (iv) ~~One (1) member nominated by the Arkansas~~  
5 ~~Residential Assisted Living Association and appointed by the Speaker of the~~  
6 ~~House of Representatives; and~~

7 (v) ~~One (1) member nominated by the HomeCare~~  
8 ~~Association of Arkansas and appointed by the Speaker of the House of~~  
9 ~~Representatives~~ The Director of the Division of Medical Services of the  
10 Department of Human Services.

11 (B)(i) As used in subdivision (b)(2)(A) of this section,  
12 “long-term care services and supports” does not include services provided in  
13 intermediate care facilities for individuals with developmental disabilities  
14 or services provided by an entity licensed or certified by the Division of  
15 Developmental Disabilities Services of the Department of Human Services.

16 (ii) For purposes of reviewing a draft rule related  
17 to services provided in intermediate care facilities for individuals with  
18 developmental disabilities and services provided by an entity licensed or  
19 certified by the Division of Developmental Disabilities Services, § 20-77-  
20 2205(b)(2) applies.

21 ~~(3) A medical director of a commercially owned insurance company~~  
22 ~~participating with the Division of Medical Services in the Arkansas Health~~  
23 ~~Care Payment Improvement Initiative who is not appointed under subdivision~~  
24 ~~(b)(1)(A)(iii) of this section may serve as an ex officio member of the~~  
25 ~~committee but shall not vote.~~

26 (c) The committee may appoint subcommittees of the committee to study,  
27 research, and advise the committee.

28 (d) The Department of Human Services may provide offices and staff for  
29 the committee.

30 (e)(1) The members of the committee shall serve two-year terms.

31 (2) At the first meeting of the committee, the length of the  
32 terms of the initial appointees shall be determined by lot.

33 (f) The members of the committee shall hold the first meeting in  
34 offices made available by the department within thirty (30) days of the  
35 appointment of the members of the committee.

36 (g) The committee annually shall select from its membership a chair

1 and a vice chair.

2 (h)(1) A majority of the membership of the committee constitutes a  
3 quorum.

4 (2) A majority vote of the members present is required for any  
5 action of the committee.

6 (i)(1) A vacancy on the committee due to death, resignation, removal,  
7 or another cause shall be filled in the same manner as the initial  
8 appointment.

9 (2) A member appointed to fill a vacancy shall serve for the  
10 remainder of the vacated term.

11 (j) The members of the committee may be removed by the appointing  
12 official for cause.

13 (k) Members of the committee except those employed by the state may  
14 receive expense reimbursement and stipends under § 25-16-902.

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16 20-77-2204. Purpose.

17 The purpose of the Healthcare Quality and Payment Policy Advisory  
18 Committee is to make recommendations and provide ~~advice~~ approval and  
19 assistance to the Department of Human Services concerning the promulgation of  
20 rules submitted by the department to the committee to promote high-quality,  
21 safe, effective, timely, efficient, and patient-centered physician services,  
22 hospital services, and long-term care services and supports in the State of  
23 Arkansas, as related to the development of:

24 (1) The Arkansas Health Care Payment Improvement Initiative;

25 (2) Patient-centered medical homes; and

26 (3) ~~episodes~~ Episodes of care and the episodes-of-care target  
27 prices and quality metrics within the Arkansas Health Care Payment  
28 Improvement Initiative.

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30 20-77-2205. Medicaid payment and reimbursement rules related to  
31 development of episodes of care.

32 (a)(1) The Department of Human Services shall not adopt a rule under  
33 the Arkansas Administrative Procedure Act, § 25-15-201 et seq., related to  
34 the following areas ~~development of episodes of care for patient-centered~~  
35 ~~physician services, hospital services, and long-term care services and~~  
36 ~~supports, including without limitation the episodes of care target prices and~~

1 ~~quality metrics~~, without first submitting the proposed rule to the Healthcare  
2 Quality and Payment Policy Advisory Committee for review;

3 (A) The Arkansas Health Care Payment Improvement  
4 Initiative;

5 (B) Patient-centered medical homes; and

6 (C) Episodes of care for patient-centered physician  
7 services, hospital services, and long-term care services and supports,  
8 including without limitation the episodes of care target prices and quality  
9 metrics.

10 (2) Concurrent with a submission of a draft rule to the  
11 committee under subdivision (a)(1) of this section, the department shall  
12 issue a public notice of the draft rule for which the department shall:

13 (A) Include in the notice a statement of the terms or  
14 substance of the draft rule and the specific provider category or categories  
15 affected;

16 (B) Mail the notice to any person who requests notice of a  
17 submission of a draft rule to the committee under subdivision (a)(1) of this  
18 section; and

19 (C) Post the notice on the department's website in a  
20 section dedicated to the committee.

21 (3) Concurrent with a submission of a draft rule to the  
22 committee under subdivision (a)(1) of this section, the department shall post  
23 the draft rule on its website in a section dedicated to the committee during  
24 the entire period the draft rule is under consideration by the committee.

25 (4) The department shall provide to a person who requests the  
26 information a meeting notice that identifies the time and place of each  
27 committee and subcommittee meeting and the draft rules under consideration by  
28 the committee or subcommittee at each meeting.

29 (b)(1) At least forty-five (45) days before initiating the  
30 promulgation process under the Arkansas Administrative Procedure Act, § 25-  
31 15-201 et seq., ~~for a rule related to the development of episodes of care for~~  
32 ~~patient-centered physician services, hospital services, or long-term care~~  
33 ~~services and supports, including without limitation the episodes of care~~  
34 ~~target prices and quality metrics~~, the department shall submit the draft rule  
35 to the committee for review and ~~advice~~ approval.

36 (2)(A) If the draft rule pertains to a healthcare provider

1 listed in § 20-77-2202(2) whose provider category is not represented on the  
2 committee, the committee shall seek representation by designated  
3 representatives of the statewide provider association or associations for  
4 that provider category for the purpose of review and ~~advice~~ approval.

5 (B) The committee shall:

6 (i) Provide at least twenty-five (25) days for the  
7 representatives of the affected healthcare providers to review and comment on  
8 the draft rule; and

9 (ii) Afford the representatives the opportunity to  
10 participate in committee and subcommittee deliberations on the draft rule.

11 (C)(i) The committee shall not provide ~~advice~~ approval to  
12 the department without seeking the input of the affected healthcare  
13 providers.

14 (ii) If the committee does not reach agreement with  
15 a provider association on a draft rule pertaining to a healthcare provider  
16 not represented on the committee, the committee shall prepare a written  
17 report that objectively states the information and viewpoints presented but  
18 does not ~~advise~~ grant approval to the department concerning ~~how to proceed on~~  
19 the draft rule.

20 (c) A rule required to be submitted to the committee under subsection  
21 (b) of this section that is adopted without following this section is void.

22 (d)(1) The committee shall issue and deliver a written ~~advisory~~  
23 approval statement to the department within thirty (30) calendar days after  
24 the department's submission of the proposed rule to the committee.

25 ~~(2) If the department fails to follow the advice of the~~  
26 ~~committee with respect to a proposed rule under this section, the department,~~  
27 ~~before beginning the promulgation process, shall prepare a written report~~  
28 ~~setting out the advice of the committee and an explanation of the reason that~~  
29 ~~the department decided not to follow the committee's advice with regard to~~  
30 ~~the rule.~~

31 ~~(3)(2)~~ The department shall make available for public review the  
32 ~~report required under subdivision (d)(2) of this section~~ written approval  
33 statement required under subdivision (d)(1) of this section and the text of  
34 the proposed rule during the public comment period.

35 ~~(4)(3)~~ The department ~~may~~ shall not begin the promulgation  
36 process for the proposed rule if the committee does not issue and deliver a

1 written ~~advisory~~ approval statement to the department within thirty (30)  
2 calendar days after the department's submission of the proposed rule to the  
3 committee.

4 ~~(e) After the public comment period, the department shall retain and~~  
5 ~~make available for public review the report required under subdivision (d)(2)~~  
6 ~~of this section and the text of any final regulation issued.~~

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8 20-77-2206. Powers and duties of Healthcare Quality and Payment Policy  
9 Advisory Committee.

10 The Healthcare Quality and Payment Policy Advisory Committee shall:

11 (1) Review and provide ~~advice~~ approval regarding draft rules  
12 submitted by the Department of Human Services under § 20-77-2205;

13 (2) Have the authority to obtain from the department all data  
14 and analysis required to fully meet its charge under § 20-77-2204; and

15 (3) Provide reports to the Legislative Council upon request.

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*/s/M. Gray*