

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

State of Arkansas  
91st General Assembly  
Regular Session, 2017

*As Engrossed: H1/27/17*  
**A Bill**

HOUSE BILL 1271

By: Representative Hammer

*By: Senator Rapert*

### **For An Act To Be Entitled**

AN ACT TO CREATE THE ARKANSAS HEALTH INSURANCE INNOVATION ACT OF 2017; TO AUTHORIZE THE INSURANCE COMMISSIONER, THE DEPARTMENT OF FINANCE AND ADMINISTRATION, THE DEPARTMENT OF HUMAN SERVICES, AND THE ARKANSAS HEALTH INSURANCE MARKETPLACE TO SEEK FEDERAL WAIVERS TO FACILITATE INNOVATIVE APPROACHES TO HEALTH INSURANCE COVERAGE AND HEALTH CARE; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

### **Subtitle**

TO CREATE THE ARKANSAS HEALTH INSURANCE INNOVATION ACT OF 2017; AND TO DECLARE AN EMERGENCY.

WHEREAS, the General Assembly is obligated to pursue appropriate means to protect Arkansas citizens, employers, and healthcare providers from the challenges and obstacles created by federal healthcare legislation; and

WHEREAS, state-based solutions to health insurance coverage and healthcare needs are inherently more efficient, more effective, and less costly than federal mandates; and

WHEREAS, under 31 C.F.R. Subtitle A, Part 33, federal Waivers for State Innovation, commonly referred to as "Section 1332 Waivers", are authorized to permit a state to waive provisions of federal laws relating to the provision



of healthcare items or services; and

WHEREAS, under 31 C.F.R. § 33.108, applications for Waivers for State Innovation are to be submitted to and reviewed by the United States Secretary of Health and Human Services and the United States Secretary of the Treasury; and

WHEREAS, under 31 C.F.R. § 33.108, as an initial criterion for an application for Waivers for State Innovation, evidence of state legislation that provides the state with authority to implement the proposed waiver is required; and

WHEREAS, existing state legislation may be insufficient in providing the authority to permit an application under 31 C.F.R. § 33.108,

NOW THEREFORE,

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

SECTION 1. Arkansas Code Title 23, Chapter 61, is amended to add a additional subchapter to read as follows:

Subchapter 11 – Arkansas Health Insurance Innovation Act of 2017

23-61-1101. Title.

This subchapter shall be known and may be cited as the “Arkansas Health Insurance Innovation Act of 2017”.

23-61-1102. Purpose.

The purpose of this subchapter is to encourage the executive and legislative branches to explore, develop, and facilitate innovative approaches to improving access to, affordability, and quality of comprehensive health insurance coverage and health care.

23-61-1103. Waiver authority.

(a) Individually or collectively, the Insurance Commissioner, the Director of the Department of Finance and Administration, the Director of the Department of Human Services, and the Board of Directors of the Arkansas

Health Insurance Marketplace may:

(1) Submit and apply for one (1) or more federal waivers under:

(A) 42 U.S.C. § 1315, § 1396n, and § 18052;

(B) 31 C.F.R. Subtitle A, Part 33; and

(C) 45 C.F.R. Subtitle A, Part 155, Subpart N; and

(2) Submit and apply for federal waivers necessary to effectuate the purposes of this subchapter.

(b) For purposes of federal law, a waiver submitted under this section has legislative approval under this section upon presentation to and review and approval by the Legislative Council.

23-61-1104. Rules.

(a) The following may promulgate rules to implement this subchapter and any federal waivers sought in furtherance of this subchapter:

(1) The Insurance Commissioner;

(2)(A) The Department of Finance and Administration.

(B) Rules promulgated by the Department of Finance and Administration under subdivision (a)(2)(A) of this section include without limitation rules pertaining to the calculation, assessment, or collection of state taxes;

(3)(A) The Department of Human Services.

(B) Rules promulgated by the Department of Human Services under subdivision (a)(3)(A) of this section include without limitation:

(i) Any required state plan amendments to the Arkansas Medicaid Program;

(ii) Any waivers or other approvals required from the Centers for Medicare and Medicaid Services; and

(iii) Any other rules pertaining to the Arkansas Medicaid Program; and

(4)(A) The Arkansas Health Insurance Marketplace.

(B) Rules promulgated by the Arkansas Health Insurance Marketplace under subdivision (a)(4)(A) of this section:

(i) Include without limitation rules pertaining to the Arkansas Health Insurance Marketplace;

(ii) Are exempt from the Arkansas Administrative Procedure Act, § 25-15-201 et seq.; and

(iii) Shall be adopted in compliance with the procedures of § 23-61-803.

(b)(1) Joint waiver applications shall be accompanied by rules submitted as authorized by the entities listed in subsection (a) of this section that have been selected for the joint waiver application.

(2) The Governor shall determine rule distribution and priority in the case of a joint waiver application.

(c) In the event of a conflict between the rules promulgated under this subchapter by different entities, priority shall be given to any rule that has been approved or formally reviewed by the Centers for Medicare and Medicaid Services or other federal agency.

(d) Rules promulgated under this section shall not conflict with or prevent the application of regulations promulgated by the United States Secretary of Health and Human Services, the United States Secretary of the Treasury, or the Commissioner of Internal Revenue under federal law.

SECTION 2. Arkansas Code § 23-61-803(1), concerning the authority of the Board of Directors of the Arkansas Health Insurance Marketplace to apply for and expend grant funds, is amended to read as follows:

(1)(1)~~(A)~~ On and after July 1, 2015, the board shall have the authority to apply for and expend on behalf of the Arkansas Health Insurance Marketplace any state, federal, or private grant funds available to assist with the implementation and operation of the Arkansas Health Insurance Marketplace.

~~(B) Before July 1, 2015, the board shall coordinate with the commissioner the application for state, federal, or private grant funds to plan, implement, and operate the Arkansas Health Insurance Marketplace.~~

~~(2)(A) Before July 1, 2015, the commissioner may apply for any state, federal, or private grant funds available to assist with the implementation and operation of the Arkansas Health Insurance Marketplace.~~

~~(B) If the commissioner applies for and receives any state, federal, or private grant funds available to assist with the implementation and operation of the Arkansas Health Insurance Marketplace, the commissioner shall enter into a memorandum of understanding with the Arkansas Health Insurance Marketplace concerning the use and expenditure of the grant funds.~~

(2)(A) On and after the effective date of this act, the board may apply to the United States Secretary of Health and Human Services for a state innovation waiver with respect to health insurance coverage that is authorized under 31 C.F.R. Subtitle A, Part 33, which collectively are commonly referred to as "Section 1332 Waivers".

(B) A waiver submitted under subdivision (1)(2)(A) of this section has legislative approval upon presentation to and approval by a majority vote of the Arkansas Health Insurance Marketplace Legislative Oversight Committee.

SECTION 3. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that federal law sets specific time frames and deadlines for the submission of federal waiver requests under 31 C.F.R. Subtitle A, Part 33; that prompt and immediate action is necessary to take full advantage of opportunities for innovation under federal law; that ensuring an efficient and effective process for development of a waiver will promote innovation and optimize the use of taxpayer dollars; and that this act is immediately necessary to initiate reforms of the state's health insurance market and healthcare system. 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/Hammer*