

State of Arkansas  
91st General Assembly  
Regular Session, 2017

# A Bill

HOUSE BILL 1919

By: Representative Boyd  
By: Senator Files

## For An Act To Be Entitled

AN ACT TO CODIFY THE PROCESS FOR THE REVIEW OF RULES IMPACTING STATE MEDICAID COSTS; TO EXEMPT MEDICAL CODES FROM THE RULE-MAKING PROCESS AND LEGISLATIVE REVIEW AND APPROVAL; AND FOR OTHER PURPOSES.

### Subtitle

TO CODIFY THE PROCESS FOR THE REVIEW OF RULES IMPACTING STATE MEDICAID COSTS; AND TO EXEMPT MEDICAL CODES FROM THE RULE-MAKING PROCESS AND LEGISLATIVE REVIEW AND APPROVAL.

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

SECTION 1. Arkansas Code § 10-3-309(b)(1)(B), concerning the definition of "rule" within the legislative review and approval of state agency rules procedure, is amended to read as follows:

(B) "Rule" does not mean:

(i) A statement that concerns the internal management of a state agency and that does not affect the private rights or procedures available to the public;

(ii) A declaratory order or ruling issued under § 25-15-206 or other provision of law applicable to the state agency issuing the declaratory order or ruling; ~~or~~

(iii) Intraagency memoranda; or

(iv) A medical code within the Arkansas Medicaid



Program that is issued by the Centers for Medicare and Medicaid Services, including without limitation:

- (a) Current Procedural Terminology codes;
- (b) Healthcare Common Procedure Coding System codes;
- (c) International Classification of Diseases codes;
- (d) National Uniform Billing Committee Official UB-04 Specifications Manual codes; and
- (e) National Correct Coding Initiative codes;

SECTION 2. Arkansas Code § 25-15-202(9)(B), concerning the definition of "rule" within the Administrative Procedure Act, is amended to read as follows:

(B) "Rule" does not mean:

- (i) ~~Statements concerning~~ A statement that concerns the internal management of ~~an~~ a state agency and that ~~do~~ does not affect the private rights or procedures available to the public;
- (ii) ~~Declaratory rulings~~ A declaratory order or ruling issued pursuant to under § 25-15-206 or other provision of law applicable to the state agency issuing the declaratory order or ruling; ~~or~~
- (iii) ~~Intra-agency~~ Intraagency memoranda; or
- (iv) A medical code within the Arkansas Medicaid

Program that is issued by the Centers for Medicare and Medicaid Services, including without limitation:

- (a) Current Procedural Terminology codes;
- (b) Healthcare Common Procedure Coding System codes;
- (c) International Classification of Diseases codes;
- (d) National Uniform Billing Committee Official UB-04 Specifications Manual codes; and
- (e) National Correct Coding Initiative codes;

SECTION 3. Arkansas Code Title 25, Chapter 15, is amended to add an additional subchapter to read as follows:

Subchapter 4 – Rules Impacting Medicaid Costs

25-15-401. Legislative finding.

In light of the potential for rapidly rising costs to the state attributable to the Arkansas Medicaid Program and the importance of Medicaid expenditures to the health and welfare of the citizens of this state, the General Assembly finds that it is desirable to exercise a more thorough review of future proposed changes to any rule impacting state Medicaid costs.

25-15-402. Definition.

(a) As used in this section, "rule impacting state Medicaid costs" means a proposed rule as defined by § 25-15-202(9), or a proposed amendment to an existing rule as defined by § 25-15-202(9), that would, if adopted, adjust Medicaid reimbursement rates, Medicaid eligibility criteria, or Medicaid benefits, including without limitation a proposed rule or a proposed amendment to an existing rule seeking to:

(1) Reduce the number of individuals covered by the Arkansas Medicaid Program;

(2) Limit the types of services covered by the program;

(3) Reduce the utilization of services covered by the program;

(4) Reduce provider reimbursement;

(5) Increase consumer cost sharing;

(6) Reduce the cost of administering the program;

(7) Increase the program revenues;

(8) Reduce fraud and abuse in the program;

(9) Change any of the methodologies used for reimbursement of providers;

(10) Seek a new waiver or modification of an existing waiver of any provision under Title XIX of the Social Security Act, 42 U.S.C. § 1396-1 et seq., including a waiver that would allow a demonstration project;

(11) Participate or seek to participate in the waiver authority of Section 1115(a)(1) of the Social Security Act, 42 U.S.C. § 1315(a)(1), that would allow operation of a demonstration project or program;

(12) Participate or seek to participate in a request under Section 1115(a)(2) of the Social Security Act, 42 U.S.C. § 1315(a)(2), for the United States Secretary of the Department of Health and Human Services to

provide federal financial participation for costs associated with a demonstration project or program;

(13) Implement managed care provisions under Section 1932 of the Social Security Act, 42 U.S.C. § 1396u-2; or

(14) Participate or seek to participate in the projects or programs of the Centers for Medicare and Medicaid Services Innovation.

(b) "Rule impacting state Medicaid costs" does not include a modification, addition, or elimination of the medical codes used within the Arkansas Medicaid Program that are issued by the Centers for Medicare and Medicaid Services, including without limitation:

(1) Current Procedural Terminology codes;

(2) Healthcare Common Procedure Coding System codes;

(3) International Classification of Diseases codes;

(4) National Uniform Billing Committee Official UB-04 Specifications Manual codes; and

(5) National Correct Coding Initiative codes.

25-15-403. Additional rule procedure.

(a)(1) In addition to filing requirements under the Arkansas Administrative Procedure Act, § 25-15-201 et seq., and § 10-3-309, the Department of Human Services shall, at least thirty (30) days before the expiration of the period for public comment, file a proposed rule impacting state Medicaid costs or a proposed amendment to an existing rule impacting state Medicaid costs with the Senate Committee on Public Health, Welfare, and Labor and the House Committee on Public Health, Welfare, and Labor.

(2) A review of the proposed rule or proposed amendment to an existing rule by the Senate Committee on Public Health, Welfare, and Labor and the House Committee on Public Health, Welfare, and Labor shall occur within forty-five (45) days of the date the proposed rule or proposed amendment to an existing rule is filed with the Senate Committee on Public Health, Welfare, and Labor and the House Committee on Public Health, Welfare, and Labor.

(b)(1) If adopting an emergency rule impacting state Medicaid costs, in addition to the filing requirements under the Arkansas Administrative Procedure Act, § 25-15-201 et seq., and § 10-3-309, the Department of Human Services shall notify the following individuals of the emergency rule and

provide each individual with a copy of the rule within five (5) business days of adopting the rule:

(A) The Speaker of the House of Representatives;

(B) The President Pro Tempore of the Senate;

(C) The Chair of the Senate Committee on Public Health, Welfare, and Labor; and

(D) The Chair of the House Committee on Public Health, Welfare, and Labor.

(2) A review of the emergency rule by the Senate Committee on Public Health, Welfare, and Labor and the House Committee on Public Health, Welfare, and Labor shall occur within forty-five (45) days of the date that the emergency rule is provided to the chairs.