

State of Arkansas
91st General Assembly
First Extraordinary Session, 2017

A Bill

Call Item 4
SENATE BILL 3

By: Senator J. Dismang
By: Representative Gillam

For An Act To Be Entitled

AN ACT TO AMEND THE ARKANSAS WORKS ACT OF 2016 TO REDUCE INCOME ELIGIBILITY LIMITS IN THE ARKANSAS WORKS PROGRAM TO ONE HUNDRED PERCENT (100%) OF THE FEDERAL POVERTY LEVEL AND IMPOSE WORK REQUIREMENTS ON CERTAIN INDIVIDUALS ENROLLED IN THE ARKANSAS WORKS PROGRAM; TO ALLOW ARKANSAS THE FLEXIBILITY TO SELECT WHETHER TO BECOME AN "ASSESSMENT STATE" OR A "DETERMINATION STATE"; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND ARKANSAS WORKS TO REDUCE INCOME ELIGIBILITY LIMITS AND IMPOSE WORK REQUIREMENTS; TO ALLOW THE FLEXIBILITY TO SELECT WHETHER TO BECOME AN "ASSESSMENT STATE" OR A "DETERMINATION STATE"; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. DO NOT CODIFY. Legislative findings and intent.

(a) The General Assembly finds that:

(1) The State of Arkansas continues to seek strategies to provide health insurance for low-income and other vulnerable populations in a manner that will encourage personal responsibility and enhance program integrity;



(2) Arkansas recognizes the continued need to promote employment among beneficiaries of public assistance programs by providing those beneficiaries with the tools to achieve economic advancement;

(3) Arkansas continues to support the flexibility within § 23-61-1004(h) that authorizes the Governor to "request a block grant under relevant federal law and regulations for the funding of the Arkansas Medicaid Program as soon as practical if the federal law or regulations change to allow the approval of a block grant for this purpose";

(4) On March 6, 2017, Governor Asa Hutchinson announced additional reforms to the Arkansas Works Program to further support efficiency and sustainability of the health insurance coverage provided under the Arkansas Works Program by:

(A) Establishing a work requirement for certain beneficiaries of the Arkansas Works Program to encourage beneficiaries to work and to support beneficiaries in the process of returning to the workforce;

(B) Capping eligibility for the Arkansas Works Program at one hundred percent (100%) of the federal poverty level; and

(C) Returning control of the eligibility process to the state by allowing the state the flexibility to determine whether the state would be an "assessment state" or a "determination state"; and

(5)(A) To avoid variations in enrollment within a Medicaid program based on an eligibility determination of a federally facilitated marketplace, Arkansas needs the flexibility to select whether to become an "assessment state" or a "determination state" in order to strengthen the integrity of the Medicaid Eligibility Verification System.

(B) However, the Medicaid Eligibility Verification System established by Acts 2013, No. 1265, requires that the eligibility determination made by the federally facilitated marketplace be accepted by the Department of Human Services, which makes Arkansas a "determination state" for the purposes of eligibility determination by a federally facilitated marketplace.

(b) It is the intent of the General Assembly to:

(1) Implement reforms to the Arkansas Works Program to further support efficiency and sustainability of the health insurance provided under the Arkansas Works Program; and

(2) Repeal §§ 20-77-2101 and 20-77-2103 to allow Arkansas the flexibility to select whether to become an "assessment state" or a "determination state" in order to strengthen the integrity of the Medicaid Eligibility Verification System.

SECTION 2. DO NOT CODIFY. TEMPORARY LANGUAGE. Arkansas Works Program modifications.

(a) The Department of Human Services shall submit a state plan amendment or waiver, or both, to the Centers for Medicare and Medicaid Services that establishes:

(1) Income eligibility at an amount equal to or less than one hundred percent (100%) of the federal poverty level, inclusive of the income disregard under 42 C.F.R. § 435.603(d)(4), as it existed on January 1, 2017; and

(2) A work requirement for eligible individuals with exemptions for certain activities and conditions.

(b) The income eligibility standard and the work requirement under subsection (a) of this section shall be effective on and after:

(1) January 1, 2018; or

(2) The date of occurrence of the later of the following if one (1) or both actions have not occurred by January 1, 2018:

(A) Approval of the state plan amendment or waiver, or both, under subsection (a) of this section from the Centers for Medicare and Medicaid Services; and

(B) The approval and adoption of rules under § 10-3-309 and the Arkansas Administrative Procedure Act, § 25-15-201 et seq., that are necessary to implement the income eligibility standards and work requirements under this section.

SECTION 3. DO NOT CODIFY. TEMPORARY LANGUAGE. Small employer health insurance coverage study.

(a) The Department of Human Services, in coordination with the State Insurance Department and the Department of Workforce Services, shall study and analyze small employer health insurance coverage in this state to determine how to strengthen employer-sponsored insurance and help small-business employers offer more affordable health insurance coverage for

employees.

(b)(1) On or before October 1, 2018, the Department of Human Services, in coordination with the State Insurance Department and the Department of Workforce Services, shall report on the findings of the study required under subsection (a) of this section to the Legislative Council and the Governor.

(2) The report shall include without limitation:

(A) Recommendations for legislation to address the need of small-business employers in relation to health insurance coverage for their employees; and

(B) Options for new programs to strengthen employer-sponsored insurance and help small-business employers offer more affordable health insurance coverage for employees.

SECTION 4. Arkansas Code § 23-61-1003(10), concerning the definition of "program participant" within the Arkansas Works Act of 2016, is amended to read as follows:

(10) "Program participant" means an eligible individual who:

(A) Is at least nineteen (19) years of age and no more than sixty-four (64) years of age with an income that ~~is equal to or less than one hundred thirty-eight percent (138%) of the federal poverty level~~ meets the income eligibility standards established by rule of the Department of Human Services;

(B) Is authenticated to be a United States citizen or documented qualified alien according to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193;

(C) Is not eligible for Medicare or advanced premium tax credits through the health insurance marketplace; and

(D) Is not determined to be more effectively covered through the traditional Arkansas Medicaid Program, including without limitation:

(i) An individual who is medically frail; or

(ii) An individual who has exceptional medical needs for whom coverage offered through the health insurance marketplace is determined to be impractical, overly complex, or would undermine continuity or effectiveness of care; and

SECTION 5. Effective December 31, 2017, Arkansas Code § 23-61-1004(b), concerning the administration of the Arkansas Works Program, is amended to read as follows:

(b) Health insurance benefits under this subchapter shall be provided through:

(1) Individual premium assistance for enrollment of Arkansas Works Program participants in individual qualified health insurance plans; and

~~(2) Employer sponsored premium assistance for certain eligible individuals who enroll in employer health insurance coverage; and~~

~~(3) Supplemental benefits to incentivize personal responsibility.~~

SECTION 6. Arkansas Code § 23-61-1008, concerning insurance standards for employer health insurance coverage, is amended to add an additional subsection to read as follows:

(g)(1) This section shall expire on December 31, 2017.

(2) The Arkansas Code Revision Commission shall remove this section from the Arkansas Code after December 31, 2017.

SECTION 7. Arkansas Code § 20-77-2101 is repealed.

~~20-77-2101. Definitions.~~

~~As used in this subchapter:~~

~~(1) "Arkansas Data Services Hub" means the Arkansas data services hub that provides an electronic method to verify:~~

~~(A) Age, residency, and child support information via the Department of Finance and Administration;~~

~~(B) Age, marriage, and death information via the Division of Vital Records of the Department of Health;~~

~~(C) Age, Social Security number, citizenship, and Medicare coverage information via the state online portal to the Social Security Administration;~~

~~(D) Employment earnings and unemployment benefit payment information via the Department of Workforce Services; and~~

~~(E) Receipt of Supplemental Nutrition Assistance Program benefits;~~

~~(2) “Federal Data Services Hub” means the federal data services hub that provides an electronic method to verify;~~

~~(A) Social Security number verification via the Social Security Administration;~~

~~(B) Citizenship verification via the Social Security Administration;~~

~~(C) Incarceration verification via the Social Security Administration;~~

~~(D) Verification of income under Title II of the Social Security Act, 42 U.S.C. § 401 et seq., via the Social Security Administration;~~

~~(E) Quarters of coverage information via the Social Security Administration;~~

~~(F) Modified adjusted gross income information via the Internal Revenue Service;~~

~~(G) Immigration status verification via the United States Department of Homeland Security;~~

~~(H) Indicators for lawful presence, qualified noncitizen, and five-year bar status via the United States Department of Homeland Security; and~~

~~(I) Public minimum essential coverage;~~

~~(3)(A) “Medicaid eligible” means an individual who is eligible for Medicaid benefits.~~

~~(B) “Medicaid eligible” does not include establishment of an entitlement to a particular benefit package or the reimbursement of particular medical assistance; and~~

~~(4) “Supplemental manual verification investigation” means an investigation conducted by the Department of Human Services or its designee to gather information by methods such as contacting family members, employers, and medical facilities to verify information received via the Medicaid Eligibility Verification System.~~

SECTION 8. Arkansas Code § 20-77-2102 is amended to read as follows:
20-77-2102. Medicaid Eligibility Verification System – Definitions.

(a) The Department of Human Services shall establish and maintain the Medicaid Eligibility Verification System that is designed to prevent fraud in

the establishment and maintenance of Medicaid eligibility.

(b)(1) In establishing the Medicaid Eligibility Verification System, the department shall have the flexibility to determine whether the state shall be an "assessment state" or a "determination state" for purposes of Medicaid eligibility determinations by the federally facilitated marketplace.

(2) As used in this subsection:

(A) "Assessment state" means a state with a federally facilitated marketplace that can elect to have the federally facilitated marketplace make assessments of Medicaid eligibility and then transfer the account of an individual to the state Medicaid agency for a final determination; and

(B) "Determination state" means a state that requires the eligibility determination made by the federally facilitated marketplace to be accepted by the state Medicaid agency.

SECTION 9. Arkansas Code § 20-77-2103 is repealed.

~~20-77-2103. Medicaid Eligibility Verification System—Requirements.~~

~~(a) Beginning concurrently with the establishment of live, full-time operation of the Federal Data Services Hub and the Arkansas Data Services Hub, the Department of Human Services shall deploy an automated eligibility verification system that electronically queries the Federal Data Services Hub and the Arkansas Data Services Hub under this subchapter.~~

~~(b) The department shall electronically query the Federal Data Services Hub upon receiving a Medicaid application and to the extent permitted by the Federal Data Services Hub for purposes of Medicaid eligibility renewal.~~

~~(c) If the Medicaid eligibility or continued Medicaid eligibility of an individual can be determined based on information received via the Federal Data Services Hub, the department shall determine eligibility and notify the applicant or recipient.~~

~~(d) If the Medicaid eligibility or continued eligibility of an individual cannot be determined based on information received via the Federal Data Services Hub, the department shall electronically query the Arkansas Data Services Hub and determine whether the information received from each data services hub is:~~

~~(1) Reasonably compatible and establishes that the individual is~~

~~Medicaid eligible;~~

~~(2) Reasonably compatible and establishes that the individual is not Medicaid eligible; or~~

~~(3) Not reasonably compatible.~~

~~(e) If the information received from the Federal Data Services Hub and the Arkansas Data Services Hub is reasonably compatible, the department shall enter an eligibility determination and inform the applicant or recipient of the decision.~~

~~(f)(1) If the information received from the Federal Data Services Hub and Arkansas Data Services Hub is not reasonably compatible, the department shall conduct a supplemental manual verification investigation.~~

~~(2) At the conclusion of the supplemental manual verification investigation, the department shall enter an eligibility determination and inform the applicant or recipient of the decision.~~

~~(g) The department may adopt rules to implement this subchapter.~~

SECTION 10. EFFECTIVE DATE.

Section 5 of this act is effective on and after December 31, 2017.

SECTION 11. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that this act requires that the Department of Human Services submit a state plan amendment or waiver, or both, to the Centers for Medicare and Medicaid Services; that the state plan amendment or waiver, or both, impacts certain individuals who are presently enrolled in the Arkansas Works Program; and that this act is immediately necessary because the Department of Human Services needs to be able to make the state plan amendment request or waiver request, or both, at the earliest possible date to ensure certainty in the requirements of the Arkansas Works Program. 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.