

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

State of Arkansas
92nd General Assembly
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As Engrossed: H3/13/19
A Bill

HOUSE BILL 1727

By: Representative Dotson

By: Senator Rapert

For An Act To Be Entitled

*AN ACT CONCERNING COVERAGE BY AN INSURER FOR
INTRAOPERATIVE NEUROPHYSIOLOGICAL MONITORING; AND FOR
OTHER PURPOSES.*

Subtitle

*CONCERNING COVERAGE BY AN INSURER FOR
INTRAOPERATIVE NEUROPHYSIOLOGICAL
MONITORING.*

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

SECTION 1. Arkansas Code Title 23, Chapter 79, is amended to add an additional subchapter to read as follows:

Subchapter 19 – Coverage for Intraoperative Neurophysiological Monitoring

23-79-1901. Definitions.

As used in this subchapter:

(1)(A) “Health benefit plan” means:

(i) An individual, blanket, or group plan, policy, or contract for healthcare services issued or delivered by an insurer, health maintenance organization, hospital medical service corporation, or church plan in this state; and

(ii) Any health benefit program receiving state or federal appropriations from the State of Arkansas, including the Arkansas Medicaid Program and the Arkansas Works Program, or any successor program.



(B) "Health benefit plan" includes:

(i) Indemnity and managed care plans; and

(ii) Nonfederal governmental plans as defined in 29 U.S.C. § 1002(32), as it existed on January 1, 2019.

(C) "Health benefit plan" does not include:

(i) Disability income plans;

(ii) Credit insurance plans;

(iii) Insurance coverage issued as a supplement to liability insurance;

(iv) Medical payments under automobile or homeowners insurance plans;

(v) Health benefit plans provided under Arkansas Constitution, Article 5, § 32, the Workers' Compensation Law, § 11-9-101 et seq., or the Public Employee Workers' Compensation Act, § 21-5-601 et seq.;

(vi) Plans that provide only indemnity for hospital confinement;

(vii) Accident-only plans;

(viii) Specified disease plans;

(ix) Long-term-care-only plans; or

(x) Self-insured government plans;

(2) "Healthcare professional" means a person who is licensed, certified, or otherwise authorized by the laws of this state to administer health care in the ordinary course of the practice of his or her profession; and

(3) "Intraoperative neurophysiological monitoring" means the use during surgery of electrophysiological methods of monitoring such as electroencephalography, electromyography, and evoked potentials:

(A) To localize anatomical structures, including peripheral nerves and sensorimotor complexes, in order to guide a healthcare professional during dissection; or

(B) To monitor the functional integrity of neural tissues such as the brain, spinal cords, or peripheral nerves in order to prevent irreversible damage, minimize neurological morbidity, and reduce the risk of neurological deficits that may result from surgeries that involve the nervous system.

23-79-1902. Intraoperative neurophysiological monitoring – Coverage required.

(a)(1) This subchapter applies to a health benefit plan delivered, issued for delivery, reissued, or extended in Arkansas on or after January 1, 2020, or at any time when any term of the health benefit plan is changed or any premium adjustment is made thereafter.

(2) Notwithstanding subdivision (a)(1) of this section, this subchapter applies to the Arkansas Medicaid Program on and after January 1, 2020.

(b)(1) A health benefit plan shall provide coverage and reimbursement for intraoperative neurophysiological monitoring provided through telemedicine under the Telemedicine Act, § 17-80-401 et seq., per hour, and on the same basis as the health benefit plan provides coverage and reimbursement for health services provided in person.

(2) Coverage and reimbursement required for intraoperative neurophysiological monitoring under subdivision (b)(1) of this section includes intraoperative neurophysiological monitoring provided:

(A) From outside the operating room, whether remotely or on site; and

(B) For one (1) or more patients, while each patient is in the operating room.

(c) A health benefit plan shall reimburse for intraoperative neurophysiological monitoring if intraoperative neurophysiological monitoring is ordered by a treating healthcare professional who has, in his or her sole discretion, made the determination that the intraoperative neurophysiological monitoring is necessary or appropriate.

(d) A health benefit plan shall reimburse for intraoperative neurophysiological monitoring under Current Procedural Terminology code 95941 at the usual and customary rates if the interpreting healthcare professional is:

(1) A physician licensed by the Arkansas State Medical Board;
and

(2) Privileged to render intraoperative neurophysiological monitoring in a medical facility where the surgical procedure is performed.

(e) This subchapter prohibits a health benefit plan from limiting coverage for intraoperative neurophysiological monitoring provided through

telemedicine for medically necessary services, subject to the same terms and conditions of the covered person's health benefit plan that apply to services provided in person.

(f)(1) The Insurance Commissioner shall promulgate rules to implement this subchapter.

(2)(A) When adopting the initial rules to implement this subchapter, the final rule shall be filed with the Secretary of State for adoption under § 25-15-204(f):

(i) On or before January 1, 2020; or

(ii) If approval under § 10-3-309 has not occurred by January 1, 2020, as soon as practicable after approval under § 10-3-309.

(B) The commissioner shall file the proposed rule with the Legislative Council under § 10-3-309(c) sufficiently in advance of January 1, 2020, so that the Legislative Council may consider the rule for approval before January 1, 2020.

/s/Dotson