

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

State of Arkansas
93rd General Assembly
Regular Session, 2021

A Bill

HOUSE BILL 1064

By: Representatives Pilkington, McCollum
By: Senators B. Davis, T. Garner

For An Act To Be Entitled

AN ACT TO PROMOTE PRICE TRANSPARENCY IN REIMBURSEMENT OF HOSPITALS BY INSURERS; TO ESTABLISH THE DISCLOSURE OF REIMBURSEMENT RATES FOR HOSPITALS ACT; TO REQUIRE DISCLOSURE BY AN INSURER OF REIMBURSEMENT RATES FOR HOSPITALS; AND FOR OTHER PURPOSES.

Subtitle

TO PROMOTE PRICE TRANSPARENCY IN REIMBURSEMENT OF HOSPITALS BY INSURERS; TO ESTABLISH THE DISCLOSURE OF REIMBURSEMENT RATES FOR HOSPITALS ACT; AND TO REQUIRE DISCLOSURE BY AN INSURER OF REIMBURSEMENT RATES FOR HOSPITALS.

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

SECTION 1. Arkansas Code Title 23, Chapter 63, is amended to add an additional subchapter to read as follows:

Subchapter 21 – Disclosure of Reimbursement Rates for Hospitals Act

23-63-2101. Title.

This subchapter shall be known and may be cited as the "Disclosure of Reimbursement Rates for Hospitals Act".

23-63-2102. Findings and intent.

(a) The General Assembly finds that as a result of rising healthcare



costs and the concerns expressed by healthcare providers, consumers, third-party payors, and others involved with planning for health care, there is an urgent need to understand patterns and trends in the availability, use, and costs of these healthcare services.

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

(1) Establish an electronic and educational source of information for patients, health professionals, and hospitals concerning insurers' hospital reimbursement rates; and

(2) Promote the appropriate and efficient use of healthcare services and healthcare initiatives within the state, including initiatives taken by the State Insurance Department to regulate the business of insurance in this state.

23-63-2103. Definitions.

As used in this subchapter:

(1) "Covered individual" means a natural person who is a resident of this state and is eligible to receive medical or pharmaceutical benefits under any policy, contract, certificate, evidence of coverage, rider, binder, or endorsement that provides for or describes coverage;

(2)(A) "Direct personal identifiers" means information relating to a covered individual that contains primary or obvious identifiers, such as the covered individual's name, street address, email address, telephone number, and Social Security number.

(B) "Direct personal identifiers" does not include geographic or demographic information that would not allow the identification of a covered individual;

(3)(A) "Hospital" means an entity that provides healthcare services to covered individuals.

(B) "Hospital" includes outpatient surgery centers licensed in this state;

(4)(A) "Insurer" means an entity that submits reimbursement to a hospital.

(B) "Insurer" includes:

(i) An entity that had at least two thousand (2,000) covered individuals in the previous calendar year, and provides health or dental insurance or a health or dental benefit plan in the state, including:

- (a) An insurance company;
- (b) A medical services plan;
- (c) A managed care organization;
- (d) A hospital plan;
- (e) A hospital medical service corporation;
- (f) A health maintenance organization; or
- (g) A fraternal benefit society;

(ii) A health benefit plan offered or administered by or on behalf of the state or an agency or instrumentality of the state, including without limitation benefits administered by a managed care organization whether or not the managed care organization had two thousand (2,000) covered individuals in the previous year;

(iii) A health benefit plan offered or administered by or on behalf of the United States Government with the agreement of the United States Government;

(iv) The Workers' Compensation Commission;

(v) Any other entity providing a plan of health insurance or health benefits subject to state insurance regulation, a third-party administrator, or a pharmacy benefits manager, provided that the entity has covered individuals and the entity had at least two thousand (2,000) covered individuals in the previous calendar year;

(vi) A health benefit plan subject to the Employee Retirement Income Security Act of 1974, Pub. L. No. 93-406, that is fully insured;

(vii) A risk-based provider organization licensed by the State Insurance Department; and

(viii) An entity that contracts with institutions of the Department of Correction or the Division of Community Correction to provide medical, dental, or pharmaceutical care to inmates.

(C) "Insurer" does not include:

(i) An entity that provides health insurance or a health benefit plan that is accident-only, specified disease-only, hospital indemnity, long-term care, or disability income, or that is another form of supplemental benefit coverage;

(ii) An employee of a welfare benefit plan as defined by federal law that is also a trust established pursuant to

collective bargaining subject to the Labor Management Relations Act, 1947, Pub. L. No. 80-101; or

(iii) A health benefit plan subject to the Employee Retirement Income Security Act of 1974, Pub. L. No. 93-406, that is self-funded; and

(5) "Reimbursement rate" means the amount paid to a hospital by an insurer for certain procedures based on Current Procedural Terminology (CPT) codes or the Healthcare Common Procedure Coding System (HCPCS) codes and the costs of healthcare services.

23-63-2104. Collection and dissemination of reimbursement rates.

(a) The State Insurance Department may:

(1) Collect, validate, analyze, and present health data, including claims data;

(2) Assess penalties for noncompliance with this subchapter; and

(3) Establish and convene additional subcommittees within the department to carry out the purposes of this subchapter.

(b) A hospital licensed by the state shall submit information in a form and manner as prescribed by rules promulgated by the Insurance Commissioner under this act.

(c) The commissioner shall compile and publish an insurer's reimbursement rate for a hospital in this state as collected by the department from the insurer and a hospital licensed in this state.

23-63-2105. Publication of reimbursement rates.

(a) The Insurance Commissioner shall release and publish on the State Insurance Department's website reimbursement rate information collected under this subchapter.

(b) Reimbursement rate information released and published under subsection (a) of this section shall not include:

(1) Information that identifies or could be used to identify any individual patient; or

(2) Any other direct personal identifiers.

23-63-2106. Penalties.

(a) A person, firm, corporation, organization, or institution that

violates any of the rules adopted by the Insurance Commissioner under this subchapter may be assessed a penalty by the commissioner.

(b) The State Insurance Department shall adopt a schedule of penalties not to exceed one hundred dollars (\$100) per day of violation.

SECTION 2. TEMPORARY LANGUAGE. DO NOT CODIFY. Rules.

(a) The State Insurance Department shall promulgate rules necessary to implement this act.

(b)(1) When adopting the initial rules to implement this act, the final rule shall be filed with the Secretary of State for adoption under § 25-15-204(f):

(A) On or before January 1, 2022; or

(B) If approval under § 10-3-309 has not occurred by January 1, 2022, as soon as practicable after approval under § 10-3-309.

(2) The department shall file the proposed rule with the Legislative Council under § 10-3-309(c) sufficiently in advance of January 1, 2022, so that the Legislative Council may consider the rule for approval before January 1, 2022.