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

State of Arkansas
93rd General Assembly
Fiscal Session, 2022

A Bill

SENATE BILL 87

By: Senators Rice, Hickey, Irvin, Beckham, L. Chesterfield, J. Dismang, Elliott, J. English, Flippo, Gilmore, Hill, K. Ingram, B. Johnson, G. Leding, B. Sample, D. Sullivan
By: Representatives Dotson, Shepherd, Wardlaw, Beaty Jr., Beck, M. Berry, S. Berry, Bragg, Brown, C. Cooper, Crawford, Dalby, M. Davis, Ennett, Eubanks, K. Ferguson, C. Fite, D. Garner, Godfrey, Hawks, M. Hodges, Hollowell, Hudson, Jett, Love, Maddox, McCullough, S. Meeks, Nicks, Perry, Scott, S. Smith, Speaks, Vaught, Warren, D. Whitaker, Wing, Wooten

For An Act To Be Entitled

AN ACT TO ESTABLISH COVERAGE FOR THE DIAGNOSIS AND TREATMENT OF MORBID OBESITY UNDER THE STATE AND PUBLIC SCHOOL LIFE AND HEALTH INSURANCE PROGRAM; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO ESTABLISH COVERAGE FOR THE DIAGNOSIS AND TREATMENT OF MORBID OBESITY UNDER THE STATE AND PUBLIC SCHOOL LIFE AND HEALTH INSURANCE PROGRAM; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code Title 21, Chapter 5, Subchapter 4, is amended to add an additional section to read as follows:

21-5-419. Coverage for diagnosis and treatment of morbid obesity — Legislative findings and intent — Definitions — Rules.

(a) The General Assembly finds that:

(1) Morbid obesity causes many medical problems and costly health complications, such as diabetes, hypertension, heart disease, and stroke;

(2) The cost of managing the complications of morbid obesity, largely due to inadequate treatment, far outweighs the cost of expeditious and effective medical treatment;

(3) The recommended guidelines developed by the National Institutes of Health, the American Society for Metabolic and Bariatric Surgery, the American Obesity Association, and Shape Up America and embraced by the American Medical Association and the American College of Surgeons are that patients who are morbidly obese receive responsible and affordable medical treatment for their obesity;

(4) The rate of bariatric surgery use has increased in the past decade to more than one hundred seventy thousand (170,000) surgical procedures per year in the United States;

(5) Payers can rely on bariatric surgery paying for itself through decreased comorbidities within two (2) to four (4) years;

(6) In 2019, the majority of members who had bariatric surgery under the State and Public School Life and Health Insurance Program had a total per-member per-month cost reduction of thirty-seven percent (37%), primarily due to a reduction of forty-five percent (45%) in medical per-member per-month costs;

(7) There is a clinical and financial benefit to reducing the burden of chronic disease through coverage; and

(8) The diagnosis and treatment of morbid obesity should be a clinical decision made by a physician based on evidence-based guidelines.

(b) It is the intent of the General Assembly to provide coverage for the diagnosis and treatment of morbid obesity.

(c) As used in this section:

(1) "Body mass index" means body weight in kilograms divided by height in meters squared; and

(2) "Morbid obesity":

(A) Means a weight that is at least two (2) times the ideal weight for frame, age, height, and sex of an individual as determined by an examining physician; and

(B) May be measured as a body mass index:

(i) Equal to or greater than thirty-five kilograms per meter squared (35 kg/m2) with comorbidity or coexisting medical conditions such as hypertension, cardiopulmonary conditions, sleep apnea, or

diabetes; or

(ii) Greater than forty kilograms per meter squared (40 kg/m2).

(d)(1) Each state and public school employee's health benefit plan under the program that is offered, issued, or renewed on or after January 1, 2023, shall offer coverage for the diagnosis and treatment of morbid obesity.

(2) The coverage for the diagnosis and treatment of morbid obesity offered under subdivision (d)(1) of this section shall include without limitation coverage for bariatric surgery, including:

(A) Gastric bypass surgery;

(B) Adjustable gastric banding surgery;

(C) Sleeve gastrectomy surgery; and

(D) Duodenal switch biliopancreatic diversion.

(3)(A) Priority on coverage for the diagnosis and treatment of morbid obesity offered under subdivision (d)(1) of this section shall be for participants who have at least one (1) diagnosis that bariatric surgery has been recognized by medical science to reduce healthcare costs.

(B) The diagnosis described in subdivision (d)(3)(A) of this section shall include without limitation:

(i) Cardiovascular disease;

(ii) Coronary artery disease;

(iii) Diabetes mellitus;

(iv) Evidence of fatty liver disease, including without limitation nonalcoholic fatty liver disease or nonalcoholic steatohepatitis;

(v) Gastroesophageal reflux disease refractory to medical therapy;

(vi) Hyperlipidemia;

(vii) Lower extremity lymphatic or venous obstruction;

(viii) Mechanical arthropathy in a weight-bearing joint or symptomatic degenerative joint disease in a weight-bearing joint;

(ix) Obstructive sleep apnea;

(x)(a) Poorly controlled hypertension.

(b) As used in subdivision (d)(3)(B)(x)(a) of this section, "poorly controlled hypertension" means a systolic blood

pressure of at least one hundred forty millimeters of mercury (140 mmHg) or a diastolic blood pressure of ninety millimeters of mercury (90 mmHg) or greater, despite medical management; or

(xi) Pulmonary hypertension.

(C)(i) Any additional clinical recommendations for adding or removing diagnoses under subdivision (d)(3)(B) of this section as being recognized by medical science to reduce healthcare costs and that are determined by the Director of the Employee Benefits Division in consultation with the University of Arkansas for Medical Sciences and consistent with guidelines or recommendations issued by the American Society for Metabolic and Bariatric Surgery shall result in the diagnoses' being added or removed.

(ii) Additional guidelines or recommendations that may be considered under subdivision (d)(3)(C)(i) of this section include without limitation those issued by:

(a) The American Diabetes Association;

(b) The American Association of Clinical Endocrinology; and

(c) The American Gastroenterological Association.

(e) The coverage for morbid obesity diagnosis and treatment offered under this section does not diminish or limit benefits otherwise allowable under the Arkansas State Employees Health Benefit Plan and the Arkansas Public School Employees Health Benefit Plan.

(f) To ensure the financial soundness and overall well-being of the program, the State Board of Finance, subject to approval of the Legislative Council, may:

(1) Discontinue or suspend a plan option offered under subsection (d) of this section;

(2) Promulgate a rule to establish an annual expenditure limit on a plan option offered under subsection (d) of this section; or

(3) Promulgate rules to implement this section.

SECTION 2. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the State and Public School Life and Health Insurance Program is inadequate to provide sustainable affordable health benefits for public school employees and state employees;

that an urgent need exists to address the state's funding and administration of benefits for public school employees and state employees in order for the program to remain viable and to avoid severe financial hardship to plan participants; and that this act is immediately necessary to provide affordable health benefit options in a timely manner to the state's public school employees participating in the program and state employees participating in the 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.