

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

State of Arkansas
95th General Assembly
Regular Session, 2025

As Engrossed: H3/10/25

A Bill

SENATE BILL 222

By: Senators B. Davis, J. Dismang, Gilmore, B. Johnson, C. Tucker, D. Wallace, G. Leding

By: Representatives L. Johnson, Hudson, Beaty Jr., A. Collins, Achor, K. Brown, Brooks

For An Act To Be Entitled

AN ACT TO AMEND THE MEDICAID PROVIDER-LED ORGANIZED CARE ACT; TO CLARIFY MARKETING BY PROVIDERS UNDER THE MEDICAID PROVIDER-LED ORGANIZED CARE ACT; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE MEDICAID PROVIDER-LED ORGANIZED CARE ACT; TO CLARIFY MARKETING BY PROVIDERS UNDER THE MEDICAID PROVIDER-LED ORGANIZED CARE ACT; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code Title 20, Chapter 77, Subchapter 27, is amended to add an additional section to read as follows:

20-77-2709. Marketing – Legislative intent.

(a) It is the intent of the General Assembly to ensure that potential and actual enrollees in a risk-based provider organization have a right to know:

(1) Whether a direct service provider is or will be in-network with a particular risk-based provider organization; and

(2) The consequences of choosing a risk-based provider organization in which that direct service provider is not participating as a network direct service provider.

(b) It is not a marketing violation for a direct service provider to inform an existing or potential Medicaid enrollee in a risk-based provider



organization of its network status with a particular risk-based provider organization.

(c) The Department of Human Services or a risk-based provider organization shall not:

(1) Require a direct service provider to separate communications about its network status from communications about open enrollment if the direct service provider informs the existing or potential enrollee that the enrollee has freedom of choice among risk-based provider organizations and network providers; or

(2) Restrict direct service providers from responding to an individual's questions about open enrollment or network status if the direct service provider does not attempt to influence that individual's choice of risk-based provider organizations or respond in any manner that is inaccurate or misleading.

(d) A direct service provider shall comply with the provisions applicable to providers in the federal managed care rule on marketing activities at 42 C.F.R. § 438.104, as existing on January 1, 2025.

(e) The department shall revise the marketing rules to comply with this section.

SECTION 2. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that enrollees and providers both face confusion and uncertainty around the information a provider may communicate to an enrollee about the provider and its network status with risk-based provider organizations; that this confusion is negatively impacting the ability of Medicaid beneficiaries to make informed decisions about their care; that Medicaid beneficiaries face these decisions at least annually when the Medicaid beneficiaries are assigned to a risk-based provider organization or waiver wait list and "for cause" at any time due to circumstances that may be out of their control; and that this act is immediately necessary to ensure that Medicaid beneficiaries receive appropriate information from their providers to ensure continuity of care. 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.

/s/B. Davis