

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

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As Engrossed: S4/7/25

A Bill

SENATE BILL 527

By: Senators Irvin, Hester, J. Dismang, Gilmore, J. Boyd, B. Johnson, Stone
By: Representatives L. Johnson, Achor, Bentley, Clowney, Eaves, Eubanks, Evans, Gramlich, Hudson, Ladyman, Lundstrum, Maddox, Perry, Pilkington, M. Shepherd, Vaught, Walker, Wardlaw

For An Act To Be Entitled

AN ACT TO AMEND THE ARKANSAS HEALTH AND OPPORTUNITY FOR ME ACT OF 2021; TO INCREASE THE MEDICAL-LOSS RATIO IN THE ARKANSAS HEALTH AND OPPORTUNITY FOR ME PROGRAM; TO AUTHORIZE THE STATE TO OBTAIN PHARMACY REBATES UNDER THE ARKANSAS HEALTH AND OPPORTUNITY FOR ME PROGRAM; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE ARKANSAS HEALTH AND OPPORTUNITY FOR ME ACT OF 2021; AND TO INCREASE THE MEDICAL-LOSS RATIO IN THE ARKANSAS HEALTH AND OPPORTUNITY FOR ME PROGRAM.

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

SECTION 1. Arkansas Code §§ 23-61-1002 and 23-61-1003 are amended to read as follows:

23-61-1002. Legislative intent.

Notwithstanding any general or specific laws to the contrary, it is the intent of the General Assembly for the Arkansas Health and Opportunity for Me Program to be a fiscally sustainable, cost-effective, and opportunity-driven program that:

(1) Achieves comprehensive and innovative healthcare reform that reduces the rate of growth in state and federal obligations for providing healthcare coverage to low-income adults in Arkansas;



(2) Reduces the maternal and infant mortality rates in the state through initiatives that promote healthy outcomes for eligible women with high-risk pregnancies;

(3) Promotes the health, welfare, and stability of mothers and their infants after birth through hospital-based community bridge organizations;

(4) Encourages personal responsibility for individuals to demonstrate that they value healthcare coverage and understand their roles and obligations in maintaining private insurance coverage;

(5) Increases opportunities for full-time work and attainment of economic independence, especially for ~~certain young adults~~ previously incarcerated individuals, to reduce long-term poverty that is associated with additional risk for disease and premature death;

(6) Addresses health-related social needs of Arkansans in rural counties through hospital-based community bridge organizations and reduces the additional risk for disease and premature death associated with living in a rural county;

(7) Strengthens the financial stability of the critical access hospitals and other small, rural hospitals; ~~and~~

(8) Fills gaps in the continuum of care for individuals in need of services for serious mental illness and substance use disorders; and

(9) Recognizes that rebates are an important instrument to ensure affordability and access to pharmaceutical products by eligible individuals and to maximize the use of rebates when available to ensure the fiscal sustainability of the program.

23-61-1003. Definitions.

As used in this subchapter:

(1) "Acute care hospital" means a hospital that:

(A) Is licensed by the Department of Health under § 20-9-201 et seq., as a general hospital or a surgery and general medical care hospital; and

(B) Is enrolled as a provider with the Arkansas Medicaid Program;

(2) "Birthing hospital" means a hospital in this state or in a border state that:

- (A) Is licensed as a general hospital;
- (B) Provides obstetrics services; and
- (C) Is enrolled as a provider with the Arkansas Medicaid

Program;

(3) "Community bridge organization" means ~~an~~ a hospital, federally qualified health center, or another organization that is authorized by the Department of Human Services to participate in the economic independence initiative or the health improvement initiative to:

- (A) Screen and refer Arkansans to resources available in their communities to address health-related social needs; and
- (B) Assist eligible individuals identified as target populations most at risk of disease and premature death and who need a higher level of intervention to improve their health outcomes and succeed in meeting their long-term goals to achieve independence, including economic independence;

(4) "Cost sharing" means the portion of the cost of a covered medical service that is required to be paid by or on behalf of an eligible individual;

(5) "Critical access hospital" means an acute care hospital that is:

- (A) Designated by the Centers for Medicare & Medicaid Services as a critical access hospital; and
- (B) Is enrolled as a provider in the Arkansas Medicaid Program;

(6) "Economic independence initiative" means an initiative developed by the Department of Human Services that is designed to promote economic stability by encouraging participation of program participants to engage in full-time, full-year work, and to demonstrate the value of enrollment in an individual qualified health insurance plan through incentives and disincentives;

(7) "Eligible individual" means an individual who is in the eligibility category created by section 1902(a)(10)(A)(i)(VIII) of the Social Security Act, 42 U.S.C. § 1396a, as existing on January 1, 2025;

(8) "Employer health insurance coverage" means a health insurance benefit plan offered by an employer or, as authorized by this subchapter, an employer self-funded insurance plan governed by the Employee

Retirement Income Security Act of 1974, Pub. L. No. 93-406, as amended;

(9) "Federally qualified health center" means an entity as defined by 42 C.F.R. § 405.2401, as existing on January 1, 2025, and that has entered into an agreement with the Centers for Medicare & Medicaid Services to meet Medicare program requirements under 42 C.F.R. § 405.2434, as existing on January 1, 2025;

~~(9)~~(10) "Health improvement initiative" means an initiative developed by an individual qualified health insurance plan or the Department of Human Services that is designed to encourage the participation of eligible individuals in health assessments and wellness programs, including fitness programs and smoking or tobacco cessation programs;

~~(10)~~(11) "Health insurance benefit plan" means a policy, contract, certificate, or agreement offered or issued by a health insurer to provide, deliver, arrange for, pay for, or reimburse any of the costs of healthcare services, but not including excepted benefits as defined under 42 U.S.C. § 300gg-91(c), as it existed on ~~January 1, 2021~~ January 1, 2025;

~~(11)~~(12) "Health insurance marketplace" means the applicable entities that were designed to help individuals, families, and businesses in Arkansas shop for and select health insurance benefit plans in a way that permits comparison of available plans based upon price, benefits, services, and quality, and refers to either:

(A) The Arkansas Health Insurance Marketplace created under the Arkansas Health Insurance Marketplace Act, § 23-61-801 et seq., or a successor entity; or

(B) The federal health insurance marketplace or federal health benefit exchange created under the Patient Protection and Affordable Care Act, Pub. L. No. 111-148;

~~(12)~~(13) "Health insurer" means an insurer authorized by the State Insurance Department to provide health insurance or a health insurance benefit plan in the State of Arkansas, including without limitation:

- (A) An insurance company;
- (B) A medical services plan;
- (C) A hospital plan;
- (D) A hospital medical service corporation;
- (E) A health maintenance organization;
- (F) A fraternal benefits society;

(G) Any other entity providing health insurance or a health insurance benefit plan subject to state insurance regulation; or

(H) A risk-based provider organization licensed by the Insurance Commissioner under § 20-77-2704;

~~(13)~~(14) “Healthcare coverage” means coverage provided under this subchapter through either an individual qualified health insurance plan, a risk-based provider organization, employer health insurance coverage, or the fee-for-service Arkansas Medicaid Program;

~~(14)~~(15) “Individual qualified health insurance plan” means an individual health insurance benefit plan offered by a health insurer that participates in the health insurance marketplace to provide coverage in Arkansas that covers only essential health benefits as defined by Arkansas rule and 45 C.F.R. § 156.110 and any federal insurance regulations, as they existed on ~~January 1, 2021~~ January 1, 2025;

(16) "Medical-loss ratio" means the percentage of premium income that health insurers spend on medical care and quality improvement as opposed to administration, marketing, and, if applicable, profit;

~~(15)~~(17) “Member” means a program participant who is enrolled in an individual qualified health insurance plan;

(18)(A) "Pharmacy rebate" means a discount, other price concession, or a payment that is:

(i) Based on utilization of a prescription drug; and

(ii) Paid by a manufacturer or third party, directly or indirectly, to a pharmacy benefits manager, pharmacy services administrative organization, or pharmacy after a claim has been processed and paid at a pharmacy.

(B) "Pharmacy rebate" includes without limitation incentives, disbursements, and reasonable estimates of a volume-based discount;

~~(16)~~(19) “Premium” means:

(A) A monthly fee that is required to be paid by or on behalf of an eligible individual to maintain some or all health insurance benefits; and

(B) The amount paid by the Department of Human Services to a health insurer on behalf of a program participant for cost-sharing obligations in excess of or other than the program participant’s cost-sharing

obligations;

~~(17)~~(20) "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 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 by the Department of Human Services to be medically frail or eligible for services through a risk-based provider organization;

~~(18)~~(21) "Risk-based provider organization" means the same as defined in § 20-77-2703; and

~~(19)~~(22) "Small rural hospital" means a critical access hospital or a general hospital that:

(A) Is located in a rural area;

(B) Has fifty (50) or fewer staffed beds; and

(C) Is enrolled as a provider in the Arkansas Medicaid

Program.

SECTION 2. Arkansas Code § 23-61-1004(c)(2)(D), concerning the administration of the Arkansas Health and Opportunity for Me Program, is amended to read as follows:

(D) At least two (2) ~~health insurers offer~~ individual qualified health insurance plans are offered in each county in the state.

SECTION 3. Arkansas Code § 23-61-1004(d)(1), concerning a memorandum of understanding specifying duties and obligations of each party in the operation of the Arkansas Health and Opportunity for Me Program, is amended to read as follows:

(d)(1) The Department of Human Services, the State Insurance Department, and each of the individual qualified health insurance plans shall enter into a memorandum of understanding that shall specify, consistent with

this subchapter, the duties and obligations of each party in the operation of the Arkansas Health and Opportunity for Me Program, including provisions necessary to effectuate the purchasing guidelines and reporting requirements, at least thirty (30) calendar days before the annual open enrollment period.

SECTION 4. Arkansas Code § 23-61-1004(e)(2), concerning the duties of the Department of Human Services under the Arkansas Health and Opportunity for Me Act of 2021, is amended to read as follows:

(2)(A) Establish and maintain a process for premium payments, advanced cost-sharing reduction payments, and reconciliation payments to health insurers.

(B) The process described in subdivision (e)(2)(A) of this section shall attribute any unpaid member liabilities as solely the financial obligation of the individual member.

(C) The Department of Human Services shall not include any unpaid individual member obligation in any payment or financial reconciliation with health insurers or in a future premium rate.

(D) The Department of Human Services shall establish and maintain a process for tracking all pharmacy rebates obtained by participating health plans from pharmaceutical companies and ensure that an amount equal to the pharmacy rebates is remitted to this state on a quarterly basis; and

SECTION 5. Arkansas Code § 23-61-1004(g), concerning the administration of the Arkansas Health and Opportunity for Me Program, is amended to add an additional subdivision to read as follows:

(3) A health insurer shall seek all available pharmacy rebates from pharmaceutical companies for products covered through qualified health plans participating in the Arkansas Health and Opportunity for Me Program.

SECTION 6. Arkansas Code § 23-61-1004(h), concerning the administration of the Arkansas Health and Opportunity for Me Act of 2021 relating to the authority for a block grant, is amended to read as follows:

(h)(1) The Governor shall 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.

(2)(A) The Governor shall request a waiver under relevant federal law and regulations for a work requirement as a condition of maintaining coverage in the Arkansas Medicaid Program as soon as practical if the federal law or regulations change to allow the approval of a waiver for this purpose.

(B) An eligible individual enrolled in the Arkansas Health and Opportunity for Me Program shall:

(i) Comply with any and all federal and state work requirements under the Arkansas Medicaid Program, including providing required information to demonstrate compliance; and

(ii) Be exempt from the work requirement under this section if the eligible individual:

(a) Volunteers twenty (20) hours or more per week as determined by the Department of Human Services;

(b) Meets any combination of working and participating in a work program for a total of twenty (20) hours or more per week as determined by the Department of Human Services;

(c) Participates and complies with the requirements of a workfare program;

(d) Receives unemployment compensation and complies with work requirements that are a part of the unemployment compensation system;

(e) Participates in a drug addiction or alcoholic treatment or rehabilitation program;

(f) Provides care for a dependent child who:

(1) Has a serious medical condition or a disability; or

(2) Is under six (6) years of age; or

(g) Is at least one (1) of the following:

(1) Medically certified as physically or mentally unfit for employment;

(2) Pregnant;

(3) Under nineteen (19) years of age; or

(4) Over fifty-nine (59) years of age.

(C)(i) An individual who is not exempt under subdivision

(h)(2)(B) of this section and who refuses to cooperate and declines to make efforts to comply with the work requirements under this section shall have coverage under the Arkansas Health and Opportunity for Me Program suspended for the remainder of the plan year.

(ii) An individual who has coverage suspended under subdivision (h)(2)(C)(i) of this section may regain active coverage under the Arkansas Health and Opportunity for Me Program if he or she cooperates and demonstrates a clear intention to comply with the work requirements under this section.

(iii) The Department of Human Services shall not make monthly premium payments or advanced cost-sharing reduction payments to a health insurer during a period of suspended coverage of the individual under this subdivision (h)(2)(C).

SECTION 7. Arkansas Code § 23-61-1007(a), concerning the insurance standards for individual qualified health insurance plans within the Arkansas Health and Opportunity for Me Act of 2021, is amended to read as follows:

(a) Insurance coverage for a member enrolled in an individual qualified health insurance plan shall be obtained, at a minimum, through silver-level metallic plans as provided in 42 U.S.C. § 18022(d) and 42 U.S.C. § 18071, as they existed on ~~January 1, 2021~~ January 1, 2025, that restrict out-of-pocket costs to amounts that do not exceed applicable out-of-pocket cost limitations.

SECTION 8. Arkansas Code § 23-61-1007(c)(3)(A), concerning the insurance standards for individual qualified health insurance plans, is amended to read as follows:

(3)(A) Maintain a medical-loss ratio of at least ~~eighty percent (80%)~~ eighty-five percent (85%) for an individual qualified health insurance plan as ~~required~~ permitted under ~~45 C.F.R. § 158.210(e)~~ 45 C.F.R. § 158.211, as it existed on ~~January 1, 2021~~ January 1, 2025, or rebate the difference between the health insurer's actual medical-loss ratio and eighty-five percent (85%) to the Department of Human Services for members.

SECTION 9. Arkansas Code § 23-61-1007(c)(5), concerning the insurance standards for individual qualified health insurance plans, is amended to read

as follows:

(5) Make reports to the Department of Human Services ~~and the Department of Health~~ regarding quality and performance metrics in a manner and frequency established by a memorandum of understanding.

SECTION 10. Arkansas Code § 23-61-1009 is amended to read as follows:
23-61-1009. Sunset.

This subchapter ~~shall expire on December 31, 2026~~ expires December 31, 2031.

SECTION 11. Arkansas Code § 23-61-1011(h), concerning the Health and Economic Outcomes Accountability Oversight Advisory Panel, is amended to read as follows:

(h) The Department of Human Services shall produce and submit a quarterly report incorporating the advisory panel's ~~findings~~ recommendations to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the public on the progress in health and economic improvement resulting from the Arkansas Health and Opportunity for Me Program, including without limitation:

- (1) Eligibility and enrollment;
- (2) Participation in and the impact of the economic independence initiative and the health improvement initiative of the eligible individuals, health insurers, and community bridge organizations;
- (3) Utilization of medical services;
- (4) Premium and cost-sharing reduction costs; and
- (5) Health insurer participation and completion.

SECTION 12. Arkansas Code § 26-57-603(a), concerning the tax reports relating to the insurance premium tax, is amended to read as follows:

(a) Each authorized, each formerly authorized, and each unauthorized insurer as defined in § 23-60-102(12) shall file with the Insurance Commissioner on or before March 1 of each year a report in form as prescribed by the commissioner showing, except as to wet marine and foreign trade insurance as defined in § 26-57-605(d), total direct premium income including policy, membership, and other fees, and all other considerations for insurance, from all kinds and classes of insurance, whether designated as

premium or otherwise, including all amounts paid for cost sharing by the Department of Human Services to a health insurer under the Arkansas Health and Opportunity for Me Act of 2021, § 23-61-1001 et seq., written by it during the preceding calendar year on account of policies and contracts covering property, subjects, or risks located, resident, or to be performed in this state, with proper proportionate allocation of premium as to the persons, property, subjects, or risks in this state insured under policies or contracts covering persons, property, subjects, or risks located or resident in more than one (1) state, after deducting from the total direct premium income dividends and similar returns paid or credited to policyholders other than as to life insurance, applicable cancellations, returned premiums, the unabsorbed portion of any deposit premium, and the amount of reduction in, or refund of, premiums allowed to industrial life policyholders for payment of premiums directly to an office of the insurer.

/s/Irvin