

**Title 23. Public Utilities and Regulated Industries**  
**Chapter I. State Insurance Department, Department of Commerce**  
**Subchapter B. Life, Health, and Accident**  
**Part 153. Establishment of Audit Process Concerning Qualified Payment**  
**Amounts for the No Surprises Act**

**Codification Notes.** This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Section 1. Authority

This Rule is issued pursuant to the authority granted the Arkansas Insurance Commissioner ("Commissioner") under Ark. Code Ann. § 23-61-108(a)(1) and by Ark. Code Ann. § 23-61-108(b)(1) to promulgate rules necessary for the effective regulation of the business of insurance and as required for this State to be in compliance with federal laws, namely the No Surprises Act (NSA) of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, and Act 580 of 2023, codified as A.C.A. §23-66-216."

"Section 8. Effective Date

This Rule shall be effective upon approval by the Arkansas Legislative Council and shall go into effect ten (10) days after filing a final rule with the Secretary of State."

**Subpart 1. Generally**

**23 CAR § 153-101. Purpose.**

The purpose of this part is to authorize the Insurance Commissioner to establish an effective state audit process to ensure compliance with the requirements of the No Surprises Act related to the determination and development of methodology concerning the calculation of a qualified payment amount.

**Authority.** Arkansas Code §§ 23-61-108, 23-66-216.

**Codification Notes.** The No Surprises Act was enacted as Title I of Division BB of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260.

**23 CAR § 153-102. Definitions.**

(a) Unless otherwise separately defined in this part and consistent with state law, the terms or phrases as used in this part shall follow the definitions of such terms or phrases as defined in Arkansas Code § 23-66-216, and the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260.

(b) As used in this part:

(1) "Commissioner" means the Insurance Commissioner;

(2)(A) "Health benefit plan" means any individual, blanket, or group plan, policy, or contract for healthcare services issued, renewed, or extended in this state by a health carrier on or after January 1, 2024.

(B) "Health benefit plan" does not include a plan providing healthcare services pursuant to Arkansas Constitution, Article 5, § 32, the Workers' Compensation Law, Arkansas Code § 11-9-101 et seq., and the Public Employee Workers' Compensation Act, Arkansas Code § 21-5-601 et seq., nor include an accident-only, specified disease, hospital indemnity, long-term care, disability income, or limited-benefit health insurance policy.

(C) The provisions of this part shall not apply to Medicare supplement or Medicare Advantage policies or policies offering coverage through Medicare.

(D) This part shall also not apply to vision or dental only plans; and

(3)(A) "Health carrier" means an entity subject to the insurance laws and rules of this state, or subject to the jurisdiction of the Insurance Commissioner, that contracts or offers to contract, or enters into an agreement to provide, deliver, arrange for, pay for, or reimburse any of the costs of healthcare services, including:

(i) A sickness and accident insurance company;

(ii) A health maintenance organization;

(iii) A nonprofit hospital and health service corporation; or

(iv) Any other entity providing a plan of:

- (a) Health insurance;
- (b) Health benefits; or
- (c) Health services.

(B) A health carrier does not include an automobile insurer paying medical or hospital benefits under Arkansas Code § 23-89-202(1), nor shall it include a self-insured employer health benefits plan.

(C) A health carrier also does not include any person, company, or organization, licensed or registered to issue or who issues any insurance policy or insurance contract in this state providing medical or hospital benefits for accidental injury or accidental disability.

**Authority.** Arkansas Code §§ 23-61-108, 23-66-216.

**23 CAR § 153-103. Applicability and scope.**

This part applies to all health carriers that offer health benefit plans in this state that are issued or renewed on or after January 1, 2024.

**Authority.** Arkansas Code §§ 23-61-108, 23-66-216.

**23 CAR § 153-104. Audit requirement.**

(a) The Insurance Commissioner shall develop a state audit process to ensure that a health benefit plan or health carrier calculates the qualified payment amount established under the No Surprises Act of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260.

(b) The federal qualified health payment amount methodologies shall be included in all health policy forms for review and approval by the commissioner.

(c)(1) The audit process required pursuant to this part, and specifically subsection (a) of this section, shall be consistent with and included in the already required examination of insurers as contemplated by Arkansas Code § 23-61-201 et seq.

(2) The commissioner, per his or her discretion, may conduct an examination of health carriers concerning potential violations of the administration the qualified payment amount methodology of the No Surprises Act to ensure compliance with the requirements not more often than every five (5) years on an as-needed basis if and when justified by a significant number of complaints against a particular carrier.

(d) The resulting examination report concerning potential violations of the No Surprises Act as it relates to the qualified payment amount calculation methodology shall be shared with the United States Department of Health and Human Services in order that the commissioner and United States Department of Health and Human Services may impose appropriate sanctions and engage in proper administration to carry out all requirements of state and federal law.

**Authority.** Arkansas Code §§ 23-61-108, 23-66-216.

**23 CAR § 153-105. Enforcement.**

The penalties, license actions, or orders as authorized under Arkansas Code § 23-66-210 shall apply to violations of this part.

**Authority.** Arkansas Code §§ 23-61-108, 23-66-216.