

State of Arkansas
95th General Assembly
Regular Session, 2025

A Bill

HOUSE BILL 1321

By: Representative Wooldridge
By: Senator D. Wallace

For An Act To Be Entitled

AN ACT TO REGULATE STEP THERAPY AND FAIL FIRST
PROTOCOLS CONCERNING CERTAIN PRESCRIBED VENTILATORS;
AND FOR OTHER PURPOSES.

Subtitle

TO REGULATE STEP THERAPY AND FAIL FIRST
PROTOCOLS CONCERNING CERTAIN PRESCRIBED
VENTILATORS.

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

SECTION 1. Arkansas Code Title 23, Chapter 79, is amended to add an
additional subchapter to read as follows:

Subchapter 29 – Coverage for Noninvasive Ventilators

23-79-2901. Definitions.

As used in this subchapter:

(1) "Enrollee" means an individual entitled to coverage of
healthcare services from a healthcare insurer;

(2)(A) "Health benefit plan" means:

(i) An individual, blanket, or group plan, policy,
or contract for healthcare services issued, renewed, or extended in this
state by a healthcare insurer, health maintenance organization, hospital
medical service corporation, or self-insured governmental or church plan in
this state; and

(ii) Any health benefit program receiving state or



federal appropriations from the State of Arkansas, including the Arkansas Medicaid Program and the Arkansas Health and Opportunity for Me Program established by the Arkansas Health and Opportunity for Me Act of 2021, § 23-61-1001 et seq.

(B) "Health benefit plan" includes:

(i) Indemnity and managed care plans; and
(ii) Plans providing health benefits to state and public school employees under § 21-5-401 et seq.

(C) "Health benefit plan" does not include:

(i) A plan that provides only dental benefits or eye and vision care benefits;

(ii) A disability income plan;

(iii) A credit insurance plan;

(iv) Insurance coverage issued as a supplement to liability insurance;

(v) Medical payments under an automobile or homeowners insurance plan;

(vi) A health benefit plan provided under Arkansas Constitution, Article 5, § 32, the Workers' Compensation Law, § 11-9-101 et seq., or the Public Employee Workers' Compensation Act, § 21-5-601 et seq.;

(vii) A plan that provides only indemnity for hospital confinement;

(viii) An accident-only plan;

(ix) A specified disease plan other than a cancer insurance plan or cancer supplemental policy; or

(x) A long-term-care-only plan;

(3)(A) "Healthcare insurer" means an insurance company, hospital and medical service corporation, health maintenance organization, or a nonprofit agricultural membership organization as defined in § 23-60-104 that issues or delivers health benefit plans in this state.

(B) "Healthcare insurer" does not include an entity that provides only dental benefits or eye and vision care benefits;

(4) "Healthcare professional" means a person who is licensed, certified, or otherwise authorized by the laws of this state to administer health care in the ordinary course of the practice of his or her profession; and

1 (5) "Healthcare service" means an item or service provided to an
2 individual for the purposes of alleviating, curing, healing, or preventing
3 human illness, injury, or physical disability.

4
5 23-79-2902. Step therapy or fail first protocols prohibited.

6 (a) A healthcare insurer shall not require step therapy protocols or
7 fail first protocols of a lesser device or healthcare service for a
8 prescription or order of a healthcare professional for a noninvasive
9 ventilator if:

10 (1) The noninvasive ventilator requires frequent or substantial
11 servicing as classified by the Centers for Medicare & Medicaid Services and
12 determined by a healthcare professional;

13 (2) There is clinical evidence or enrollee history that suggests
14 the alternative treatments required under the step therapy protocol or fail
15 first protocol will:

16 (A) Be less effective for an enrollee; or

17 (B) Cause an adverse reaction to the enrollee; or

18 (3) The noninvasive ventilator is deemed medically necessary by
19 the United States Food and Drug Administration.

20 (b) The Secretary of the Department of Human Services shall require
21 Medicaid managed care organizations to reimburse for a noninvasive ventilator
22 at no less than one hundred percent (100%) of the fee schedule of the
23 Arkansas Medicaid Program for a ventilator.

24
25 23-79-2903. Rules.

26 (a) The Insurance Commissioner may develop and promulgate rules for
27 the implementation and administration of this subchapter.

28 (b) The Secretary of the Department of Human Services may develop and
29 promulgate rules for the implementation and administration of this subchapter
30 that may apply to the Arkansas Medicaid Program or the Arkansas Health and
31 Opportunity for Me Program under the Arkansas Health and Opportunity for Me
32 Act of 2021, § 23-61-1001 et seq.

33 (c) The State Board of Finance may develop and promulgate rules for
34 the administration of this subchapter for the plans providing health benefits
35 to state and public school employees under § 21-5-401 et seq.

36 **APPROVED: 4/10/25**