

1 State of Arkansas  
2 91st General Assembly  
3 Regular Session, 2017  
4

*As Engrossed: H1/27/17*

# A Bill

HOUSE BILL 1271

5 By: Representative Hammer  
6 *By: Senator Rapert*  
7

## For An Act To Be Entitled

9 AN ACT TO CREATE THE ARKANSAS HEALTH INSURANCE  
10 INNOVATION ACT OF 2017; TO AUTHORIZE THE INSURANCE  
11 COMMISSIONER, THE DEPARTMENT OF FINANCE AND  
12 ADMINISTRATION, THE DEPARTMENT OF HUMAN SERVICES, AND  
13 THE ARKANSAS HEALTH INSURANCE MARKETPLACE TO SEEK  
14 FEDERAL WAIVERS TO FACILITATE INNOVATIVE APPROACHES  
15 TO HEALTH INSURANCE COVERAGE AND HEALTH CARE; TO  
16 DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

## Subtitle

19 TO CREATE THE ARKANSAS HEALTH INSURANCE  
20 INNOVATION ACT OF 2017; AND TO DECLARE AN  
21 EMERGENCY.  
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25  
26 WHEREAS, the General Assembly is obligated to pursue appropriate means  
27 to protect Arkansas citizens, employers, and healthcare providers from the  
28 challenges and obstacles created by federal healthcare legislation; and  
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30 WHEREAS, state-based solutions to health insurance coverage and  
31 healthcare needs are inherently more efficient, more effective, and less  
32 costly than federal mandates; and  
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34 WHEREAS, under 31 C.F.R. Subtitle A, Part 33, federal Waivers for State  
35 Innovation, commonly referred to as "Section 1332 Waivers", are authorized to  
36 permit a state to waive provisions of federal laws relating to the provision



1 of healthcare items or services; and

2

3 WHEREAS, under 31 C.F.R. § 33.108, applications for Waivers for State  
4 Innovation are to be submitted to and reviewed by the United States Secretary  
5 of Health and Human Services and the United States Secretary of the Treasury;  
6 and

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8 WHEREAS, under 31 C.F.R. § 33.108, as an initial criterion for an  
9 application for Waivers for State Innovation, evidence of state legislation  
10 that provides the state with authority to implement the proposed waiver is  
11 required; and

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13 WHEREAS, existing state legislation may be insufficient in providing  
14 the authority to permit an application under 31 C.F.R. § 33.108,

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16 NOW THEREFORE,

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

18

19 SECTION 1. Arkansas Code Title 23, Chapter 61, is amended to add a  
20 additional subchapter to read as follows:

21

Subchapter 11 – Arkansas Health Insurance Innovation Act of 2017

22

23 23-61-1101. Title.

24

This subchapter shall be known and may be cited as the “Arkansas Health  
25 Insurance Innovation Act of 2017”.

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27 23-61-1102. Purpose.

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The purpose of this subchapter is to encourage the executive and  
29 legislative branches to explore, develop, and facilitate innovative  
30 approaches to improving access to, affordability, and quality of  
31 comprehensive health insurance coverage and health care.

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33 23-61-1103. Waiver authority.

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(a) Individually or collectively, the Insurance Commissioner, the  
35 Director of the Department of Finance and Administration, the Director of the  
36 Department of Human Services, and the Board of Directors of the Arkansas

1 Health Insurance Marketplace may:

2 (1) Submit and apply for one (1) or more federal waivers under:

3 (A) 42 U.S.C. § 1315, § 1396n, and § 18052;

4 (B) 31 C.F.R. Subtitle A, Part 33; and

5 (C) 45 C.F.R. Subtitle A, Part 155, Subpart N; and

6 (2) Submit and apply for federal waivers necessary to effectuate  
7 the purposes of this subchapter.

8 (b) For purposes of federal law, a waiver submitted under this section  
9 has legislative approval under this section upon presentation to and review  
10 and approval by the Legislative Council.

11  
12 23-61-1104. Rules.

13 (a) The following may promulgate rules to implement this subchapter  
14 and any federal waivers sought in furtherance of this subchapter:

15 (1) The Insurance Commissioner;

16 (2)(A) The Department of Finance and Administration.

17 (B) Rules promulgated by the Department of Finance and  
18 Administration under subdivision (a)(2)(A) of this section include without  
19 limitation rules pertaining to the calculation, assessment, or collection of  
20 state taxes;

21 (3)(A) The Department of Human Services.

22 (B) Rules promulgated by the Department of Human Services  
23 under subdivision (a)(3)(A) of this section include without limitation:

24 (i) Any required state plan amendments to the  
25 Arkansas Medicaid Program;

26 (ii) Any waivers or other approvals required from  
27 the Centers for Medicare and Medicaid Services; and

28 (iii) Any other rules pertaining to the Arkansas  
29 Medicaid Program; and

30 (4)(A) The Arkansas Health Insurance Marketplace.

31 (B) Rules promulgated by the Arkansas Health Insurance  
32 Marketplace under subdivision (a)(4)(A) of this section:

33 (i) Include without limitation rules pertaining to  
34 the Arkansas Health Insurance Marketplace;

35 (ii) Are exempt from the Arkansas Administrative  
36 Procedure Act, § 25-15-201 et seq.; and

1 (iii) Shall be adopted in compliance with the  
2 procedures of § 23-61-803.

3 (b)(1) Joint waiver applications shall be accompanied by rules  
4 submitted as authorized by the entities listed in subsection (a) of this  
5 section that have been selected for the joint waiver application.

6 (2) The Governor shall determine rule distribution and priority  
7 in the case of a joint waiver application.

8 (c) In the event of a conflict between the rules promulgated under  
9 this subchapter by different entities, priority shall be given to any rule  
10 that has been approved or formally reviewed by the Centers for Medicare and  
11 Medicaid Services or other federal agency.

12 (d) Rules promulgated under this section shall not conflict with or  
13 prevent the application of regulations promulgated by the United States  
14 Secretary of Health and Human Services, the United States Secretary of the  
15 Treasury, or the Commissioner of Internal Revenue under federal law.

16  
17 SECTION 2. Arkansas Code § 23-61-803(1), concerning the authority of  
18 the Board of Directors of the Arkansas Health Insurance Marketplace to apply  
19 for and expend grant funds, is amended to read as follows:

20 (1)(1)~~(A)~~ On and after July 1, 2015, the board shall have the  
21 authority to apply for and expend on behalf of the Arkansas Health Insurance  
22 Marketplace any state, federal, or private grant funds available to assist  
23 with the implementation and operation of the Arkansas Health Insurance  
24 Marketplace.

25 ~~(B) Before July 1, 2015, the board shall coordinate with~~  
26 ~~the commissioner the application for state, federal, or private grant funds~~  
27 ~~to plan, implement, and operate the Arkansas Health Insurance Marketplace.~~

28 ~~(2)(A) Before July 1, 2015, the commissioner may apply for any~~  
29 ~~state, federal, or private grant funds available to assist with the~~  
30 ~~implementation and operation of the Arkansas Health Insurance Marketplace.~~

31 ~~(B) If the commissioner applies for and receives any~~  
32 ~~state, federal, or private grant funds available to assist with the~~  
33 ~~implementation and operation of the Arkansas Health Insurance Marketplace,~~  
34 ~~the commissioner shall enter into a memorandum of understanding with the~~  
35 ~~Arkansas Health Insurance Marketplace concerning the use and expenditure of~~  
36 ~~the grant funds.~~

1           (2)(A) On and after the effective date of this act, the board  
2 may apply to the United States Secretary of Health and Human Services for a  
3 state innovation waiver with respect to health insurance coverage that is  
4 authorized under 31 C.F.R. Subtitle A, Part 33, which collectively are  
5 commonly referred to as "Section 1332 Waivers".

6           (B) A waiver submitted under subdivision (1)(2)(A) of this  
7 section has legislative approval upon presentation to and approval by a  
8 majority vote of the Arkansas Health Insurance Marketplace Legislative  
9 Oversight Committee.

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11           SECTION 3. EMERGENCY CLAUSE. It is found and determined by the General  
12 Assembly of the State of Arkansas that federal law sets specific time frames  
13 and deadlines for the submission of federal waiver requests under 31 C.F.R.  
14 Subtitle A, Part 33; that prompt and immediate action is necessary to take  
15 full advantage of opportunities for innovation under federal law; that  
16 ensuring an efficient and effective process for development of a waiver will  
17 promote innovation and optimize the use of taxpayer dollars; and that this  
18 act is immediately necessary to initiate reforms of the state's health  
19 insurance market and healthcare system. Therefore, an emergency is declared  
20 to exist, and this act being immediately necessary for the preservation of  
21 the public peace, health, and safety shall become effective on:

22           (1) The date of its approval by the Governor;

23           (2) If the bill is neither approved nor vetoed by the Governor,  
24 the expiration of the period of time during which the Governor may veto the  
25 bill; or

26           (3) If the bill is vetoed by the Governor and the veto is  
27 overridden, the date the last house overrides the veto.

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29   */s/Hammer*  
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