

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

1 State of Arkansas
2 95th General Assembly
3 Regular Session, 2025
4

As Engrossed: H3/10/25

A Bill

SENATE BILL 222

5 By: Senators B. Davis, J. Dismang, Gilmore, B. Johnson, C. Tucker, D. Wallace, G. Leding
6 By: Representatives L. Johnson, Hudson, Beaty Jr., A. Collins, Achor, K. Brown, Brooks
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE MEDICAID PROVIDER-LED ORGANIZED
10 CARE ACT; TO CLARIFY MARKETING BY PROVIDERS UNDER THE
11 MEDICAID PROVIDER-LED ORGANIZED CARE ACT; TO DECLARE
12 AN EMERGENCY; AND FOR OTHER PURPOSES.
13
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Subtitle

15 TO AMEND THE MEDICAID PROVIDER-LED
16 ORGANIZED CARE ACT; TO CLARIFY MARKETING
17 BY PROVIDERS UNDER THE MEDICAID
18 PROVIDER-LED ORGANIZED CARE ACT; AND TO
19 DECLARE AN EMERGENCY.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. Arkansas Code Title 20, Chapter 77, Subchapter 27, is
25 amended to add an additional section to read as follows:

26 20-77-2709. Marketing – Legislative intent.

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

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

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

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



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

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

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

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

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

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

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21 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
22 General Assembly of the State of Arkansas that enrollees and providers both
23 face confusion and uncertainty around the information a provider may
24 communicate to an enrollee about the provider and its network status with
25 risk-based provider organizations; that this confusion is negatively
26 impacting the ability of Medicaid beneficiaries to make informed decisions
27 about their care; that Medicaid beneficiaries face these decisions at least
28 annually when the Medicaid beneficiaries are assigned to a risk-based
29 provider organization or waiver wait list and "for cause" at any time due to
30 circumstances that may be out of their control; and that this act is
31 immediately necessary to ensure that Medicaid beneficiaries receive
32 appropriate information from their providers to ensure continuity of care.
33 Therefore, an emergency is declared to exist, and this act being immediately
34 necessary for the preservation of the public peace, health, and safety shall
35 become effective on:

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

