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4

A Bill

SENATE BILL 527

5 By: Senators Irvin, Hester, J. Dismang, Gilmore, J. Boyd, B. Johnson, Stone
6 By: Representatives L. Johnson, Achor, Bentley, Clowney, Eaves, Eubanks, Evans, Gramlich, Hudson,
7 Ladyman, Lundstrum, Maddox, Perry, Pilkington, M. Shepherd, Vaught, Walker, Wardlaw
8

For An Act To Be Entitled

9
10 AN ACT TO AMEND THE ARKANSAS HEALTH AND OPPORTUNITY
11 FOR ME ACT OF 2021; TO INCREASE THE MEDICAL-LOSS
12 RATIO IN THE ARKANSAS HEALTH AND OPPORTUNITY FOR ME
13 PROGRAM; TO AUTHORIZE THE STATE TO OBTAIN PHARMACY
14 REBATES UNDER THE ARKANSAS HEALTH AND OPPORTUNITY FOR
15 ME PROGRAM; AND FOR OTHER PURPOSES.
16
17

Subtitle

18
19 TO AMEND THE ARKANSAS HEALTH AND
20 OPPORTUNITY FOR ME ACT OF 2021; AND TO
21 INCREASE THE MEDICAL-LOSS RATIO IN THE
22 ARKANSAS HEALTH AND OPPORTUNITY FOR ME
23 PROGRAM.
24

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
26

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

29 23-61-1002. Legislative intent.

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

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



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

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

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

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

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

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

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

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

26
27 23-61-1003. Definitions.

28 As used in this subchapter:

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

30 (A) Is licensed by the Department of Health under § 20-9-
31 201 et seq., as a general hospital or a surgery and general medical care
32 hospital; and

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

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

1 (A) Is licensed as a general hospital;
2 (B) Provides obstetrics services; and
3 (C) Is enrolled as a provider with the Arkansas Medicaid
4 Program;

5 (3) "Community bridge organization" means an organization that
6 is authorized by the Department of Human Services to participate in the
7 economic independence initiative or the health improvement initiative to:

8 (A) Screen and refer Arkansans to resources available in
9 their communities to address health-related social needs; and

10 (B) Assist eligible individuals identified as target
11 populations most at risk of disease and premature death and who need a higher
12 level of intervention to improve their health outcomes and succeed in meeting
13 their long-term goals to achieve independence, including economic
14 independence;

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

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

20 (A) Designated by the Centers for Medicare & Medicaid
21 Services as a critical access hospital; and

22 (B) Is enrolled as a provider in the Arkansas Medicaid
23 Program;

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

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

33 (8) "Employer health insurance coverage" means a health
34 insurance benefit plan offered by an employer or, as authorized by this
35 subchapter, an employer self-funded insurance plan governed by the Employee
36 Retirement Income Security Act of 1974, Pub. L. No. 93-406, as amended;

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

6 ~~(9)~~(10) "Health improvement initiative" means an initiative
 7 developed by an individual qualified health insurance plan or the Department
 8 of Human Services that is designed to encourage the participation of eligible
 9 individuals in health assessments and wellness programs, including fitness
 10 programs and smoking or tobacco cessation programs;

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

16 ~~(11)~~(12) "Health insurance marketplace" means the applicable
 17 entities that were designed to help individuals, families, and businesses in
 18 Arkansas shop for and select health insurance benefit plans in a way that
 19 permits comparison of available plans based upon price, benefits, services,
 20 and quality, and refers to either:

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

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

27 ~~(12)~~(13) "Health insurer" means an insurer authorized by the
 28 State Insurance Department to provide health insurance or a health insurance
 29 benefit plan in the State of Arkansas, including without limitation:

30 (A) An insurance company;

31 (B) A medical services plan;

32 (C) A hospital plan;

33 (D) A hospital medical service corporation;

34 (E) A health maintenance organization;

35 (F) A fraternal benefits society;

36 (G) Any other entity providing health insurance or a

1 health insurance benefit plan subject to state insurance regulation; or

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

4 ~~(13)~~(14) "Healthcare coverage" means coverage provided under
5 this subchapter through either an individual qualified health insurance plan,
6 a risk-based provider organization, employer health insurance coverage, or
7 the fee-for-service Arkansas Medicaid Program;

8 ~~(14)~~(15) "Individual qualified health insurance plan" means an
9 individual health insurance benefit plan offered by a health insurer that
10 participates in the health insurance marketplace to provide coverage in
11 Arkansas that covers only essential health benefits as defined by Arkansas
12 rule and 45 C.F.R. § 156.110 and any federal insurance regulations, as they
13 existed on ~~January 1, 2021~~ January 1, 2025;

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

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

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

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

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

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

29 ~~(16)~~(19) "Premium" means:

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

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

1 ~~(17)~~(20) “Program participant” means an eligible individual who:

2 (A) Is at least nineteen (19) years of age and no more
3 than sixty-four (64) years of age with an income that meets the income
4 eligibility standards established by rule of the Department of Human
5 Services;

6 (B) Is authenticated to be a United States citizen or
7 documented qualified alien according to the Personal Responsibility and Work
8 Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193;

9 (C) Is not eligible for Medicare or advanced premium tax
10 credits through the health insurance marketplace; and

11 (D) Is not determined by the Department of Human Services
12 to be medically frail or eligible for services through a risk-based provider
13 organization;

14 ~~(18)~~(21) “Risk-based provider organization” means the same as
15 defined in § 20-77-2703; and

16 ~~(19)~~(22) “Small rural hospital” means a critical access hospital
17 or a general hospital that:

18 (A) Is located in a rural area;

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

20 (C) Is enrolled as a provider in the Arkansas Medicaid
21 Program.

22
23 SECTION 2. Arkansas Code § 23-61-1004(c)(2)(D), concerning the
24 administration of the Arkansas Health and Opportunity for Me Program, is
25 amended to read as follows:

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

28
29 SECTION 3. Arkansas Code § 23-61-1004(d)(1), concerning a memorandum
30 of understanding specifying duties and obligations of each party in the
31 operation of the Arkansas Health and Opportunity for Me Program, is amended
32 to read as follows:

33 (d)(1) The Department of Human Services, the State Insurance
34 Department, and each of the individual qualified health insurance plans shall
35 enter into a memorandum of understanding that shall specify, consistent with
36 this subchapter, the duties and obligations of each party in the operation of

1 the Arkansas Health and Opportunity for Me Program, including provisions
2 necessary to effectuate the purchasing guidelines and reporting requirements,
3 at least thirty (30) calendar days before the annual open enrollment period.
4

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

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

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

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

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

22
23 SECTION 5. Arkansas Code § 23-61-1004(g), concerning the
24 administration of the Arkansas Health and Opportunity for Me Program, is
25 amended to add an additional subdivision to read as follows:

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

29
30 SECTION 6. Arkansas Code § 23-61-1004(h), concerning the
31 administration of the Arkansas Health and Opportunity for Me Act of 2021
32 relating to the authority for a block grant, is amended to read as follows:

33 (h)(1) The Governor shall request a block grant under relevant federal
34 law and regulations for the funding of the Arkansas Medicaid Program as soon
35 as practical if the federal law or regulations change to allow the approval
36 of a block grant for this purpose.

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

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

8 (i) Comply with any and all federal and state work
9 requirements under the Arkansas Medicaid Program; and

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

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

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

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

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

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

24 (f) Provides care for a dependent child who:

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

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

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

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

31 (2) Pregnant;

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

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

34
35 SECTION 7. Arkansas Code § 23-61-1007(a), concerning the insurance
36 standards for individual qualified health insurance plans within the Arkansas

1 Health and Opportunity for Me Act of 2021, is amended to read as follows:

2 (a) Insurance coverage for a member enrolled in an individual
3 qualified health insurance plan shall be obtained, at a minimum, through
4 silver-level metallic plans as provided in 42 U.S.C. § 18022(d) and 42 U.S.C.
5 § 18071, as they existed on ~~January 1, 2021~~ January 1, 2025, that restrict
6 out-of-pocket costs to amounts that do not exceed applicable out-of-pocket
7 cost limitations.

8

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

12 (3)(A) Maintain a medical-loss ratio of at least ~~eighty percent~~
13 ~~(80%)~~ ninety percent (90%) for an individual qualified health insurance plan
14 as ~~required~~ permitted under ~~45 C.F.R. § 158.210(e)~~ 45 C.F.R. § 158.211, as it
15 existed on ~~January 1, 2021~~ January 1, 2025, or rebate the difference between
16 the health insurer's actual medical-loss ratio and ninety percent (90%) to
17 the Department of Human Services for members.

18

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

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

25

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

27 23-61-1009. Sunset.

28 This subchapter ~~shall expire on December 31, 2026~~ expires December 31,
29 2031.

30

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

34 (h) The Department of Human Services shall produce and submit a
35 quarterly report incorporating the advisory panel's ~~findings~~ recommendations
36 to the President Pro Tempore of the Senate, the Speaker of the House of

1 Representatives, and the public on the progress in health and economic
 2 improvement resulting from the Arkansas Health and Opportunity for Me
 3 Program, including without limitation:

4 (1) Eligibility and enrollment;

5 (2) Participation in and the impact of the economic independence
 6 initiative and the health improvement initiative of the eligible individuals,
 7 health insurers, and community bridge organizations;

8 (3) Utilization of medical services;

9 (4) Premium and cost-sharing reduction costs; and

10 (5) Health insurer participation and completion.

11
 12 SECTION 12. Arkansas Code § 26-57-603(a), concerning the tax reports
 13 relating to the insurance premium tax, is amended to read as follows:

14 (a) Each authorized, each formerly authorized, and each unauthorized
 15 insurer as defined in § 23-60-102(12) shall file with the Insurance
 16 Commissioner on or before March 1 of each year a report in form as prescribed
 17 by the commissioner showing, except as to wet marine and foreign trade
 18 insurance as defined in § 26-57-605(d), total direct premium income including
 19 policy, membership, and other fees, and all other considerations for
 20 insurance, from all kinds and classes of insurance, whether designated as
 21 premium or otherwise, including all amounts paid for cost sharing by the
 22 Department of Human Services to a health insurer under the Arkansas Health
 23 and Opportunity for Me Act of 2021, § 23-61-1001 et seq., written by it
 24 during the preceding calendar year on account of policies and contracts
 25 covering property, subjects, or risks located, resident, or to be performed
 26 in this state, with proper proportionate allocation of premium as to the
 27 persons, property, subjects, or risks in this state insured under policies or
 28 contracts covering persons, property, subjects, or risks located or resident
 29 in more than one (1) state, after deducting from the total direct premium
 30 income dividends and similar returns paid or credited to policyholders other
 31 than as to life insurance, applicable cancellations, returned premiums, the
 32 unabsorbed portion of any deposit premium, and the amount of reduction in, or
 33 refund of, premiums allowed to industrial life policyholders for payment of
 34 premiums directly to an office of the insurer.

35
 36