

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

1 State of Arkansas  
2 94th General Assembly  
3 Regular Session, 2023  
4

As Engrossed: H3/30/23

# A Bill

HOUSE BILL 1312

5 By: Representatives Perry, *Painter*  
6 By: Senator J. Boyd  
7

## For An Act To Be Entitled

9 AN ACT TO ESTABLISH THE TRANSPORTATION BENEFIT  
10 MANAGER ACT; TO REGULATE CONTRACTS OF CERTAIN  
11 AMBULANCE SERVICE PROVIDERS; TO REGULATE CLAIMS AND  
12 PRIOR AUTHORIZATION PROCEDURES FOR CERTAIN AMBULANCE  
13 SERVICES; AND FOR OTHER PURPOSES.  
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## Subtitle

17 TO ESTABLISH THE TRANSPORTATION BENEFIT  
18 MANAGER ACT; TO REGULATE CONTRACTS OF  
19 CERTAIN AMBULANCE SERVICE PROVIDERS; AND  
20 TO REGULATE CLAIMS AND PRIOR  
21 AUTHORIZATION PROCEDURES FOR CERTAIN  
22 AMBULANCE SERVICES.  
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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27 SECTION 1. Arkansas Code Title 23, Chapter 99, is amended to add an  
28 additional subchapter to read as follows:

29 Subchapter 16 – Transportation Benefit Manager Act

30  
31 23-99-1601. Title.

32 This subchapter shall be known and may be cited as the "Transportation  
33 Benefit Manager Act".  
34

35 23-99-1602. Definitions.

36 As used in this subchapter:



1 (1) "Air ambulance" means an aircraft, fixed or rotary wing,  
2 utilized for on-scene responses or transports licensed by the Department of  
3 Health;

4 (2) "Air ambulance services" means those services authorized and  
5 licensed by the department to provide care and air transportation by air  
6 ambulance of subscribers;

7 (3)(A) "Ambulance" means a vehicle used for transporting any  
8 person by stretcher or gurney upon the streets or highways of Arkansas,  
9 excluding vehicles intended solely for personal use by immediate family  
10 members.

11 (B) "Ambulance" does not include nonemergency  
12 transportation vehicles that may accommodate an individual in an upright  
13 position or Fowler's position while in a wheelchair without the aid of  
14 emergency medical services personnel;

15 (4) "Ambulance service provider" means an entity that provides  
16 transportation and emergency medical services to a patient;

17 (5) "Ambulance services" means services authorized and licensed  
18 by the department to provide care and transportation of patients upon the  
19 streets and highways of Arkansas;

20 (6) "Contracting entity" means:

21 (A) A healthcare insurer or a subcontractor, affiliate, or  
22 other entity that contracts directly or indirectly with an ambulance service  
23 provider for the delivery of ambulance services to subscribers; or

24 (B) A transportation benefit manager or a subcontractor,  
25 affiliate, or other entity that contracts directly or indirectly with an  
26 ambulance service provider for the delivery of ambulance services to  
27 subscribers;

28 (7) "Emergency medical services" means:

29 (A) The transportation and medical care provided to the  
30 ill or injured before arrival at a medical facility by licensed emergency  
31 medical services personnel or other healthcare provider;

32 (B) Continuation of the initial emergency care within a  
33 medical facility subject to the approval of the medical staff and governing  
34 board of that medical facility; and

35 (C) Integrated medical care in emergency and nonurgent  
36 settings with the oversight of a physician;

1 (8)(A) "Emergency medical services personnel" means individuals  
2 licensed by the department at any level established by the rules adopted by  
3 the State Board of Health under the Emergency Medical Services Act, § 20-13-  
4 201 et seq., and authorized to perform the services stated in the rules.

5 (B) "Emergency medical services personnel" includes  
6 without limitation:

7 (i) Emergency medical technicians;

8 (ii) Advanced emergency medical technicians;

9 (iii) Paramedics;

10 (iv) Emergency medical services instructors; and

11 (v) Emergency medical services instructor trainers;

12 (9)(A) "Health benefit plan" means a plan, policy, contract,  
13 certificate, agreement, or other evidence of coverage for healthcare services  
14 offered, issued, renewed, or extended in this state by a healthcare insurer,  
15 including emergency medical services.

16 (B) "Health benefit plan" includes nonfederal governmental  
17 plans as defined in 29 U.S.C. § 1002(32), as it existed on January 1, 2023.

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

19 (i) A disability income plan;

20 (ii) A credit insurance plan;

21 (iii) Insurance coverage issued as a supplement to  
22 liability insurance;

23 (iv) A medical payment under automobile or  
24 homeowners insurance plans;

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

28 (vi) A plan that provides only indemnity for  
29 hospital confinement;

30 (vii) An accident-only plan;

31 (viii) A specified disease plan;

32 (ix) A long-term-care-only plan;

33 (x) A dental-only plan;

34 (xi) A vision-only plan;

35 (xii) Medicaid; or

36 (xiii) Any state or local governmental employee

1 plan;

2 (10)(A) "Healthcare insurer" means an entity that is subject to  
3 state insurance regulation and provides coverage for health benefits in this  
4 state.

5 (B) "Healthcare insurer" includes:

6 (i) An insurance company;

7 (ii) A health maintenance organization;

8 (iii) A hospital and medical service corporation;

9 (iv) A risk-based provider organization; and

10 (v) A sponsor of a nonfederal self-funded

11 governmental plan.

12 (C) "Healthcare insurer" does not include:

13 (i) Medicaid; or

14 (ii) Any entity that administers any state or local  
15 governmental employee plan;

16 (11) "Medicaid" means the state and federal medical assistance  
17 program established by Title XIX of the Social Security Act, 42 U.S.C. § 1396  
18 et seq.;

19 (12) "Medical facility" means a hospital, medical clinic,  
20 physician's office, nursing home, or other healthcare facility;

21 (13)(A) "Prior authorization" means the process by which a  
22 transportation benefit manager determines the medical necessity of otherwise  
23 covered ambulance services before ambulance services are rendered, including  
24 without limitation preadmission review, pretreatment review, utilization  
25 review, case management, and fail first protocol.

26 (B) "Prior authorization" may include the requirement that  
27 a subscriber, healthcare provider, or ambulance service provider notify the  
28 health insurer or transportation benefit manager of the subscriber's intent  
29 to receive ambulance services before ambulance services are provided;

30 (14)(A) "Subscriber" means an individual eligible to receive  
31 coverage of ambulance services by a healthcare insurer under a health benefit  
32 plan.

33 (B) "Subscriber" includes a subscriber's legally  
34 authorized representative; and

35 (15)(A) "Transportation benefit manager" means an individual or  
36 entity that assumes responsibility for all administrative tasks associated

1 with the ambulance services offered by a healthcare insurer, including  
2 without limitation utilization management, determination of appropriate mode  
3 of transport, direction of missions, and invoice processing, and performs  
4 prior authorization for at least one (1) of the following:

5 (i) A healthcare insurer;

6 (ii) A preferred provider organization or health  
7 maintenance organization; or

8 (iii) Any other individual or entity that provides,  
9 offers to provide, or administers hospital, outpatient, medical, or other  
10 health benefits to a person treated by a healthcare provider in this state  
11 under a policy, health benefit plan, or contract.

12 (B) A healthcare insurer is a transportation benefit  
13 manager if the healthcare insurer performs prior authorization.

14 (C) "Transportation benefit manager" does not include an  
15 insurer of automobile, homeowners, or casualty and commercial liability  
16 insurance or the insurer's employees, agents, or contractors.

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18 23-99-1603. Contracts.

19 (a) An ambulance service provider may contract directly or indirectly  
20 with a contracting entity as a network provider of ambulance services.

21 (b) An ambulance service provider shall not be required to participate  
22 as an in-network provider of a transportation benefit manager.

23  
24 22-99-1604. Prior authorization.

25 (a) A contracting entity shall not require prior authorization for:

26 (1) Ground or air prehospital transportation; or

27 (2) Ground or air emergent or urgent ambulance transportation  
28 from one (1) hospital or medical facility to another hospital or medical  
29 facility in order to obtain medically needed diagnostic or medical  
30 therapeutic services.

31 (b) A contracting entity may require a prior authorization for non-  
32 urgent and nonemergent ground or air ambulance services by an air ambulance.

33 (c) A decision on a request for prior authorization by a  
34 transportation benefit manager shall include a determination as to whether or  
35 not the individual is covered by a health benefit plan and eligible to  
36 receive the requested ambulance services under the health benefit plan as a

1 subscriber.

2 (d) A transportation benefit manager shall not rescind, limit,  
3 condition, or restrict a prior authorization based upon medical necessity.

4 (e) A transportation benefit manager shall provide ambulance service  
5 providers with a direct contact number, that is answered twenty-four (24)  
6 hours a day, seven (7) days a week, in which to obtain prior authorization  
7 for ambulance services.

8 (f)(1) Determination of prior authorization for ambulance services  
9 between medical facilities shall be provided or declined within twenty (20)  
10 minutes of the ambulance service provider's or medical facility's placing a  
11 request for determination.

12 (2) If not denied within twenty (20) minutes, the ambulance  
13 services shall be deemed automatically approved.

14 (g) If a medical facility is required to obtain a prior authorization  
15 on behalf of the ambulance service provider, the transportation benefit  
16 manager shall advise the ambulance service provider of the requirement before  
17 ambulance transport.

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19 23-99-1605. Claims.

20 (a) A contracting entity shall pay a claim for ambulance services for  
21 which prior authorization was received regardless of the terminology used by  
22 the transportation benefit manager or health benefit plan within thirty (30)  
23 days of receipt of the claim from an ambulance service provider, unless:

24 (1) Authorized ambulance services were never performed; or

25 (2) There is specific information available for review by the  
26 appropriate state or federal agency that the subscriber or ambulance service  
27 provider has engaged in material misrepresentation, fraud, or abuse regarding  
28 the claim for the authorized ambulance services.

29 (b) A healthcare insurer or transportation benefit manager shall pay a  
30 claim for ambulance services to an ambulance service provider:

31 (1) At the rates approved or contracted between an ambulance  
32 service provider and a local government entity under § 14-266-105; or

33 (2) In the absence of rates under subdivision (b)(1) of this  
34 section, the rates established by the Workers' Compensation Commission under  
35 the commission's medical fee schedule for ambulance services.

36 (c) Ambulance services authorized or guaranteed for payment under this

1 section for which the prior authorization is not rescinded or reversed under  
2 subsection (a) of this section are not subject to audit recoupment.

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4 23-99-1606. Enforcement – Rules.

5 (a) A contracting entity is subject to the Trade Practices Act, § 23-  
6 66-201 et seq.

7 (b) The expenses of implementing this subchapter shall not be used as  
8 justification to increase premiums or decrease payments to any ambulance  
9 service provider or medical facility.

10 (c) The Insurance Commissioner may promulgate rules necessary to  
11 implement and enforce this subchapter.

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13 /s/Perry  
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