

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

# A Bill

SENATE BILL 142

5 By: Senator Irvin  
6 By: Representative D. Ferguson  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND THE HEALTHCARE CONTRACTING  
10 SIMPLIFICATION ACT; TO REGULATE NETWORK LEASING UNDER  
11 THE HEALTHCARE CONTRACTING SIMPLIFICATION ACT; AND  
12 FOR OTHER PURPOSES.  
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## Subtitle

15 TO AMEND THE HEALTHCARE CONTRACTING  
16 SIMPLIFICATION ACT; AND TO REGULATE  
17 NETWORK LEASING UNDER THE HEALTHCARE  
18 CONTRACTING SIMPLIFICATION ACT.  
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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 § 23-99-1202 is amended to read as follows:  
25 23-99-1202. Definitions.

26 As used in this subchapter:

27 (1) "All-products clause" means a provision in a healthcare  
28 contract that requires a healthcare provider, as a condition of participation  
29 or continuation in a provider network or a health benefit plan, to:

30 (A) Serve in another provider network utilized by the  
31 contracting entity or a healthcare insurer affiliated with the contracting  
32 entity; or

33 (B) Provide healthcare services under another health  
34 benefit plan or product offered by a contracting entity or a healthcare  
35 insurer affiliated with the contracting entity;

36 (2) "Contracting entity" means a healthcare insurer or a



1 subcontractor, affiliate, or other entity that contracts directly or  
2 indirectly with a healthcare provider for the delivery of healthcare services  
3 to enrollees;

4 (3) "Enrollee" means an individual who is entitled to receive  
5 healthcare services under the terms of a health benefit plan;

6 (4)(A) "Health benefit plan" means a plan, policy, contract,  
7 certificate, agreement, or other evidence of coverage for healthcare services  
8 offered or issued by a healthcare insurer in this state.

9 (B) "Health benefit plan" includes:

10 (i) A nonfederal governmental ~~plans~~ plan as defined  
11 in 29 U.S.C. § 1002(32), as it existed on January 1, 2019; and

12 (ii) A contract for providing benefits for dental  
13 care whether or not the contract is pursuant to:

14 (a) A healthcare insurance policy or  
15 certificate;

16 (b) A dental-only plan;

17 (c) A health maintenance organization provider  
18 contract; or

19 (d) A managed healthcare plan.

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

21 (i) A disability income plan;

22 (ii) A credit insurance plan;

23 (iii) Insurance coverage issued as a supplement to  
24 liability insurance;

25 (iv) A medical payment under automobile or  
26 homeowners insurance plans;

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

30 (vi) A plan that provides only indemnity for  
31 hospital confinement;

32 (vii) An accident-only plan;

33 (viii) A specified disease plan;

34 (ix) A long-term care only plan; or

35 (x) ~~A dental-only plan; or~~

36 ~~(xi) A vision-only plan;~~

1 (5) "Healthcare contract" means a contract entered into,  
 2 materially amended, or renewed between a contracting entity and a healthcare  
 3 provider that specifies the rights and responsibilities of the contracting  
 4 entity and provides for the delivery of and payment for healthcare services  
 5 to enrollees;

6 (6)(A) "Healthcare insurer" means an entity that is subject to  
 7 state insurance regulation and provides health insurance in this state.

8 (B) "Healthcare insurer" includes:

9 (i) An insurance company;  
 10 (ii) A health maintenance organization;  
 11 (iii) A hospital and medical service corporation;  
 12 (iv) A risk-based provider organization; ~~and~~  
 13 (v) A sponsor of a nonfederal self-funded  
 14 governmental plan; and

15 (vi) A dental-only plan;

16 (7) "Healthcare provider" means a person or entity that is  
 17 licensed, certified, or otherwise authorized by the laws of this state to  
 18 provide healthcare services;

19 (8)(A) "Healthcare services" means services or goods provided  
 20 for the purpose of or incidental to the purpose of preventing, diagnosing,  
 21 treating, alleviating, relieving, curing, or healing human illness, disease,  
 22 condition, disability, or injury.

23 (B) "Healthcare services" includes services for the  
 24 diagnosis, prevention, treatment, or cure of a dental condition, illness,  
 25 injury, or disease;

26 (9) "Material amendment" means a change in a healthcare contract  
 27 that results in:

28 (A) A decrease in fees, payments, or reimbursement to a  
 29 participating healthcare provider;

30 (B) A change in the payment methodology for determining  
 31 fees, payments, or reimbursement to a participating healthcare provider;

32 (C) A new or revised coding guideline;

33 (D) A new or revised payment rule; or

34 (E) A change of procedures that may reasonably be expected  
 35 to significantly increase a healthcare provider's administrative expenses;

36 (10) "Most favored nation clause" means a provision in a

1 healthcare contract that:

2 (A) Prohibits or grants a contracting entity an option to  
3 prohibit a participating healthcare provider from contracting with another  
4 contracting entity to provide healthcare services at a lower price than the  
5 payment specified in the healthcare contract;

6 (B) Requires or grants a contracting entity an option to  
7 require a participating healthcare provider to accept a lower payment in the  
8 event the participating healthcare provider agrees to provide healthcare  
9 services to another contracting entity at a lower price;

10 (C) Requires or grants a contracting entity an option to  
11 require termination or renegotiation of an existing healthcare contract if a  
12 participating healthcare provider agrees to provide healthcare services to  
13 another contracting entity at a lower price; or

14 (D) Requires a participating healthcare provider to  
15 disclose the participating healthcare provider's contractual reimbursement  
16 rates with other contracting entities;

17 (11) "Participating healthcare provider" means a healthcare  
18 provider that has a healthcare contract with a contracting entity to provide  
19 healthcare services to enrollees with the expectation of receiving payment  
20 from the contracting entity or a healthcare insurer affiliated with the  
21 contracting entity; ~~and~~

22 (12) "Provider network" means a group of healthcare providers  
23 that are contracted to provide healthcare services to enrollees at contracted  
24 rates; and

25 (13) "Third party" means an individual or entity that enters  
26 into a contract with a contracting entity or with another third party to gain  
27 access to the services or contractual discounts of a healthcare contract  
28 through leasing the network.

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30 SECTION 2. Arkansas Code § 23-99-1203 is amended to read as follows:  
31 23-99-1203. All-products clause – Prohibition – Network leasing.

32 (a) Except as provided in subsections (b) and (d) of this section, a  
33 contracting entity shall not:

34 (1) Offer to a healthcare provider a healthcare contract that  
35 includes an all-products clause;

36 (2) Enter into a healthcare contract with a healthcare provider

1 that includes an all-products clause; or

2 (3) Amend or renew an existing healthcare contract previously  
3 entered into with a healthcare provider so that the healthcare contract as  
4 amended or renewed adds or continues to include an all-products clause.

5 (b)(1) This section does not prohibit a contracting entity from:

6 (A) Offering a healthcare provider a contract that covers  
7 multiple health benefit plans that have the same reimbursement rates and  
8 other financial terms for the healthcare provider;

9 (B) Adding a new health benefit plan to an existing  
10 healthcare contract with a healthcare provider under the same reimbursement  
11 rates and other financial terms applicable under the original healthcare  
12 contract; or

13 (C) Requiring a healthcare provider to accept multiple  
14 health benefit plans that do not differ in reimbursement rates or other  
15 financial terms for the healthcare provider.

16 (2) A healthcare contract may include health benefit plans or  
17 coverage options for enrollees within a health benefit plan with different  
18 cost-sharing structures, including different deductibles or copayments, as  
19 long as the reimbursement rates and other financial terms between the  
20 contracting entity and the healthcare provider remain the same for each plan  
21 or coverage option included in the healthcare contract.

22 (3) This section does not authorize a healthcare provider to:

23 (A) Opt out of providing services to an enrollee of a  
24 particular health benefit plan after the healthcare provider has entered into  
25 a valid contract under this section to provide the services; or

26 (B) Refuse to disclose the provider networks or health  
27 benefit plans in which the healthcare provider participates.

28 (c)(1) A violation of this section is:

29 (A) An unfair trade practice under § 23-66-206; and

30 (B) Subject to the Trade Practices Act, § 23-66-201 et  
31 seq.

32 (2) If a healthcare contract contains a provision that violates  
33 this section, the healthcare contract is void.

34 (d) A contracting entity may require a healthcare provider to  
35 participate in the State and Public School Life and Health Insurance Program  
36 as a condition of contracting or continuing to contract with the healthcare

1 provider for healthcare services under another health benefit plan, if:

2 (1) The other health benefit plan is an individual health plan  
3 not sold on the health insurance marketplace, as defined in § 23-64-602; and

4 (2) The rates offered to the healthcare provider for healthcare  
5 services to program enrollees are no lower than the rates paid to the  
6 healthcare provider under the other health benefit plan.

7 (e)(1) A healthcare contract, renewal, or amendment offered by a  
8 healthcare insurer pertaining to granting access to a provider network for a  
9 third party that otherwise complies with the requirements of this section  
10 shall allow a healthcare provider to:

11 (A) Choose not to participate in any contract provisions  
12 that provide third-party access to the contract; or

13 (B) Enter into a healthcare contract directly with the  
14 healthcare insurer.

15 (2) A healthcare insurer shall not cancel or otherwise terminate  
16 or deny a contractual relationship with a healthcare provider because the  
17 healthcare provider exercises its rights as provided in subdivision (e)(1) of  
18 this section.

19 (3) This subsection applies only to a dentist licensed under the  
20 Arkansas Dental Practice Act, § 17-82-101 et seq.

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