

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

1 State of Arkansas *As Engrossed: H4/3/13 H4/6/13*

2 89th General Assembly

A Bill

3 Regular Session, 2013

HOUSE BILL 1143

4

5 By: Representatives J. Burris, *Westerman, Carter, Biviano*

6 By: *Senators J. Dismang, Bookout, D. Sanders*

7

8

For An Act To Be Entitled

9 *AN ACT CONCERNING HEALTH INSURANCE FOR CITIZENS OF*
10 *THE STATE OF ARKANSAS; TO CREATE THE HEALTH CARE*
11 *INDEPENDENCE ACT OF 2013; TO DECLARE AN EMERGENCY;*
12 *AND FOR OTHER PURPOSES.*

13

14

15

Subtitle

16

TO CREATE THE HEALTH CARE INDEPENDENCE
ACT OF 2013; AND TO DECLARE AN EMERGENCY.

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19

20 *WHEREAS, Arkansas has historically addressed state-specific needs to*
21 *achieve personal responsibility and affordable health care for its citizens*
22 *such as the ARHealthNetworks partnership between the state and small*
23 *businesses; and*

24

25 *WHEREAS, Arkansas has initiated nationally recognized and*
26 *transformative changes in the healthcare delivery system through alignment of*
27 *payment incentives, health care delivery system improvements, enhanced rural*
28 *health care access, initiatives to reduce waste, fraud and abuse, policies*
29 *and plan structures to encourage the proper utilization of the healthcare*
30 *system, and policies to advance disease prevention and health promotion; and*

31

32 *WHEREAS, Arkansas is uniquely situated to serve as a laboratory of*
33 *comprehensive and innovative healthcare reform that can reduce the state and*
34 *federal obligations to entitlement spending; and*

35

36 *WHEREAS, faced with the disruptive challenges from federal legislation*



1 and regulations, the General Assembly asserts its responsibility for local
2 control and innovation to achieve health care access, improved health care
3 quality, reduce traditional Medicaid enrollment, remove disincentives for
4 work and social mobility, and required cost-containment; and

5
6 WHEREAS, the General Assembly hereby creates the Health Care
7 Independence Act of 2013;

8
9 NOW THEREFORE,

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

11
12 SECTION 1. Arkansas Code Title 20, Chapter 77, is amended to create a
13 new subchapter to read as follows:

14
15 Subchapter 21 – Health Care Independence Act of 2013

16
17 20-77-2101. Title.

18 This act shall be known and may be cited as the "Health Care
19 Independence Act of 2013".

20
21 20-77-2102. Legislative intent.

22 (a) Notwithstanding any general or specific laws to the contrary, the
23 Department of Human Services is to explore design options that reform the
24 Medicaid Program utilizing the Health Care Independence Act of 2013 so that
25 it is a fiscally sustainable, cost-effective, personally responsible, and
26 opportunity-driven program utilizing competitive and value-based purchasing
27 to:

28 (1) Maximize the available service options;

29 (2) Promote accountability, personal responsibility, and
30 transparency;

31 (3) Encourage and reward healthy outcomes and responsible
32 choices; and

33 (4) Promote efficiencies that will deliver value to the
34 taxpayers.

35 (b)(1) It is the intent of the General Assembly that the State of
36 Arkansas through the Department of Human Services shall utilize a private

1 insurance option for "low-risk" adults.

2 (2) The Health Care Independence Act of 2013 shall ensure that:

3 (A) Private health care options increase and government-
4 operated programs such as Medicaid decrease; and

5 (B) Decisions about the design, operation and
6 implementation of this option, including cost, remain within the purview of
7 the State of Arkansas and not with Washington, D.C.

8
9 20-77-2103. Purpose.

10 (a) The purpose of this subchapter is to:

11 (1) Improve access to quality health care;

12 (2) Attract insurance carriers and enhance competition in the
13 Arkansas insurance marketplace;

14 (3) Promote individually-owned health insurance;

15 (4) Strengthen personal responsibility through cost-sharing;

16 (5) Improve continuity of coverage;

17 (6) Reduce the size of the state-administered Medicaid program;

18 (7) Encourage appropriate care, including early intervention,
19 prevention, and wellness;

20 (8) Increase quality and delivery system efficiencies;

21 (9) Facilitate Arkansas's continued payment innovation, delivery
22 system reform, and market-driven improvements;

23 (10) Discourage over-utilization; and

24 (11) Reduce waste, fraud, and abuse.

25 (b) The State of Arkansas shall take an integrated and market-based
26 approach to covering low-income Arkansans through offering new coverage
27 opportunities, stimulating market competition, and offering alternatives to
28 the existing Medicaid program.

29
30 20-77-2104. Definitions.

31 As used in this subchapter:

32 (1) "Carrier" means a private entity certified by the State
33 Insurance Department and offering plans through the Health Insurance
34 Marketplace;

35 (2) "Cost sharing" means the portion of the cost of a covered
36 medical service that must be paid by or on behalf of eligible individuals,

1 consisting of copayments or coinsurance but not deductibles;

2 (3) "Eligible individuals" means individuals who:

3 (A) Are adults between nineteen (19) years of age and
4 sixty-five (65) years of age with an income that is equal to or less than one
5 hundred thirty-eight percent (138%) of the federal poverty level, including
6 without limitation individuals who would not be eligible for Medicaid under
7 laws and rules in effect on January 1, 2013;

8 (B) Have been authenticated to be a United States citizen
9 or documented qualified alien according to the federal Personal
10 Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No.
11 104-193; and

12 (C) Are not determined to be more effectively covered
13 through the standard Medicaid program, such as an individual who is
14 medically frail or other individuals with exceptional medical needs for whom
15 coverage through the Health Insurance Marketplace is determined to be
16 impractical, overly complex, or would undermine continuity or effectiveness
17 of care;

18 (4) "Healthcare coverage" means healthcare benefits as defined
19 by certification or rules, or both, promulgated by the State Insurance
20 Department for the Qualified Health Plans or available on the marketplace;

21 (5) "Health Insurance Marketplace" means the vehicle created to
22 help individuals, families, and small businesses in Arkansas shop for and
23 select health insurance coverage in a way that permits comparison of
24 available Qualified Health Plan based upon price, benefits, services, and
25 quality, regardless of the governance structure of the marketplace;

26 (6) "Premium" means a charge that must be paid as a condition of
27 enrolling in health care coverage;

28 (7) "Program" means the Health Care Independence Program
29 established by this subchapter; and

30 (8) "Qualified Health Plan" means a State Insurance Department
31 certified individual health insurance plan offered by a carrier through the
32 Health Insurance Marketplace.

33
34 20-77-2105. Administration of the Health Care Independence Program.

35 (a) The Department of Human Services shall:

36 (1) Create and administer the Health Care Independence Program;

1 and

2 (2) Submit Medicaid State Plan Amendments and apply for any
3 federal waivers necessary to implement the program in a manner consistent
4 with this subchapter.

5 (b)(1) Implementation of the program is conditioned upon the receipt
6 of necessary federal approvals.

7 (2) If the Department of Human Services does not receive the
8 necessary federal approvals, the program shall not be implemented.

9 (c) The program shall include premium assistance for eligible
10 individuals to enable their enrollment in a Qualified Health Plan through the
11 Health Insurance Marketplace.

12 (d)(1) The Department of Human Services is specifically authorized to
13 pay premiums and supplemental cost-sharing subsidies directly to the
14 Qualified Health Plans for enrolled eligible individuals.

15 (2) The intent of the payments under subdivision (d)(1) of this
16 section is to increase participation and competition in the health insurance
17 market, intensify price pressures, and reduce costs for both publicly and
18 privately funded health care.

19 (e) To the extent allowable by law:

20 (1) The Department of Human Services shall pursue strategies
21 that promote insurance coverage of children in their parents' or caregivers'
22 plan, including children eligible for the ARKids First Program Act, § 20-77-
23 1101, commonly known as the "ARKids B program"; and

24 (2) Upon the receipt of necessary federal approval, during
25 calendar year 2015 the Department of Human Services shall include and
26 transition to the Health Insurance Marketplace:

27 (A) Children eligible for the ARKids First Program Act, §
28 20-77-1101; and

29 (B) Populations under Medicaid from zero percent (0%) of
30 the federal poverty level to seventeen percent (17%) of the federal poverty
31 level.

32 (3) The Department of Human Services shall develop and implement
33 a strategy to inform Medicaid recipient populations whose needs would be
34 reduced or better served through participation in the Health Insurance
35 Marketplace.

36 (f) The program shall include allowable cost sharing for eligible

1 individuals that is comparable to that for individuals in the same income
2 range in the private insurance market and is structured to enhance eligible
3 individuals' investment in their health care purchasing decisions.

4 (g)(1) The State Insurance Department and Department of Human Services
5 shall administer and promulgate rules to administer the program authorized
6 under this subchapter.

7 (2) No less than thirty (30) days before the State Insurance
8 Department and Department of Human Services begin promulgating a rule under
9 this subchapter, the proposed rule shall be presented to the Legislative
10 Council.

11 (h) The program authorized under this subchapter shall terminate
12 within one hundred twenty (120) days after a reduction in any of the
13 following federal medical assistance percentages:

14 (1) One hundred percent (100%) in 2014, 2015,
15 or 2016;

16 (2) Ninety-five percent (95%) in 2017;

17 (3) Ninety-four percent (94%) in 2018;

18 (4) Ninety-three percent (93%) in 2019; and

19 (5) Ninety percent (90%) in 2020 or any year after 2020.

20 (i) An eligible individual enrolled in the program shall affirmatively
21 acknowledge that:

22 (1) The program is not a perpetual federal or state right or a
23 guaranteed entitlement;

24 (2) The program is subject to cancellation upon appropriate
25 notice; and

26 (3) The program is not an entitlement program.

27 (j)(1) The Department of Human Services shall develop a model and seek
28 approval from the Center for Medicare and Medicaid Services to allow a
29 limited number of enrollees to participate in a pilot program testing the
30 viability of a Health Saving Account or a Medical Savings Account.

31 (2) The pilot program shall be implemented during calendar year
32 2015.

33 (3) As soon as practicable, the Department of Human Services
34 shall seek conditional federal approval to place Health Saving Accounts and
35 Medical Savings Accounts on the Health Insurance Marketplace.

36 (k)(1) State obligations for uncompensated care shall be projected,

1 tracked, and reported to identify potential incremental future decreases.

2 (2) The Department of Human Services shall recommend appropriate
3 adjustments to the General Assembly.

4 (3) Adjustments shall be made by the General Assembly as
5 appropriate.

6 (1) The Department of Human Services shall track the Hospital
7 Assessment Fee as defined in § 20-77-1902 and report to the General Assembly
8 subsequent decreases based upon reduced uncompensated care.

9 (m) On a quarterly basis, the Department of Human Services and the
10 State Insurance Department shall report to the Legislative Council or to the
11 Joint Budget Committee if the General Assembly is in session, available
12 information regarding:

13 (1) Program enrollment;

14 (2) Patient experience;

15 (3) Economic impact including enrollment distribution;

16 (4) Carrier competition; and

17 (5) Avoided uncompensated care.

18
19 20-77-2106. Standards of healthcare coverage through the Health
20 Insurance Marketplace.

21 (a) Healthcare coverage shall be achieved through a qualified health
22 plan at the silver level as provided in 42 U.S.C. §§ 18022 and 18071, as
23 existing on January 1, 2013, that restricts cost sharing to amounts that do
24 not exceed Medicaid cost-sharing limitations.

25 (b) All participating carriers in the Health Insurance Marketplace
26 shall offer healthcare coverage conforming to the requirements of this
27 subchapter.

28 (c) To assure price competitive choice among healthcare coverage
29 options, the State Insurance Department shall assure that at least two (2)
30 qualified health plans are offered in each county in the state.

31 (d) Health insurance carriers offering health care coverage for
32 program eligible individuals shall participate in Arkansas Payment
33 Improvement Initiatives including:

34 (1) Assignment of primary care clinician;

35 (2) Support for patient-centered medical home; and

36 (3) Access of clinical performance data for providers.

1 (e) On or before July 1, 2013, the State Insurance Department shall
2 implement through certification requirements, rule, or both implement the
3 applicable provisions of this subchapter.

4
5 20-77-2107. Enrollment.

6 (a) The General Assembly shall assure that a mechanism within the
7 Health Insurance Marketplace is established and operated to facilitate
8 enrollment of eligible individuals.

9 (b) The enrollment mechanism shall include an automatic verification
10 system to guard against waste, fraud, and abuse in the program.

11
12 20-77-2108. Effective date.

13 This subchapter shall be in effect until June 30, 2017, unless amended
14 or extended by the General Assembly.

15
16 SECTION 2. Arkansas Code Title 19, Chapter 5, Subchapter 11, is
17 amended to add an additional section to read as follows:

18 19-5-1140. Health Care Independence Program Trust Fund.

19 (a) There is created on the books of the Treasurer of State, the
20 Auditor of State, and the Chief Fiscal Officer of the State a trust fund to
21 be known as the "Health Care Independence Program Trust Fund".

22 (b)(1) The Health Care Independence Program Trust Fund may consist of
23 moneys saved and accrued under the Health Care Independence Act of 2013, §
24 20-77-2101 et seq., including without limitation:

25 (A) Increases in premium tax collections;

26 (B) Reductions in uncompensated care; and

27 (C) Other spending reductions resulting from the Health
28 Care Independence Act of 2013, 20-77-2101 et seq.

29 (2) The fund shall also consist of other revenues and funds
30 authorized by law.

31 (c) The fund may be used by the Department of Human Services to pay
32 for future obligations under the Health Care Independence Program created by
33 the Health Care Independence Act of 2013, § 20-77-2101 et seq.

34
35 SECTION 3. NOT TO BE CODIFIED. (a) The implementation of this act is
36 suspended until an appropriation for the implementation of this act is passed

1 by a three-fourths vote of both houses of the Eighty-Ninth General Assembly.

2 (b) If an appropriation for the implementation of this act is
3 not passed by the Eighty-Ninth General Assembly, this act is void.

4
5 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the
6 General Assembly of the State of Arkansas that the Health Care Independence
7 Program requires private insurance companies to create, present to the
8 Department of Human Services for approval, implement, and market a new kind
9 of insurance policy; and that the private insurance companies need certainty
10 about the law creating the Health Care Independence Program before fully
11 investing time, funds, personnel, and other resources to the development of
12 the new insurance policies. Therefore, an emergency is declared to exist,
13 and this act being immediately necessary for the preservation of the public
14 peace, health, and safety shall become effective on:

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

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

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

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23 /s/J. Burris
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