

1 State of Arkansas  
2 93rd General Assembly  
3 Regular Session, 2021  
4

As Engrossed: S4/22/21

# A Bill

HOUSE BILL 1907

5 By: Representative Lowery  
6 By: Senator K. Hammer  
7

## For An Act To Be Entitled

9 AN ACT TO ENABLE HEALTHCARE PROVIDERS TO MAKE  
10 APPROPRIATE BILLING DECISIONS THAT ARE IN THE BEST  
11 INTEREST OF PATIENTS; TO ESTABLISH THE BILLING IN THE  
12 BEST INTEREST OF PATIENTS ACT; AND FOR OTHER  
13 PURPOSES.  
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## Subtitle

16 TO ENABLE HEALTHCARE PROVIDERS TO MAKE  
17 APPROPRIATE BILLING DECISIONS THAT ARE IN  
18 THE BEST INTEREST OF PATIENTS; AND TO  
19 ESTABLISH THE BILLING IN THE BEST  
20 INTEREST OF PATIENTS ACT.  
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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26 SECTION 1. Arkansas Code Title 23, Chapter 99, is amended to add an  
27 additional subchapter to read as follows:

28 Subchapter 14 – Billing in the Best Interest of Patients Act  
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30 23-99-1401. Title.

31 This subchapter shall be known and may be cited as the "Billing in the  
32 Best Interest of Patients Act".  
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34 23-99-1402. Definitions.

35 As used in this subchapter:

36 (1) "Enrollee" means an individual who is entitled to receive



1 healthcare services under the terms of a health benefit plan;

2 (2)(A) "Health benefit plan" means an individual, blanket, or  
3 group plan, policy, or contract for healthcare services issued, renewed,  
4 delivered, or extended in this state by a healthcare payor in this state.

5 (B) "Health benefit plan" includes:

6 (i) Indemnity and managed care plans; and

7 (ii) Plans providing health benefits to state and  
8 public school employees under § 21-5-401 et seq.

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

10 (i) A plan that provides only dental benefits or eye  
11 and vision care benefits;

12 (ii) A disability income plan;

13 (iii) A credit insurance plan;

14 (iv) Insurance coverage issued as a supplement to  
15 liability insurance;

16 (v) Medical payments under an automobile or  
17 homeowners' insurance plan;

18 (vi) A health benefit plan provided under Arkansas  
19 Constitution, Article 5, § 32, the Workers' Compensation Law, § 11-9-101 et  
20 seq., and the Public Employee Workers' Compensation Act, § 21-5-601 et seq.;

21 (vii) A plan that provides only indemnity for  
22 hospital confinement;

23 (viii) An accident-only plan; or

24 (ix) A specified disease plan;

25 (3)(A) "Healthcare payor" means:

26 (A) A health insurance company;

27 (B) A health maintenance organization;

28 (C) A hospital and medical services corporation; and

29 (D) An entity that provides or administers a self-funded  
30 health benefit plan, including a governmental plan.

31 (B) "Healthcare payor" does not include an entity that  
32 provides only dental benefits or eye and vision care benefits;

33 (4) "Healthcare provider" means individuals or entities licensed  
34 by the State of Arkansas to provide healthcare services, limited to the  
35 following:

36 (A) Advanced practice nurses;

- 1                   (B) Athletic trainers;  
2                   (C) Audiologists;  
3                   (D) Certified behavioral health providers;  
4                   (E) Certified orthotists;  
5                   (F) Chiropractors;  
6                   (G) Community mental health centers or clinics;  
7                   (H) Dentists;  
8                   (I) Home health care;  
9                   (J) Hospice care;  
10                  (K) Hospital-based services;  
11                  (L) Hospitals;  
12                  (M) Licensed ambulatory surgery centers;  
13                  (N) Licensed certified social workers;  
14                  (O) Licensed dieticians;  
15                  (P) Licensed intellectual and developmental disabilities  
16 service providers;  
17                  (Q) Licensed professional counselors;  
18                  (R) Licensed psychological examiners;  
19                  (S) Long-term care facilities;  
20                  (T) Occupational therapists;  
21                  (U) Optometrists;  
22                  (V) Pharmacists;  
23                  (W) Physical therapists;  
24                  (X) Physicians and surgeons (M.D. and D.O.);  
25                  (Y) Podiatrists;  
26                  (Z) Prosthetists;  
27                  (AA) Psychologists;  
28                  (BB) Respiratory therapists;  
29                  (CC) Rural health clinics; and  
30                  (DD) Speech pathologists;

31                  (5) "Healthcare services" means services and products, including  
32 prescription medication, provided by a healthcare provider within the scope  
33 of the healthcare provider's license; and

34                  (6) "Prescription medication" means a drug or biologic that is  
35 prescribed by a healthcare provider to a patient for the purpose of  
36 alleviating, curing, preventing, or healing illness, injury, or physical

1 disability.

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3 23-99-1403. Determination of best interest for enrollee – Billing  
4 decision.

5 (a) A healthcare provider who provides healthcare services and  
6 prescribes prescription medication to an enrollee may make a determination  
7 that is in the best interest of the enrollee to bill the enrollee's:

8 (1) Healthcare payor; or

9 (2) Pharmacy benefits carrier.

10 (b) Every health benefit plan that is issued, renewed, delivered, or  
11 extended in this state and every group health benefit plan that is issued,  
12 renewed, delivered, or extended outside this state, for an enrollee who is a  
13 resident of this state that provides coverage for prescription medication  
14 shall allow a healthcare provider to make any appropriate billing decisions  
15 concerning healthcare services and administering of prescription medication  
16 that is in the best interest of the enrollee.

17 (c) A healthcare payor shall not require an enrollee to self-  
18 administer prescription medication if a healthcare provider determines it is  
19 in the best interest of the enrollee for a prescription medication to be  
20 administered by a healthcare provider regardless of the formulation or  
21 benefit category determination by the health benefit plan.

22 (d)(1) If a determination is made by a healthcare provider that it is  
23 in the enrollee's best interest for the healthcare provider to administer any  
24 prescription medication that is ordinarily covered by the healthcare payor  
25 regardless of the benefit category determination by the health benefit plan,  
26 then a healthcare payor shall reimburse for the cost and administration of  
27 the prescription medication through the medical benefit or pharmacy benefit  
28 based on the decision of the healthcare provider in consultation with the  
29 enrollee.

30 (2) The healthcare payor shall not impose financial penalties,  
31 copayments, coinsurance, or deductibles beyond the ordinary terms required  
32 through the enrollee's medical benefit or pharmacy benefit.

33 (3) This subsection does not apply to:

34 (A) A risk-based provider organization as established  
35 under the Medicaid Provider-Led Organized Care Act, § 20-77-2701 et seq.; or

36 (B) An individual qualified health insurance plan under

1 the Arkansas Health and Opportunity for Me Act of 2021, § 23-61-1001 et seq.

2 (e) This section applies to an enrollee who is being evaluated or  
3 treated for:

4 (1) A hematology diagnosis;

5 (2) An oncology diagnosis; or

6 (3) Additional disease states or diagnoses that the Insurance  
7 Commissioner may include through the promulgation of rules.

8 (f) This section shall not:

9 (1) Interfere with the ability of a healthcare payor to create,  
10 modify, or maintain a prescription medication formulary; or

11 (2) Apply to a solid oral dosages form of a prescription  
12 medication unless the medication:

13 (A) Is an oral anticancer prescription medication;

14 (B) An oral antiemetic prescription medication that is  
15 given with chemotherapy treatment; or

16 (C) Possesses a safety label from the United States Food  
17 and Drug Administration that indicates the relevant drug interactions,  
18 warnings and precautions, or adverse reactions of the prescription medication  
19 that are clinically applicable to the enrollee and determined by a healthcare  
20 provider to require supervision during administration of the prescription  
21 medication.

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23 23-99-1404. Rules.

24 The Insurance Commissioner shall develop and promulgate rules for the  
25 implementation and administration of this subchapter.

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27 /s/Lowery

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30 **APPROVED: 5/3/21**