

1 State of Arkansas *As Engrossed: S4/2/13 H4/10/13*

2 89th General Assembly

A Bill

3 Regular Session, 2013

SENATE BILL 1020

4

5 By: Senators J. Dismang, Bookout, D. Sanders

6 *By: Representatives J. Burris, Carter, Biviano*

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.*

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14

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Subtitle

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

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

23

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

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

34

35 *WHEREAS, faced with the disruptive challenges from federal legislation*
36 *and regulations, the General Assembly asserts its responsibility for local*



1 control and innovation to achieve health care access, improved health care
2 quality, reduce traditional Medicaid enrollment, remove disincentives for
3 work and social mobility, and required cost-containment; and

4
5 WHEREAS, the General Assembly hereby creates the Health Care
6 Independence Act of 2013;

7
8 NOW THEREFORE,

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

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

13
14 Subchapter 21 – Health Care Independence Act of 2013

15
16 20-77-2101. Title.

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

19
20 20-77-2102. Legislative intent.

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

27 (1) Maximize the available service options;

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

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

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

34 (b)(1) It is the intent of the General Assembly that the State of
35 Arkansas through the Department of Human Services shall utilize a private
36 insurance option for "low-risk" adults.

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

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

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

7
8 20-77-2103. Purpose.

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

10 (1) Improve access to quality health care;

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

13 (3) Promote individually-owned health insurance;

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

15 (5) Improve continuity of coverage;

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

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

19 (8) Increase quality and delivery system efficiencies;

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

22 (10) Discourage over-utilization; and

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

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

28
29 20-77-2104. Definitions.

30 As used in this subchapter:

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

34 (2) "Cost sharing" means the portion of the cost of a covered
35 medical service that must be paid by or on behalf of eligible individuals,
36 consisting of copayments or coinsurance but not deductibles;

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

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

7 (B) Have been authenticated to be a United States citizen
8 or documented qualified alien according to the federal Personal
9 Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No.
10 104-193, as existing on January 1, 2013; and

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

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

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

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

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

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

32
33 20-77-2105. Administration of the Health Care Independence Program.

34 (a) The Department of Human Services shall:

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

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

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

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

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

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

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

18 (e) To the extent allowable by law:

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

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

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

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

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

35 (f) The program shall include allowable cost sharing for eligible
36 individuals that is comparable to that for individuals in the same income

1 range in the private insurance market and is structured to enhance eligible
2 individuals' investment in their health care purchasing decisions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (k)(1) State obligations for uncompensated care shall be projected,
36 tracked, and reported to identify potential incremental future decreases.

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

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

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

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

12 (1) Program enrollment;

13 (2) Patient experience;

14 (3) Economic impact including enrollment distribution;

15 (4) Carrier competition; and

16 (5) Avoided uncompensated care.

17
18 20-77-2106. Standards of healthcare coverage through the Health
19 Insurance Marketplace.

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

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

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

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

33 (1) Assignment of primary care clinician;

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

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

36 (e) On or before July 1, 2013, the State Insurance Department shall

1 implement through certification requirements, rule, or both the applicable
2 provisions of this subchapter.

3
4 20-77-2107. Enrollment.

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

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

10
11 20-77-2108. Effective date.

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

14
15 SECTION 2. Arkansas Code Title 19, Chapter 5, Subchapter 11, is
16 amended to add an additional section to read as follows:

17 19-5-1140. Health Care Independence Program Trust Fund.

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

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

24 (A) Increases in premium tax collections;

25 (B) Reductions in uncompensated care; and

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

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

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

33
34 SECTION 3. NOT TO BE CODIFIED. (a) The implementation of this act is
35 suspended until an appropriation for the implementation of this act is passed
36 by a three-fourths vote of both houses of the Eighty-Ninth General Assembly.

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

3
4 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the
5 General Assembly of the State of Arkansas that the Health Care Independence
6 Program requires private insurance companies to create, present to the
7 Department of Human Services for approval, implement, and market a new kind
8 of insurance policy; and that the private insurance companies need certainty
9 about the law creating the Health Care Independence Program before fully
10 investing time, funds, personnel, and other resources to the development of
11 the new insurance policies. Therefore, an emergency is declared to exist,
12 and this act being immediately necessary for the preservation of the public
13 peace, health, and safety shall become effective on:

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

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

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

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22 /s/J. Dismang
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