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2 93rd General Assembly
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4

As Engrossed: S3/8/21

A Bill

SENATE BILL 410

5 By: Senator Irvin
6 By: Representative M. Gray
7

For An Act To Be Entitled

9 AN ACT TO AMEND TITLE 23 OF THE ARKANSAS CODE TO
10 ENSURE THE STABILITY OF THE INSURANCE MARKET IN
11 ARKANSAS; TO PROMOTE ECONOMIC AND PERSONAL HEALTH,
12 PERSONAL INDEPENDENCE, AND OPPORTUNITY FOR ARKANSANS
13 THROUGH PROGRAM PLANNING AND INITIATIVES; TO CREATE
14 THE ARKANSAS HEALTH AND OPPORTUNITY FOR ME ACT OF
15 2021 AND THE ARKANSAS HEALTH AND OPPORTUNITY FOR ME
16 PROGRAM; AND FOR OTHER PURPOSES.
17
18

Subtitle

19 TO AMEND TITLE 23 OF THE ARKANSAS CODE TO
20 ENSURE THE STABILITY OF THE INSURANCE
21 MARKET IN ARKANSAS; AND TO CREATE THE
22 ARKANSAS HEALTH AND OPPORTUNITY FOR ME
23 ACT OF 2021 AND THE ARKANSAS HEALTH AND
24 OPPORTUNITY FOR ME PROGRAM.
25
26
27

28 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
29

30 SECTION 1. Arkansas Code Title 23, Chapter 61, Subchapter 10 is
31 amended to read as follows:

32 Subchapter 10 – ~~Arkansas Works Act of 2016~~ Arkansas Health and Opportunity
33 for Me Act of 2021
34

35 23-61-1001. Title.

36 This subchapter shall be known and may be cited as the “~~Arkansas Works~~



1 ~~Act of 2016~~ Arkansas Health and Opportunity for Me Act of 2021".

2
3 23-61-1002. Legislative intent.

4 Notwithstanding any general or specific laws to the contrary, it is the
5 intent of the General Assembly for the ~~Arkansas Works Program~~ Arkansas Health
6 and Opportunity for Me Program to be a fiscally sustainable, cost-effective,
7 and opportunity-driven program that:

8 ~~(1) Empowers individuals to improve their economic security and~~
9 ~~achieve self-reliance;~~

10 ~~(2) Builds on private insurance market competition and value-~~
11 ~~based insurance purchasing models;~~

12 ~~(3) Strengthens the ability of employers to recruit and retain~~
13 ~~productive employees; and~~

14 ~~(4)~~(1) Achieves comprehensive and innovative healthcare reform
15 that reduces the rate of growth in state and federal obligations for
16 entitlement spending providing healthcare coverage to low-income adults in
17 Arkansas;

18 (2) Reduces the maternal and infant mortality rates in the state
19 through initiatives that promote healthy outcomes for eligible women with
20 high-risk pregnancies;

21 (3) Promotes the health, welfare, and stability of mothers and
22 their infants after birth through hospital-based community bridge
23 organizations;

24 (4) Encourages personal responsibility for individuals to
25 demonstrate that they value healthcare coverage and understand their roles
26 and obligations in maintaining private insurance coverage;

27 (5) Increases opportunities for full-time work and attainment of
28 economic independence, especially for certain young adults, to reduce long-
29 term poverty that is associated with additional risk for disease and
30 premature death;

31 (6) Addresses health-related social needs of Arkansans in rural
32 counties through hospital-based community bridge organizations and reduces
33 the additional risk for disease and premature death associated with living in
34 a rural county;

35 (7) Strengthens the financial stability of the critical access
36 hospitals and other small, rural hospitals; and

1 (8) Fills gaps in the continuum of care for individuals in need
2 of services for serious mental illness and substance use disorders.

3
4 23-61-1003. Definitions.

5 As used in this subchapter:

6 ~~(1) "Cost effective" means that the cost of covering employees~~
7 ~~who are:~~

8 ~~(A) Program participants, either individually or together~~
9 ~~within an employer health insurance coverage, is the same or less than the~~
10 ~~cost of providing comparable coverage through individual qualified health~~
11 ~~insurance plans; or~~

12 ~~(B) Eligible individuals who are not program participants,~~
13 ~~either individually or together within an employer health insurance coverage,~~
14 ~~is the same or less than the cost of providing comparable coverage through a~~
15 ~~program authorized under Title XIX of the Social Security Act, 42 U.S.C. §~~
16 ~~1396 et seq., as it existed on January 1, 2016;~~

17 (1) "Acute care hospital" means a hospital that:

18 (A) Is licensed by the Department of Health under § 20-9-
19 201 et seq., as a general hospital or a surgery and general medical care
20 hospital; and

21 (B) Is enrolled as a provider with the Arkansas Medicaid
22 Program;

23 (2) "Birthing hospital" means a hospital in this state or in a
24 border state that:

25 (A) Is licensed as a general hospital;

26 (B) Provides obstetrics services; and

27 (C) Is enrolled as a provider with the Arkansas Medicaid
28 Program;

29 (3) "Community bridge organization" means an organization that
30 is authorized by the Department of Human Services to participate in the
31 economic independence initiative or the health improvement initiative to:

32 (A) Screen and refer Arkansans to resources available in
33 their communities to address health-related social needs; and

34 (B) Assist eligible individuals identified as target
35 populations most at risk of disease and premature death and who need a higher
36 level of intervention to improve their health outcomes and succeed in meeting

1 their long-term goals to achieve independence, including economic
2 independence;

3 ~~(2)~~(4) “Cost sharing” means the portion of the cost of a covered
4 medical service that is required to be paid by or on behalf of an eligible
5 individual;

6 (5) "Critical access hospital" means an acute care hospital that
7 is:

8 (A) Designated by the Centers for Medicare and Medicaid
9 Services as a critical access hospital; and

10 (B) Is enrolled as a provider in the Arkansas Medicaid
11 Program;

12 (6) "Economic independence initiative" means an initiative
13 developed by the Department of Human Services that is designed to promote
14 economic stability by encouraging participation of program participants to
15 engage in full-time, full-year work, and to demonstrate the value of
16 enrollment in an individual qualified health insurance plan through
17 incentives and disincentives;

18 ~~(3)~~(7) “Eligible individual” means an individual who is in the
19 eligibility category created by section 1902(a)(10)(A)(i)(VIII) of the Social
20 Security Act, 42 U.S.C. § 1396a;

21 ~~(4)~~(8) “Employer health insurance coverage” means a health
22 insurance benefit plan offered by an employer or, as authorized by this
23 subchapter, an employer self-funded insurance plan governed by the Employee
24 Retirement Income Security Act of 1974, Pub. L. No. 93-406, as amended;

25 (9) "Health improvement initiative" means an initiative
26 developed by an individual qualified health insurance plan or the Department
27 of Human Services that is designed to encourage the participation of eligible
28 individuals in health assessments and wellness programs, including fitness
29 programs and smoking or tobacco cessation programs;

30 ~~(5)~~(10) “Health insurance benefit plan” means a policy,
31 contract, certificate, or agreement offered or issued by a health insurer to
32 provide, deliver, arrange for, pay for, or reimburse any of the costs of
33 healthcare services, but not including excepted benefits as defined under 42
34 U.S.C. § 300gg-91(c), as it existed on ~~January 1, 2016~~ January 1, 2021;

35 ~~(6)~~(11) “Health insurance marketplace” means the applicable
36 entities that were designed to help individuals, families, and businesses in

1 Arkansas shop for and select health insurance benefit plans in a way that
2 permits comparison of available plans based upon price, benefits, services,
3 and quality, and refers to either:

4 (A) The Arkansas Health Insurance Marketplace created
5 under the Arkansas Health Insurance Marketplace Act, § 23-61-801 et seq., or
6 a successor entity; or

7 (B) The federal health insurance marketplace or federal
8 health benefit exchange created under the Patient Protection and Affordable
9 Care Act, Pub. L. No. 111-148;

10 ~~(7)~~(12) "Health insurer" means an insurer authorized by the
11 State Insurance Department to provide health insurance or a health insurance
12 benefit plan in the State of Arkansas, including without limitation:

13 (A) An insurance company;

14 (B) A medical services plan;

15 (C) A hospital plan;

16 (D) A hospital medical service corporation;

17 (E) A health maintenance organization;

18 (F) A fraternal benefits society; ~~or~~

19 (G) Any other entity providing health insurance or a
20 health insurance benefit plan subject to state insurance regulation; or

21 (H) A risk-based provider organization licensed by the
22 Insurance Commissioner under § 20-77-2704;

23 (13) "Healthcare coverage" means coverage provided under this
24 subchapter through either an individual qualified health insurance plan, a
25 risk-based provider organization, employer health insurance coverage, or the
26 fee-for-service Arkansas Medicaid Program;

27 ~~(8)~~(14) "Individual qualified health insurance plan" means an
28 individual health insurance benefit plan offered by a health insurer ~~through~~
29 that participates in the health insurance marketplace to provide coverage in
30 Arkansas that covers only essential health benefits as defined by Arkansas
31 rule and 45 C.F.R. § 156.110 and any federal insurance regulations, as they
32 existed on ~~January 1, 2016~~ January 1, 2021;

33 (15) "Member" means a program participant who is enrolled in an
34 individual qualified health insurance plan;

35 ~~(9)~~(16) "Premium" means a monthly fee that is required to be
36 paid by or on behalf of an eligible individual to maintain some or all health

1 insurance benefits;

2 ~~(10)~~(17) "Program participant" means an eligible individual who:

3 (A) Is at least nineteen (19) years of age and no more
4 than sixty-four (64) years of age with an income that meets the income
5 eligibility standards established by rule of the Department of Human
6 Services;

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

10 (C) Is not eligible for Medicare or advanced premium tax
11 credits through the health insurance marketplace; and

12 (D) Is not determined ~~to be more effectively covered~~
13 ~~through the traditional Arkansas Medicaid Program, including without~~
14 ~~limitation, by the Department of Human Services to be medically frail or~~
15 ~~eligible for services through a risk-based provider organization;~~

16 ~~(i) An individual who is medically frail; or~~

17 ~~(ii) An individual who has exceptional medical needs~~
18 ~~for whom coverage offered through the health insurance marketplace is~~
19 ~~determined to be impractical, overly complex, or would undermine continuity~~
20 ~~or effectiveness of care; and~~

21 ~~(11)(A) "Small group plan" means a health insurance benefit plan~~
22 ~~for a small employer that employed an average of at least two (2) but no more~~
23 ~~than fifty (50) employees during the preceding calendar year.~~

24 ~~(B) "Small group plan" does not include a grandfathered~~
25 ~~health insurance plan as defined in 45 C.F.R. § 147.140(a)(1)(i), as it~~
26 ~~existed on January 1, 2016~~

27 (18) "Risk-based provider organization" means the same as
28 defined in § 20-77-2703; and

29 (19) "Small rural hospital" means a critical access hospital or
30 a general hospital that:

31 (A) Is located in a rural area;

32 (B) Has fifty (50) or fewer staffed beds; and

33 (C) Is enrolled as a provider in the Arkansas Medicaid
34 Program.

35

36 23-61-1004. Administration ~~of Arkansas Works Program.~~

1 (a)(1) The Department of Human Services, in coordination with the
2 State Insurance Department and other ~~necessary~~ state agencies, as necessary,
3 shall:

4 (A) ~~Provide health insurance or medical assistance~~
5 healthcare coverage under this subchapter to eligible individuals;

6 (B) Create and administer the ~~Arkansas Works Program~~
7 Arkansas Health and Opportunity for Me Program by:†

8 ~~(C)(i) Submit and apply~~ Applying for any federal waivers,
9 Medicaid state plan amendments, or other authority necessary to implement the
10 ~~Arkansas Works Program~~ Arkansas Health and Opportunity for Me Program in a
11 manner consistent with this subchapter; and

12 (ii) Administering the Arkansas Health and
13 Opportunity for Me Program as approved by the Centers for Medicare and
14 Medicaid Services;

15 (C)(i) Administer the economic independence initiative
16 designed to reduce the short-term effects of the work penalty and the long-
17 term effects of poverty on health outcomes among program participants through
18 incentives and disincentives.

19 (ii) The Department of Human Services shall align
20 the economic independence initiative with other state-administered work-
21 related programs to the extent practicable;

22 (D) Screen, refer, and assist eligible individuals through
23 community bridge organizations under agreements with the Department of Human
24 Services;

25 ~~(D)(E) Offer incentive benefits~~ incentives to promote
26 personal responsibility, individual health, and economic independence through
27 individual qualified health insurance plans and community bridge
28 organizations; and

29 ~~(E)(F) Seek a waiver to eliminate~~ reduce the period of
30 retroactive eligibility for an eligible individual under this subchapter to
31 thirty (30) days before the date of the application.

32 (2) The Governor shall request the assistance and involvement of
33 other state agencies that he or she deems necessary for the implementation of
34 the ~~Arkansas Works Program~~ Arkansas Health and Opportunity for Me Program.

35 (b) ~~Health insurance benefits~~ Healthcare coverage under this
36 subchapter shall be provided through enrollment in:

1 (1) ~~Individual premium assistance for enrollment of Arkansas~~
2 ~~Works Program participants in~~ An individual qualified health insurance plans
3 plan through a health insurer; and

4 (2) ~~Supplemental benefits to incentivize personal responsibility~~
5 A risk-based provider organization;

6 (3) An employer-sponsored health insurance coverage; or

7 (4) Fee-for-service Medicaid program.

8 (c) ~~The~~ Annually, ~~the~~ Department of Human Services, ~~the~~ State
9 ~~Insurance Department, the Division of Workforce Services, and other necessary~~
10 ~~state agencies shall promulgate and administer rules to implement the~~
11 ~~Arkansas Works Program,~~ shall develop purchasing guidelines that:

12 (1) Describe which individual qualified health insurance plans
13 are suitable for purchase in the next demonstration year, including without
14 limitation:

15 (A) The level of the plan;

16 (B) The amounts of allowable premiums;

17 (C) Cost sharing;

18 (D) Auto-assignment methodology; and

19 (E) The total per-member-per-month enrollment range; and

20 (2) Ensure that:

21 (A) Payments to an individual qualified health insurance
22 plan do not exceed budget neutrality limitations in each demonstration year;

23 (B) The total payments to all of the individual qualified
24 health insurance plans offered by the health insurers for eligible
25 individuals combined do not exceed budget targets for the Arkansas Health and
26 Opportunity for Me Program in each demonstration year that the Department of
27 Human Services may achieve by:

28 (i) Setting in advance an enrollment range to
29 represent the minimum and a maximum total monthly number of enrollees into
30 all individual qualified health insurance plans no later than April 30 of
31 each demonstration year in order for the individual qualified health
32 insurance plans to file rates for the following demonstration year;

33 (ii) Temporarily suspending auto-assignment into the
34 individual qualified health insurance plans at any time in a demonstration
35 year if necessary, to remain within the enrollment range and budget targets
36 for the demonstration year; and

1 (iii) Developing a methodology for random auto-
2 assignment of program participants into the individual qualified health
3 insurance plans after a suspension period has ended;

4 (C) Individual qualified health insurance plans meet and
5 report quality and performance measurement targets set by the Department of
6 Human Services; and

7 (D) At least two (2) health insurers offer individual
8 qualified health insurance plans in each county in the state.

9 (d)(1) The Department of Human Services, the State Insurance
10 Department, and each of the individual qualified health insurance plans shall
11 enter into a memorandum of understanding that shall specify the duties and
12 obligations of each party in the operation of the Arkansas Health and
13 Opportunity for Me Program, including provisions necessary to effectuate the
14 purchasing guidelines and reporting requirements, at least thirty (30)
15 calendar days before the annual open enrollment period.

16 (2) If a memorandum of understanding is not fully executed with
17 a health insurer by January 1 of each new demonstration year, the Department
18 of Human Services shall suspend auto-assignment of new members to the health
19 insurers until the first day of the month after the new memorandum of
20 understanding is fully executed.

21 (3) The memorandum of understanding shall include financial
22 sanctions determined appropriate by the Department of Human Services that may
23 be applied if the Department of Human Services determines that an individual
24 qualified health insurance plan has not met the quality and performance
25 measurement targets or any other condition of the memorandum of
26 understanding.

27 (4)(A) If the Department of Human Services determines that the
28 individual qualified health insurance plans have not met the quality and
29 health performance targets for two (2) years, the Department of Human
30 Services shall develop additional reforms to achieve the quality and health
31 performance targets.

32 (B) If legislative action is required to implement the
33 additional reforms described in subdivision (d)(4)(A) of this section, the
34 Department of Human Services may take the action to the Legislative Council
35 or the Executive Subcommittee of the Legislative Council for immediate
36 action.

1 (e) The Department of Human Services shall:

2 (1) Adopt premiums and cost sharing levels for individuals
3 enrolled in the Arkansas Health and Opportunity for Me Program, not to exceed
4 aggregate limits under 42 C.F.R. § 447.56;

5 (2)(A) Establish and maintain a process for premium payments,
6 advanced cost-sharing reduction payments, and reconciliation payments to
7 health insurers.

8 (B) The process described in subdivision (e)(2)(A) of this
9 section shall attribute any unpaid member liabilities as solely the financial
10 obligation of the individual member.

11 (C) The Department of Human Services shall not include any
12 unpaid individual member obligation in any payment or financial
13 reconciliation with health insurers or in a future premium rate; and

14 (3)(A) Calculate a total per-member-per-month amount for each
15 individual qualified health insurance plan based on all payments made by the
16 Department of Human Services on behalf of an individual enrolled in the
17 individual qualified health insurance plan.

18 (B)(i) The amount described in subdivision (e)(3)(A) of
19 this section shall include premium payments, advanced cost-sharing reduction
20 payments for services provided to covered individuals during the
21 demonstration year, and any other payments accruing to the budget neutrality
22 target for plan-enrolled individuals made during the demonstration year and
23 the member months for each demonstration year.

24 (ii) The total per-member-per-month upper limit is
25 the budget neutrality per-member-per-month limit established in the approved
26 demonstration for each demonstration year.

27 (C) If the Department of Human Services calculates that
28 the total per-member-per-month for an individual qualified health insurance
29 plan for that demonstration year exceeds the budget neutrality per-member-
30 per-month limit for that demonstration year, the Department of Human Services
31 shall not make any additional reconciliation payments to the health insurer
32 for that individual qualified health insurance plan.

33 (D) If the Department of Human Services determines that
34 the budget neutrality limit has been exceeded, the Department of Human
35 Services shall recover the excess funds from the health insurer for that
36 individual qualified health insurance plan.

1 ~~(d)(1)(f)(1) If the Within thirty (30) days of a reduction in federal~~
 2 ~~medical assistance percentages as described in this section for the Arkansas~~
 3 ~~Health and Opportunity for Me Program are reduced to below ninety percent~~
 4 ~~(90%), the Department of Human Services shall present to the Centers for~~
 5 ~~Medicare and Medicaid Services a plan within thirty (30) days of the~~
 6 ~~reduction to terminate the Arkansas Works Program Arkansas Health and~~
 7 ~~Opportunity for Me Program and transition eligible individuals out of the~~
 8 ~~Arkansas Works Program Arkansas Health and Opportunity for Me Program within~~
 9 ~~one hundred twenty (120) days of a the reduction in any of the following~~
 10 ~~federal medical assistance percentages:~~

11 ~~(A) Ninety five percent (95%) in the year 2017;~~

12 ~~(B) Ninety four percent (94%) in the year 2018;~~

13 ~~(C) Ninety three percent (93%) in the year 2019; and~~

14 ~~(D) Ninety percent (90%) in the year 2020 or any year~~
 15 ~~after the year 2020.~~

16 (2) An eligible individual shall maintain coverage during the
 17 process to implement the plan to terminate the ~~Arkansas Works Program~~
 18 Arkansas Health and Opportunity for Me Program and the transition of eligible
 19 individuals out of the ~~Arkansas Works Program~~ Arkansas Health and Opportunity
 20 for Me Program.

21 ~~(e) State obligations for uncompensated care shall be tracked and~~
 22 ~~reported to identify potential incremental future decreases.~~

23 ~~(f) The Department of Human Services shall track the hospital~~
 24 ~~assessment fee imposed by § 20-77-1902 and report to the General Assembly~~
 25 ~~subsequent decreases based upon reduced uncompensated care.~~

26 ~~(g)(1) On a quarterly basis, the Department of Human Services, the~~
 27 ~~State Insurance Department, the Division of Workforce Services, and other~~
 28 ~~necessary state agencies shall report to the Legislative Council, or to the~~
 29 ~~Joint Budget Committee if the General Assembly is in session, available~~
 30 ~~information regarding the overall Arkansas Works Program, including without~~
 31 ~~limitation:~~

32 ~~(A) Eligibility and enrollment;~~

33 ~~(B) Utilization;~~

34 ~~(C) Premium and cost sharing reduction costs;~~

35 ~~(D) Health insurer participation and competition;~~

36 ~~(E) Avoided uncompensated care; and~~

1 ~~(F) Participation in job training and job search programs.~~
2 ~~(2)(A)(g)(1)~~ A health insurer ~~who~~ that is providing an
3 individual qualified health insurance plan or employer health insurance
4 coverage for an eligible individual shall submit claims and enrollment data
5 to the ~~State Insurance Department~~ Department of Human Services to facilitate
6 reporting required under this subchapter or other state or federally required
7 reporting or evaluation activities.

8 ~~(B)(2)~~ A health insurer may utilize existing mechanisms
9 with supplemental enrollment information to fulfill requirements under this
10 subchapter, including without limitation the state's all-payer claims
11 database established under the Arkansas Healthcare Transparency Initiative
12 Act of 2015, § 23-61-901 et seq., for claims and enrollment data submission.

13 (h)(1) The Governor shall request a block grant under relevant federal
14 law and regulations for the funding of the Arkansas Medicaid Program as soon
15 as practical if the federal law or regulations change to allow the approval
16 of a block grant for this purpose.

17 (2) The Governor shall request a waiver under relevant federal
18 law and regulations for a work requirement as a condition of maintaining
19 coverage in the Arkansas Medicaid Program as soon as practical if the federal
20 law or regulations change to allow the approval of a waiver for this purpose.
21

22 23-61-1005. Requirements for eligible individuals.

23 ~~(a)(1) To promote health, wellness, and healthcare education about~~
24 ~~appropriate healthcare seeking behaviors, an eligible individual shall~~
25 ~~receive a wellness visit from a primary care provider within:~~

26 ~~(A) The first year of enrollment in health insurance~~
27 ~~coverage for an eligible individual who is not a program participant and is~~
28 ~~enrolled in employer health insurance coverage; and~~

29 ~~(B) The first year of, and thereafter annually:~~

30 ~~(i) Enrollment in an individual qualified health~~
31 ~~insurance plan or employer health insurance coverage for a program~~
32 ~~participant; or~~

33 ~~(ii) Notice of eligibility determination for an~~
34 ~~eligible individual who is not a program participant and is not enrolled in~~
35 ~~employer health insurance coverage.~~

36 ~~(2) Failure to meet the requirement in subdivision (a)(1) of~~

~~this section shall result in the loss of incentive benefits for a period of up to one (1) year, as incentive benefits are defined by the Department of Human Services in consultation with the State Insurance Department.~~

~~(b)(1) An eligible individual who has up to fifty percent (50%) of the federal poverty level at the time of an eligibility determination shall be referred to the Division of Workforce Services to:~~

~~(A) Incentivize and increase work and work training opportunities; and~~

~~(B) Participate in job training and job search programs.~~

~~(2) The Department of Human Services or its designee shall provide work training opportunities, outreach, and education about work and work training opportunities through the Division of Workforce Services to all eligible individuals regardless of income at the time of an eligibility determination.~~

(a) An eligible individual is responsible for all applicable cost-sharing and premium payment requirements as determined by the Department of Human Services.

(b) An eligible individual may participate in a health improvement initiative, as developed and implemented by either the eligible individual's individual qualified health insurance plan or the department.

(c)(1)(A) An eligible individual who is determined by the department to meet the eligibility criteria for a risk-based provider organization due to serious mental illness or substance use disorder shall be enrolled in a risk-based provider organization under criteria established by the department.

(B) An eligible individual who is enrolled in a risk-based provider organization is exempt from the requirements of subsections (a) and (b) of this section.

(2)(A) An eligible individual who is determined by the department to be medically frail shall receive healthcare coverage through fee-for-service Medicaid.

(B) An eligible individual who is enrolled in the fee-for-service Medicaid program is exempt from the requirements of subsection (a) of this section.

~~(e)(d)~~ An eligible individual shall receive notice that:

(1) The ~~Arkansas Works Program~~ Arkansas Health and Opportunity

1 for Me Program is not a perpetual federal or state right or a guaranteed
2 entitlement;

3 (2) ~~The Arkansas Works Program~~ Arkansas Health and Opportunity
4 for Me Program is subject to cancellation upon appropriate notice; ~~and~~

5 (3) ~~The Arkansas Works Program is not an entitlement program~~
6 Enrollment in an individual qualified health insurance plan is not a right;
7 and

8 (4) If the individual chooses not to participate or fails to
9 meet participation goals in the economic independence initiative, the
10 individual may lose incentives provided through enrollment in an individual
11 qualified health insurance plan or be unenrolled from the individual
12 qualified health insurance plan after notification by the department.

13
14 23-61-1006. Requirements for program participants.

15 ~~(a) A program participant who is twenty-one (21) years of age or older~~
16 ~~shall enroll in employer health insurance coverage if the employer health~~
17 ~~insurance coverage meets the standards in § 23-61-1008(a).~~

18 ~~(b)(1) A program participant who has income of at least one hundred~~
19 ~~percent (100%) of the federal poverty level shall pay a premium of no more~~
20 ~~than two percent (2%) of the income to a health insurer.~~

21 ~~(2) Failure by the program participant to meet the requirement~~
22 ~~in subdivision (b)(1) of this section may result in:~~

23 ~~(A) The accrual of a debt to the State of Arkansas; and~~

24 ~~(B)(i) The loss of incentive benefits in the event of~~
25 ~~failure to pay premiums for three (3) consecutive months, as incentive~~
26 ~~benefits are defined by the Department of Human Services in consultation with~~
27 ~~the State Insurance Department.~~

28 ~~(ii) However, incentive benefits shall be restored~~
29 ~~if a program participant pays all premiums owed.~~

30 (a) The economic independence initiative applies to all program
31 participants in accordance with the implementation schedule of the Department
32 of Human Services.

33 (b) Incentives established by the department for participation in the
34 economic independence initiative and the health improvement initiative may
35 include, without limitation, the waiver of premium payments and cost-sharing
36 requirements as determined by the department for participation in one (1) or

1 more initiatives.

2 (c) Failure by a program participant to meet the cost-sharing and
3 premium payment requirement under § 23-61-1005(a) may result in the accrual
4 of a personal debt to the health insurer or provider.

5 (d)(1)(A) Failure by the program participant to meet the initiative
6 participation requirements of subsection (b) of this section may result in:

7 (i) Being unenrolled from the individual qualified
8 health insurance plan; or

9 (ii) The loss of incentives, as defined by the
10 department.

11 (B) However, an individual who is unenrolled shall not
12 lose Medicaid healthcare coverage based solely on disenrollment from the
13 individual qualified health insurance plan.

14 (2) The department shall develop and notify program participants
15 of the criteria for restoring eligibility for incentive benefits that were
16 removed as a result of the program participants' failure to meet the
17 initiative participation requirements of subsection (b) of this section.

18 (3)(A) A program participant who also meets the criteria of a
19 community bridge organization target population may qualify for additional
20 incentives by successfully completing the economic independence initiative
21 provided through a community bridge organization.

22 (B) If successfully completing the initiative results in
23 an increase in the program participant's income that exceeds the program's
24 financial eligibility limits, a program participant may receive, for a
25 specified period of time, financial assistance to pay:

26 (i) The individual's share of employer-sponsored
27 health insurance coverage not to exceed a limit determined by the department;
28 or

29 (ii) A share of the individual's cost sharing
30 obligation, as determined by the department, if the individual enrolls in a
31 health insurance benefit plan offered through the Arkansas Health Insurance
32 Marketplace.

33
34 23-61-1007. Insurance standards for individual qualified health
35 insurance plans.

36 (a) Insurance coverage for a ~~program participant~~ member enrolled in an

1 individual qualified health insurance plan shall be obtained, at a minimum,
2 through silver-level metallic plans as provided in 42 U.S.C. § 18022(d) and §
3 18071, as they existed on ~~January 1, 2016~~ January 1, 2021, that restrict out-
4 of-pocket costs to amounts that do not exceed applicable out-of-pocket cost
5 limitations.

6 ~~The Department of Human Services shall pay premiums and~~
7 ~~supplemental cost sharing reductions directly to a health insurer for a~~
8 ~~program participant enrolled in an individual qualified health insurance plan~~
9 As provided under § 23-61-1004(e)(2), health insurers shall track the
10 applicable premium payments and cost sharing collected from members to ensure
11 that the total amount of an individual's payments for premiums and cost
12 sharing does not exceed the aggregate cap imposed by 42 C.F.R. § 447.56.

13 ~~All participating health insurers offering individual qualified~~
14 ~~health insurance plans in the health insurance marketplace~~ All health benefit
15 plans purchased by the Department of Human Services shall:

16 ~~(1)(A) Offer individual qualified health insurance plans~~
17 ~~conforming~~ Conform to the requirements of this section and applicable
18 insurance rules;

19 ~~(B)(2) Be certified by the State Insurance Department;~~
20 ~~The individual qualified health insurance plans shall be approved by the~~
21 ~~State Insurance Department; and~~

22 ~~(2)(3)(A) Maintain a medical-loss ratio of at least eighty~~
23 ~~percent (80%) for an individual qualified health insurance plan as required~~
24 ~~under 45 C.F.R. § 158.210(c), as it existed on January 1, 2016~~ January 1,
25 2021, or rebate the difference to the Department of Human Services for
26 program participants members.

27 (B) However, the Department of Human Services may approve
28 up to one percent (1%) of revenues as community investments and as benefit
29 expenses in calculating the medical-loss ratio of a plan in accordance with
30 45 C.F.R. § 158.150;

31 (4) Develop:

32 (A) An annual quality assessment and performance
33 improvement strategic plan to be approved by the Department of Human Services
34 that aligns with federal quality improvement initiatives and quality and
35 reporting requirements of the Department of Human Services; and

36 (B) Targeted initiatives based on requirements established

1 by the Department of Human Services in consultation with the Department of
2 Health; and

3 (5) Make reports to the Department of Human Service and the
4 Department of Health regarding quality and performance metrics in a manner
5 and frequency established by a memorandum of understanding.

6 ~~(d) The State of Arkansas shall assure that at least two (2)~~
7 ~~individual qualified health insurance plans are offered in each county in the~~
8 ~~state.~~

9 ~~(e)(d)~~ A health insurer offering individual qualified health insurance
10 plans for ~~program participants~~ members shall participate in the Arkansas
11 Patient-Centered Medical Home Program, including:

12 (1) Attributing enrollees in individual qualified health
13 insurance plans, including ~~program participants~~ members, to a primary care
14 physician;

15 (2) Providing financial support to patient-centered medical
16 homes to meet practice transformation milestones; and

17 (3) Supplying clinical performance data to patient-centered
18 medical homes, including data to enable patient-centered medical homes to
19 assess the relative cost and quality of healthcare providers to whom patient-
20 centered medical homes refer patients.

21 (e)(1) Each individual qualified health insurance plan shall provide
22 for a health improvement initiative, subject to the review and approval of
23 the Department of Human Services, to provide incentives to its enrolled
24 members to participate in one (1) or more health improvement programs as
25 defined in § 23-61-1003(9).

26 (2)(A) The Department of Human Services shall work with health
27 insurers offering individual qualified health insurance plans to ensure the
28 economic independence initiative offered by the health insurer includes a
29 robust outreach and communications effort which targets specific health,
30 education, training, employment, and other opportunities appropriate for its
31 enrolled members.

32 (B) The outreach and communications effort shall recognize
33 that enrolled members receive information from multiple channels, including
34 without limitation:

35 (i) Community service organizations;

36 (ii) Local community outreach partners;

1 (iii) Email;

2 (iv) Radio;

3 (v) Religious organizations;

4 (vi) Social media;

5 (vii) Television;

6 (viii) Text message; and

7 (ix) Traditional methods such as newspaper or mail.

8 (f) On or before ~~January 1, 2017~~ January 1, 2022, the State Insurance
9 Department and the Department of Human Services may implement through
10 certification requirements or rule, or both, the applicable provisions of
11 this section.

12
13 ~~23-61-1008. [Expired.]~~

14
15 23-61-1009. Sunset.

16 This subchapter shall expire on ~~December 31, 2021~~ December 31, 2026.

17
18 23-61-1010. Community bridge organizations.

19 (a) The Department of Human Services shall develop requirements and
20 qualifications for community bridge organizations to provide assistance to
21 one (1) or more of the following target populations

22 (1) Individuals who become pregnant with a high-risk pregnancy
23 and the child, throughout the pregnancy and up to twenty-four (24) months
24 after birth;

25 (2) Individuals in rural areas of the state in need of treatment
26 for serious mental illness or substance use disorder;

27 (3) Individuals who are young adults most at risk of poor health
28 due to long-term poverty and who meet criteria established by the Department
29 of Human Services, including without limitation the following:

30 (A) An individual between nineteen (19) and twenty-four
31 (24) years of age who has been previously placed under the supervision of
32 the:

33 (i) Division of Youth Services; or

34 (ii) Department of Corrections;

35 (B) An individual between nineteen (19) and twenty-seven
36 (27) years of age who has been previously placed under the supervision of the

1 Division of Children and Family Services; or

2 (C) An individual between nineteen (19) and thirty (30)
3 years of age who is a veteran; and

4 (4) Any other target populations identified by the Department of
5 Human Services.

6 (b)(1) Each community bridge organization shall be administered by a
7 hospital under conditions established by the Department of Human Services.

8 (2) A hospital is eligible to serve eligible individuals under
9 subdivision (a)(1) of this section if the hospital:

10 (A) Is a birthing hospital;

11 (B) Provides or contracts with a qualified entity for the
12 provision of a federally recognized evidence-based home visitation model to a
13 woman during pregnancy and to the woman and child for a period of up to
14 twenty-four (24) months after birth; and

15 (C) Meets any additional criteria established by the
16 Department of Human Services.

17 (3)(A) A hospital is eligible to serve eligible individuals
18 under subdivision (a)(2) of this section if the hospital:

19 (i) Is a small rural hospital;

20 (ii) Screens all Arkansans who seek services at the
21 hospital for health-related social needs;

22 (iii) Refers Arkansans identified as having health-
23 related social needs for social services available in the community;

24 (iv) Employs local qualified staff to assist
25 eligible individuals in need of treatment for serious mental illness or
26 substance use disorder in accessing medical treatment from healthcare
27 professionals and supports to meet health-related social needs;

28 (v) Enrolls with Arkansas Medicaid Program as an
29 acute crisis unit provider; and

30 (vi) Meets any additional criteria established by
31 the Department of Human Services.

32 (B) The hospital may use funding available through the
33 Department of Human Services to improve the hospital's ability to deliver
34 care through coordination with other healthcare professionals and with the
35 local emergency response system that may include training of personnel and
36 improvements in equipment to support the delivery of medical services through

1 telemedicine.

2 (4) A hospital is eligible to serve eligible individuals under
3 subdivision (a)(3) of this section if the hospital:

4 (A) Is an acute care hospital;

5 (B) Administers or contracts for the administration
6 programs using proven models, as defined by the Department of Human Services,
7 to provide employment, training, education, or other social supports; and

8 (C) Meets any additional criteria established by the
9 Department of Human Services.

10 (c) An individual is not required or entitled to enroll in a community
11 bridge organization as a condition of Medicaid eligibility.

12 (d) A hospital is not:

13 (1) Required to apply to become a community bridge organization;

14 or

15 (2) Entitled to be selected as a community bridge organization.

16
17 23-61-1011. Health and Economic Outcomes Accountability Oversight
18 Advisory Panel.

19 (a) There is created the Health and Economic Outcomes Accountability
20 Oversight Advisory Panel.

21 (b) The advisory panel shall be composed of the following members:

22 (1) The following members of the General Assembly:

23 (A) The Chair of the Senate Committee on Public Health,
24 Welfare, and Labor;

25 (B) The Chair of the House Committee on Public Health,
26 Welfare, and Labor;

27 (C) The Chair of the Senate Committee on Education;

28 (D) The Chair of the House Committee on Education;

29 (E) The Chair of the Senate Committee on Insurance and
30 Commerce;

31 (F) The Chair of the House Committee on Insurance and
32 Commerce;

33 (G) An at-large member of the Senate appointed by the
34 President Pro Tempore of the Senate;

35 (H) An at-large member of the House of Representatives
36 appointed by the Speaker of the House of Representatives;

1 (I) An at-large member of the Senate appointed by the
2 minority leader of the Senate; and

3 (J) An at-large member of the House of Representatives
4 appointed by the minority leader of the House of Representatives;

5 (2) The Secretary of the Department of Human Services;

6 (3) The Arkansas Surgeon General;

7 (4) The Insurance Commissioner;

8 (5) The heads of the following executive branch agencies or
9 their designees;

10 (A) Department of Health;

11 (B) Department of Education;

12 (C) Department of Corrections;

13 (D) Department of Commerce; and

14 (E) Department of Finance and Administration;

15 (6) The Director of the Arkansas Minority Health Commission; and

16 (7)(A) Three (3) community members who represent health,
17 business, or education, who reflect the broad racial and geographic diversity
18 in the state, and who have demonstrated a commitment to improving the health
19 and welfare of Arkansans, appointed as follows;

20 (i) One (1) member shall be appointed by and serve
21 at the will of the Governor;

22 (ii) One (1) member shall be appointed by and serve
23 at the will of the President Pro Tempore of the Senate; and

24 (iii) One (1) member shall be appointed by and serve
25 at the will of the Speaker of the House of Representatives.

26 (B) Members serving under subdivision (b)(6)(A) of this
27 section may receive mileage reimbursement.

28 (c)(1) The Secretary of the Department of Human Services and one (1)
29 legislative member shall serve as the co-chairs of the Health and Economic
30 Outcomes Accountability Oversight Advisory Panel and shall convene meetings
31 quarterly of the advisory panel.

32 (2) The legislative member who serves as the co-chair shall be
33 selected by majority vote of all legislative members serving on the advisory
34 panel.

35 (d)(1) The advisory panel shall review, make nonbinding
36 recommendations, and provide advice concerning the proposed quality

1 performance targets presented by the Department of Human Services for each
2 participating individual qualified health insurance plan.

3 (2) The advisory panel shall deliver all nonbinding
4 recommendations to the Secretary of the Department of Human Services.

5 (3)(A) The Secretary of the Department of Human Services, in
6 consultation with the State Medicaid Director, shall determine all quality
7 performance targets for each participating individual qualified health
8 insurance plan.

9 (B) The Secretary may consider the nonbinding
10 recommendations of the advisory panel when determining quality performance
11 targets for each participating individual qualified health insurance plan.

12 (e) The advisory panel shall review:

13 (1) The annual quality assessment and performance improvement
14 strategic plan for each participating individual qualified health insurance
15 plan;

16 (2) Financial performance of the Arkansas Health and Opportunity
17 for Me Program against the budget neutrality targets in each demonstration
18 year;

19 (3) Quarterly reports prepared by the Department of Human
20 Services, in consultation with the Department of Commerce, on progress
21 towards meeting economic independence outcomes and health improvement
22 outcomes, including without limitation:

23 (A) Community bridge organization outcomes;

24 (B) Individual qualified health insurance plan health
25 improvement outcomes;

26 (C) Economic independence initiative outcomes; and

27 (D) Any sanctions or penalties assessed on participating
28 Individual qualified health insurance plans;

29 (4) Quarterly reports prepared by the Department of Human
30 Services on the Arkansas Health and Opportunity for Me Program, including
31 without limitation:

32 (A) Eligibility and enrollment;

33 (B) Utilization;

34 (C) Premium and cost-sharing reduction costs; and

35 (D) Health insurer participation and competition; and

36 (5) Any other topics as requested by the Secretary of the

1 Department of Human Services.

2 (f)(1) The advisory panel may furnish advice, gather information, make
3 recommendations, and publish reports.

4 (2) However, the advisory panel shall not administer any portion
5 of the Arkansas Health and Opportunity for Me Program or set policy.

6 (g) The Department of Human Services shall provide administrative
7 support necessary for the advisory panel to perform its duties.

8 (h) The Department of Human Services shall produce and submit a
9 quarterly report incorporating the advisory panel's findings to the President
10 Pro Tempore of the Senate, the Speaker of the House of Representatives, and
11 the public on the progress in health and economic improvement resulting from
12 the Arkansas Health and Opportunity for Me Program, including without
13 limitation:

14 (1) Eligibility and enrollment;

15 (2) Participation in and the impact of the economic independence
16 initiative and the health improvement initiative of the eligible individuals,
17 health insurers, and community bridge organizations;

18 (3) Utilization of medical services;

19 (4) Premium and cost-sharing reduction costs; and

20 (5) Health insurer participation and completion.

21
22 20-61-1012. Rules.

23 The Department of Human Services shall adopt rules necessary to
24 implement this subchapter.

25
26 SECTION 2. Arkansas Code § 19-5-984(b)(2)(D), concerning the Division
27 of Workforce Services Special Fund, is amended to read as follows:

28 (D) ~~The Arkansas Works Act of 2016~~ Arkansas Health and
29 Opportunity for Me Act of 2021, § 23-61-1001 et seq., or its successor; and
30

31 SECTION 3. Arkansas Code § 19-5-1146 is amended to read as follows:

32 19-5-1146. ~~Arkansas Works Program~~ Arkansas Health and Opportunity for
33 Me Program Trust Fund.

34 (a) There is created on the books of the Treasurer of State, the
35 Auditor of State, and the Chief Fiscal Officer of the State a trust fund to
36 be known as the ~~“Arkansas Works Program~~ Arkansas Health and Opportunity for

1 Me Program Trust Fund”.

2 (b) The fund shall consist of:

3 (1) Moneys saved and accrued under the ~~Arkansas Works Act of~~
4 2016 Arkansas Health and Opportunity for Me Act of 2021, § 23-61-1001 et
5 seq., including without limitation:

6 (A) Increases in premium tax collections; and

7 (B) Other spending reductions resulting from the ~~Arkansas~~
8 ~~Works Act of 2016~~ Arkansas Health and Opportunity for Me Act of 2021, § 23-
9 61-1001 et seq.; and

10 (2) Other revenues and funds authorized by law.

11 (c) The Department of Human Services shall use the fund to pay for
12 future obligations under the ~~Arkansas Works Program~~ Arkansas Health and
13 Opportunity for Me Program created by the ~~Arkansas Works Act of 2016~~ Arkansas
14 Health and Opportunity for Me Act of 2021, § 23-61-1001 et seq.

15

16 SECTION 4. Arkansas Code § 23-61-803(h), concerning the creation of
17 the Arkansas Health Insurance Marketplace, is amended to read as follows:

18 (h) The State Insurance Department and any eligible entity under
19 subdivision ~~(e)(1)~~ (e)(2) of this section shall provide claims and other plan
20 and enrollment data to the Department of Human Services upon request to:

21 (1) Facilitate compliance with reporting requirements under
22 state and federal law; and

23 (2) Assess the performance of the ~~Arkansas Works Program~~
24 Arkansas Health and Opportunity for Me Program established by the ~~Arkansas~~
25 ~~Works Act of 2016~~ Arkansas Health and Opportunity for Me Act of 2021, § 23-
26 61-1001 et seq., including without limitation the program’s quality, cost,
27 and consumer access.

28

29 SECTION 5. Arkansas Code § 23-79-1601(2)(A), concerning the definition
30 of "health benefit plan" regarding coverage provided through telemedicine, is
31 amended to read as follows:

32 (2)(A) “Health benefit plan” means:

33 (i) An individual, blanket, or group plan, policy,
34 or contract for healthcare services issued or delivered by an insurer, health
35 maintenance organization, hospital medical service corporation, or self-
36 insured governmental or church plan in this state; and

1 (ii) Any health benefit program receiving state or
2 federal appropriations from the State of Arkansas, including the Arkansas
3 Medicaid Program, ~~the Health Care Independence Program [expired], commonly~~
4 ~~referred to as the "Private Option", and the Arkansas Works Program~~ Arkansas
5 Health and Opportunity for Me Program, or any successor program.

6
7 SECTION 6. Arkansas Code § 23-79-1801(1)(A), concerning the definition
8 of "health benefit plan" regarding coverage for newborn screening for spinal
9 muscular atrophy, is amended to read as follows:

10 (1)(A) "Health benefit plan" means:

11 (i) An individual, blanket, or group plan, policy,
12 or contract for healthcare services issued or delivered by an insurer, health
13 maintenance organization, hospital medical service corporation, or self-
14 insured governmental or church plan in this state; and

15 (ii) Any health benefit program receiving state or
16 federal appropriations from the State of Arkansas, including the Arkansas
17 Medicaid Program, ~~the Health Care Independence Program [expired], commonly~~
18 ~~referred to as the "Private Option", and the Arkansas Works Program~~ Arkansas
19 Health and Opportunity for Me Program, or any successor program.

20
21 SECTION 7. Arkansas Code § 26-57-604(a)(1)(B)(ii), concerning the
22 remittance of the insurance premium tax, is amended to read as follows:

23 (ii) However, the credit shall not be applied as an
24 offset against the premium tax on collections resulting from an eligible
25 individual insured under the ~~Health Care Independence Act of 2013, § 20-77-~~
26 ~~2401 et seq. [repealed], the Arkansas Works Act of 2016~~ Arkansas Health and
27 Opportunity for Me Act of 2021, § 23-61-1001 et seq., the Arkansas Health
28 Insurance Marketplace Act, § 23-61-801 et seq., or individual qualified
29 health insurance plans, including without limitation stand-alone dental
30 plans, issued through the health insurance marketplace as defined by § 23-61-
31 1003.

32
33 SECTION 8. Arkansas Code § 26-57-610(b)(2), concerning the disposition
34 of the insurance premium tax, is amended to read as follows:

35 (2) The taxes based on premiums collected under the ~~Health Care~~
36 ~~Independence Act of 2013, § 20-77-2401 et seq. [repealed], the Arkansas Works~~

1 ~~Act of 2016~~ Arkansas Health and Opportunity for Me Act of 2021, § 23-61-1001
2 et seq., the Arkansas Health Insurance Marketplace Act, § 23-61-801 et seq.,
3 or individual qualified health insurance plans, including without limitation
4 stand-alone dental plans, issued through the health insurance marketplace as
5 defined by § 23-61-1003 shall be:

6 (A) At the time of deposit, separately certified by the
7 commissioner to the Treasurer of State for classification and distribution
8 under this section; and

9 (B) Transferred to the ~~Arkansas Works Program~~ Arkansas
10 Health and Opportunity for Me Program Trust Fund and used as required by the
11 ~~Arkansas Works Program~~ Arkansas Health and Opportunity for Me Program Trust
12 Fund;

13
14 SECTION 9. EFFECTIVE DATE.

15 This act is effective on and after January 1, 2022.

16
17 /s/Irvin
18

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20 APPROVED: 4/1/21
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