

## Medicaid Expansion / Health Insurance Exchange

This act expands Medicaid under the Affordable Care Act through the “private option” of policies offered on the state Health Insurance Exchange. The act allows low-income individuals to buy private insurance with Medicaid funding.

Submitted as:

Arkansas

[HB 1219](#) (Section 21)

Status: Signed into law on April 23, 2013.

### Suggested State Legislation

(Title, enacting clause, etc.)

- 1 Section 1. [*Short Title.*] Health Care Independence Act of 2013.  
2
- 3 Section 2. [*Legislative intent.*]
- 4 (a) Notwithstanding any general or specific laws to the contrary, the Department of Human  
5 Services is to explore design options that reform the Medicaid Program utilizing the Health  
6 Care Independence Act of 2013 so that it is a fiscally sustainable, cost-effective, personally  
7 responsible, and opportunity-driven program utilizing competitive and value-based  
8 purchasing to:
- 9 (1) Maximize the available service options;  
10 (2) Promote accountability, personal responsibility, and transparency;  
11 (3) Encourage and reward healthy outcomes and responsible choices; and  
12 (4) Promote efficiencies that will deliver value to the taxpayers.
- 13 (b) (1) It is the intent of the General Assembly that the State of Arkansas through the  
14 [Department of Human Services] shall utilize a private insurance option for low-risk adults.  
15 (2) The Health Care Independence Act of 2013 shall ensure that:
- 16 (A) Private health care options increase and government-operated programs such as  
17 Medicaid decrease; and  
18 (B) Decisions about the design, operation and implementation of this option, including  
19 cost, remain within the purview of the State of Arkansas and not with Washington,  
20 D.C.  
21
- 22 Section 3. [*Purpose.*]
- 23 (a) The purpose of this subchapter is to:
- 24 (1) Improve access to quality health care;  
25 (2) Attract insurance carriers and enhance competition in the Arkansas insurance  
26 marketplace;  
27 (3) Promote individually-owned health insurance;  
28 (4) Strengthen personal responsibility through cost-sharing;  
29 (5) Improve continuity of coverage;  
30 (6) Reduce the size of the state-administered Medicaid program;  
31 (7) Encourage appropriate care, including early intervention, prevention, and wellness;

- 1 (8) Increase quality and delivery system efficiencies;  
2 (9) Facilitate Arkansas's continued payment innovation, delivery system reform, and market-  
3 driven improvements;  
4 (10) Discourage over-utilization; and  
5 (11) Reduce waste, fraud, and abuse.  
6 (b) The [State] shall take an integrated and market-based approach to covering low-income  
7 Arkansans through offering new coverage opportunities, stimulating market competition, and  
8 offering alternatives to the existing Medicaid program.  
9

10 Section 4. *[Definitions.]*

11 As used in this subchapter:

- 12 (1) "Carrier" means a private entity certified by the [State Insurance Department] and offering  
13 plans through the Health Insurance Marketplace;  
14 (2) "Cost sharing" means the portion of the cost of a covered medical service that must be paid  
15 by or on behalf of eligible individuals, consisting of copayments or coinsurance but not  
16 deductibles;  
17 (3) "Eligible individuals" means individuals who:  
18 (A) Are adults between nineteen (19) years of age and sixty-five (65) years of age with an  
19 income that is equal to or less than one hundred thirty-eight percent (138%) of the federal  
20 poverty level, including without limitation individuals who would not be eligible for  
21 Medicaid under laws and rules in effect on January 1, 2013;  
22 (B) Have been authenticated to be a United States citizen or documented qualified alien  
23 according to the federal Personal Responsibility and Work Opportunity Reconciliation  
24 Act of 1996, Pub. L. No. 104-193, as existing on January 1, 2013; and  
25 (C) Are not determined to be more effectively covered through the standard Medicaid  
26 program, such as an individual who is medically frail or other individuals with  
27 exceptional medical needs for whom coverage through the Health Insurance Marketplace  
28 is determined to be impractical, overly complex, or would undermine continuity or  
29 effectiveness of care;  
30 (4) "Healthcare coverage" means healthcare benefits as defined by certification or rules, or both,  
31 promulgated by the [State Insurance Department for the Qualified Health Plans] or available  
32 on the marketplace;  
33 (5) "Health Insurance Marketplace" means the vehicle created to help individuals, families, and  
34 small businesses in [State] shop for and select health insurance coverage in a way that  
35 permits comparison of available Qualified Health Plan based upon price, benefits, services,  
36 and quality, regardless of the governance structure of the marketplace;  
37 (6) "Premium" means a charge that must be paid as a condition of enrolling in health care  
38 coverage;  
39 (7) "Program" means the Health Care Independence Program established by this subchapter; and  
40 (8) "Qualified Health Plan" means a [State Insurance Department] certified individual health  
41 insurance plan offered by a carrier through the Health Insurance Marketplace.

1 Section 5. *[Administration of the Health Care Independence Program.]*

- 2 (a) The [Department of Human Services] shall:
- 3 (1) Create and administer the Health Care Independence Program; and
- 4 (2) Submit Medicaid State Plan Amendments and apply for any federal waivers necessary to
- 5 implement the program in a manner consistent with this subchapter.
- 6 (b)
- 7 (1) Implementation of the program is conditioned upon the receipt of necessary federal
- 8 approvals.
- 9 (2) If the [Department of Human Services] does not receive the necessary federal approvals,
- 10 the program shall not be implemented.
- 11 (c) The program shall include premium assistance for eligible individuals to enable their
- 12 enrollment in a Qualified Health Plan through the Health Insurance Marketplace.
- 13 (d)
- 14 (1) The [Department of Human Services] is specifically authorized to pay premiums and
- 15 supplemental cost-sharing subsidies directly to the Qualified Health Plans for enrolled
- 16 eligible individuals.
- 17 (2) The intent of the payments under subdivision (d)(1) of this section is to increase
- 18 participation and competition in the health insurance market, intensify price pressures,
- 19 and reduce costs for both publicly and privately funded health care.
- 20 (e) To the extent allowable by law:
- 21 (1) The [Department of Human Services] shall pursue strategies that promote insurance
- 22 coverage of children in their parents' or caregivers' plan, including children eligible for
- 23 the [ARKids First Program Act], commonly known as the ["ARKids B program"]; and
- 24 (2) Upon the receipt of necessary federal approval, during calendar year [2015] the
- 25 [Department of Human Services] shall include and transition to the Health Insurance
- 26 Marketplace:
- 27 (A) Children eligible for the [ ARKids First Program Act]; and
- 28 (B) Populations under Medicaid from zero percent (0%) of the federal poverty level to
- 29 seventeen percent (17%) of the federal poverty level.
- 30 (3) The [Department of Human Services] shall develop and implement a strategy to inform
- 31 Medicaid recipient populations whose needs would be reduced or better served through
- 32 participation in the Health Insurance Marketplace.
- 33 (f) The program shall include allowable cost sharing for eligible individuals that is comparable
- 34 to that for individuals in the same income range in the private insurance market and is
- 35 structured to enhance eligible individuals' investment in their health care purchasing
- 36 decisions.
- 37 (g)
- 38 (1) The [State Insurance Department and Department of Human Services] shall administer
- 39 and promulgate rules to administer the program authorized under this subchapter.
- 40 (2) No less than thirty (30) days before the [State Insurance Department and Department of
- 41 Human Services] begin promulgating a rule under this subchapter, the proposed rule shall
- 42 be presented to the [Legislative Council.]
- 43 (h) The program authorized under this subchapter shall terminate within one hundred twenty
- 44 (120) days after a reduction in any of the following federal medical assistance percentages:
- 45 (1) One hundred percent (100%) in 2014, 2015, or 2016;
- 46 (2) Ninety-five percent (95%) in 2017;

- 1 (3) Ninety-four percent (94%) in 2018;
- 2 (4) Ninety-three percent (93%) in 2019; and
- 3 (5) Ninety percent (90%) in 2020 or any year after 2020.

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

- 5 (1) The program is not a perpetual federal or state right or a guaranteed entitlement;
- 6 (2) The program is subject to cancellation upon appropriate notice; and
- 7 (3) The program is not an entitlement program.

8 (j)

- 9 (1) The [Department of Human Services] shall develop a model and seek approval from the
- 10 Center for Medicare and Medicaid Services to allow a limited number of enrollees to
- 11 participate in a pilot program testing the viability of a Health Savings Account or a
- 12 Medical Savings Account.
- 13 (2) The pilot program shall be implemented during calendar year 2015.
- 14 (3) As soon as practicable, the [Department of Human Services] shall seek conditional
- 15 federal approval to place Health Saving Accounts and Medical Savings Accounts on the
- 16 Health Insurance Marketplace.

17 (k)

- 18 (1) State obligations for uncompensated care shall be projected, tracked, and reported to
- 19 identify potential incremental future decreases.
- 20 (2) The [Department of Human Services] shall recommend appropriate adjustments to the
- 21 General Assembly.
- 22 (3) Adjustments shall be made by the General Assembly as appropriate.

23 (l) The [Department of Human Services] shall track the Hospital Assessment Fee as [Insert

24 citation] and report to the General Assembly subsequent decreases based upon reduced

25 uncompensated care.

26 (m) On a quarterly basis, the [Department of Human Services and the State Insurance

27 Department] shall report to the [Legislative Council] or to the [Joint Budget Committee] if

28 the General Assembly is in session, available information regarding:

- 29 (1) Program enrollment;
- 30 (2) Patient experience;
- 31 (3) Economic impact including enrollment distribution;
- 32 (4) Carrier competition; and
- 33 (5) Avoided uncompensated care.

34

35 Section 6. [*Standards of healthcare coverage through the Health Insurance Marketplace.*]

- 36 (a) Healthcare coverage shall be achieved through a qualified health plan at the silver level as
- 37 provided in 42 U.S.C. §§ 18022 and 18071, as existing on January 1, 2013, that restricts cost
- 38 sharing to amounts that do not exceed Medicaid cost-sharing limitations.
- 39 (b) All participating carriers in the Health Insurance Marketplace shall offer healthcare coverage
- 40 conforming to the requirements of this subchapter.
- 41 (c) To assure price competitive choice among healthcare coverage options, the [State Insurance
- 42 Department] shall assure that at least two (2) qualified health plans are offered in each county
- 43 in the state.
- 44 (d) Health insurance carriers offering health care coverage for program eligible individuals shall
- 45 participate in Arkansas Payment Improvement Initiatives including:
- 46 (1) Assignment of primary care clinician;

- 1 (2) Support for patient-centered medical home; and  
2 (3) Access of clinical performance data for providers.  
3 (e) On or before July 1, 2013, the [State Insurance Department] shall implement through  
4 certification requirements, rule, or both the applicable provisions of this subchapter.  
5

6 Section 7. [*Enrollment.*]

- 7 (a) The General Assembly shall assure that a mechanism within the Health Insurance  
8 Marketplace is established and operated to facilitate enrollment of eligible individuals.  
9 (b) The enrollment mechanism shall include an automatic verification system to guard against  
10 waste, fraud, and abuse in the program.  
11

12 Section 8. [*Severability.*] Insert severability clause.  
13

14 Section 9. [*Repealer.*] Insert repealer clause.  
15

16 Section 10. [*Effective Date.*] Insert effective date.  
17