

ARKANSAS REGISTER

Transmittal Sheet

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For Office

Use Only:

Effective Date _____ Code Number _____

Name of Agency Arkansas Insurance Department

Department Arkansas Department of Commerce

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Statutory Authority for Promulgating Rules Ark. Code Ann. §23-66-216 (Act 580 of 2023; A.C.A 23-61-108 (a))

Rule Title: Rule 69 - Establishment of Audit Process Concerning Qualified Payment Amounts for No Surprises Act

Intended Effective Date

(Check One)

☐ Emergency (ACA 25-15-204)

☒ 10 Days After Filing (ACA 25-15-204)

☐ Other _____
(Must be more than 10 days after filing date.)

Legal Notice Published

Final Date for Public Comment

Reviewed by Legislative Council

Adopted by State Agency

Date

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November 14, 2023

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01/04/2024

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Clara D. Mezza

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01/05/2024

Contact Person

E-mail Address

Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Clara D. Mezza
Signature

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Title

01/05/2024

Date

RULE 69

ESTABLISHMENT OF AUDIT PROCESS CONCERNING QUALIFIED PAYMENT AMOUNTS FOR NO SURPRISES ACT

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Section 1. Authority

This Rule is issued pursuant to the authority granted the Arkansas Insurance Commissioner ("Commissioner") under Ark. Code Ann. § 23-61-108(a)(1) and by Ark. Code Ann. § 23-61-108(b)(1) to promulgate rules necessary for the effective regulation of the business of insurance and as required for this State to be in compliance with federal laws, namely the No Surprises Act (NSA) of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-120, and Act 580 of 2023, codified as A.C.A. §23-66-216.

Section 2. Purpose

The purpose of this Rule is to authorize the Commissioner to establish an effective state audit process to ensure compliance with the requirements of the NSA related to the determination and development of methodology concerning the calculation of a qualified payment amount.

Section 3. Definitions

Unless otherwise separately defined in this rule and consistent with state law, the terms or phrases as used in this rule shall follow the definitions of such terms or phrases as defined in A.C. A. §23-66-216, and the Consolidated Appropriations Act, 2021, Pub. L. No. 116-120.

- (1) "Commissioner" means the Arkansas Insurance Commissioner.

(2) "Health benefit plan" means any individual, blanket, or group plan, policy or contract for health care services issued, renewed or extended in this state by a health carrier on or after January 1, 2024. "Health benefit plan" does not include a plan providing health care services pursuant to Arkansas Constitution, Article 5, § 32, the Workers' Compensation Law, § 11-9-101 et seq., and the Public Employee Workers' Compensation Act, § 21-5-601 et seq., nor include an accident-only, specified disease, hospital indemnity, long-term care, disability income, or limited-benefit health insurance policy. The provisions of this Rule shall not apply to Medicare supplement or Medicare Advantage policies or policies offering coverage through Medicare. This Rule shall also not apply to vision or dental only plans.

(3) "Health carrier" means an entity subject to the insurance laws and regulations of this State, or subject to the jurisdiction of the Commissioner, that contracts or offers to contract, or enters into an agreement to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services, including a sickness and accident insurance company, a health maintenance organization, a nonprofit hospital and health service corporation, or any other entity providing a plan of health insurance, health benefits or health services. A Health Carrier does not include an automobile insurer paying medical or hospital benefits under Ark. Code Ann. §23-89-202(1) nor shall it include a self-insured employer health benefits plan. A Health Carrier also does not include any person, company, or organization, licensed or registered to issue or who issues any insurance policy or insurance contract in this State providing medical or hospital benefits for accidental injury or accidental disability.

Section 4. Applicability and Scope

This Rule applies to all health carriers that offer health benefit plans in this State which are issued or renewed on or after January 1, 2024.

Section 5. Audit Requirement

(a) The Commissioner shall develop a state audit process to ensure that a health benefit plan or health carrier calculates the qualified payment amount established under the No Surprises Act of the Consolidated Appropriations Act, 2021, Pub. L. 116-220.

(b) The federal qualified health payment amount methodologies shall be included in all health policy forms for review and approval by the Commissioner.

(c) The audit process required pursuant to this rule, and specifically §5(a) above, shall be consistent with and included in the already required examination of insurers as contemplated by A.C.A. §23-61-201 et seq. The Commissioner, per his or her discretion may conduct an examination of health carriers concerning potential

violations of the administration the qualified payment amount methodology of the NSA to ensure compliance with the requirements not more often than every five (5) years on an as needed basis if and when justified by a significant number of complaints against a particular carrier.

(d) The resulting examination report concerning potential violations of the NSA as it relates to the qualified payment amount calculation methodology shall be shared with the federal Department of Health and Human Services (HHS) in order that the Commissioner and HHS may impose appropriate sanctions and engage is proper administration to carry out all requirements of state and federal law.

Section 6. Enforcement

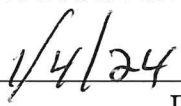
The penalties, license actions or orders as authorized under Ark. Code Ann. § 23-66-210 shall apply to violations of this Rule.

Section 8. Effective Date

This Rule shall be effective upon approval by the Arkansas Legislative Council and shall go into effect ten (10) days after filing a final rule with the Secretary of State.



ALAN MCCLAIN
INSURANCE COMMISSIONER



DATE