

ARKANSAS REGISTER

Proposed Rule Cover Sheet



Secretary of State
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Name of Department _____

Agency or Division Name _____

Other Subdivision or Department, If Applicable _____

Previous Agency Name, If Applicable _____

Contact Person _____

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Newspaper Name _____

Date of Publishing _____

Final Date for Public Comment _____

Location and Time of Public Meeting _____



Hugh McDonald
SECRETARY OF COMMERCE

Alan McClain
COMMISSIONER,
ARKANSAS INSURANCE
DEPARTMENT

May 1, 2025

Honorable Cole Jester
Arkansas Secretary of State
State Capitol Building
Little Rock, AR 72201
Attn. Arkansas Register

sent via email: register@sos.arkansas.gov

Re: NEW Proposed Rule 23 CAR pt 155 "Life Insurance Illustration"

Dear Secretary:

The Arkansas Insurance Department has scheduled a public hearing as to Proposed Rule 23 CAR pt 155 "Life Insurance Illustration". Enclosed are the DOI Notice of Public Hearing on June 10, 2025, markup copies of the two repealed rules, and a copy of the proposed new rule.

Pursuant to Executive Order No. 23-02, the Arkansas Insurance Department also proposes to repeal (2) rules:

23 CAR pt 138: Patient-Centered Medical Home Standards

23 CAR pt 107: Minimum Standards for Minimum Basic Benefit Disability Insurance

Please arrange to publish the information in a format acceptable to the Secretary for at least 30 days in advance. Can you send us confirmation that we can use in the transcript as a public hearing exhibit?

An electronic filing will be made within the statutorily required 7 days. Thanks for your help.

Sincerely,

Sara Farris
Associate Counsel/Legal Division
sara.farris@arkansas.gov
501-371-2820

Enclosures

Proposed Rulemaking

TO PROMULGATE RULES CONCERNING LIFE INSURANCE ILLUSTRATIONS

**Promulgated by:
Arkansas Insurance Department**

Title 23. Public Utilities and Regulated Industries

Chapter I. State Insurance Department, Department of Commerce

Subchapter B. Life, Health, and Accident

Part 155. Life Insurance Illustrations

23 CAR § 155-101. Purpose.

- (1) The purpose of this part is to provide rules for life insurance policy illustrations that will protect consumers and foster consumer education.
- (2) This part provides illustration formats, prescribes standards to be followed when illustrations are used, and specifies the disclosures that are required in connection with illustrations.
- (3) The goals of this part are to ensure that illustrations do not mislead purchasers of life insurance and to make illustrations more understandable.
- (4) Insurers will, as far as possible, eliminate the use of footnotes and caveats and define terms used in the illustration in language that would be understood by a typical person within the segment of the public to which the illustration is directed.

23 CAR § 155-102. Scope.

DRAFT

This part applies to all group and individual life insurance policies and certificates except:

- (1) Variable life insurance;
- (2) Individual and group annuity contracts;
- (3) Credit life insurance; or
- (4) Life insurance policies with no illustrated death benefits on any individual exceeding \$10,000.

23 CAR § 155-103. Definitions.

For the purposes of this part:

(1) "Actuarial Standards Board" means the board established by the American Academy of Actuaries to develop and promulgate standards of actuarial practice.

(2) "Contract premium" means the gross premium that is required to be paid under a fixed premium policy, including the premium for a rider for which benefits are shown in the illustration.

(3) "Currently payable scale" means a scale of non-guaranteed elements in effect for a policy form as of the preparation date of the illustration or declared to become effective within the next ninety-five (95) days.

(4) "Disciplined current scale" means:

(A) A scale of non-guaranteed elements constituting a limit on illustrations currently being illustrated by an insurer that is reasonably based on actual recent historical experience, as certified annually by an illustration actuary designated by the insurer.

(B) Further guidance in determining the disciplined current scale as contained in standards established by the Actuarial Standards Board may be relied upon if the standards:

- (i) Are consistent with all provisions of this part;
- (ii) Limit a disciplined current scale to reflect only actions that have already been taken or events that have already occurred;
- (iii) Do not permit a disciplined current scale to include any projected trends of improvements in experience or any assumed improvements in experience beyond the illustration date; and
- (iv) Do not permit assumed expenses to be less than minimum assumed expenses.

(5) "Generic name" means a short title descriptive of the policy being illustrated such as "whole life," "term life" or "flexible premium adjustable life."

(6) "Guaranteed elements" means the premiums, benefits, values, credits or charges under a policy of life insurance that are guaranteed and determined at issue.

(7) "Non-guaranteed elements" means the premiums, benefits, values, credits or charges under a policy of life insurance that are not guaranteed or not determined at issue.

(8) "Illustrated scale" means a scale of non-guaranteed elements currently being illustrated that is not more favorable to the policy owner than the lesser of:

- (A) The disciplined current scale; or
- (B) The currently payable scale.

(9) "Illustration" means a presentation or depiction that includes non guaranteed elements of a policy of life insurance over a period of years and that is one of the three (3) types defined below:

(A) "Basic illustration" means a ledger or proposal used in the sale of a life insurance policy that shows both guaranteed and non-guaranteed elements.

(B) "Supplemental illustration" means an illustration furnished in addition to a basic illustration that meets the applicable requirements of this rule, and that may be presented in a format differing from the basic illustration, but may only depict a scale of non-guaranteed elements that is permitted in a basic illustration.

(C) "In force illustration" means an illustration furnished at any time after the policy that it depicts has been in force for one year or more.

(10) "Illustration actuary" means an actuary meeting the requirements of 23 CAR § 155-109 who certifies to illustrations based on the standard of practice promulgated by the Actuarial Standards Board.

(11) "Lapse-supported illustration" means an illustration of a policy form failing the test of self-supporting as defined in this part, under a modified persistency rate assumption using persistency rates underlying the disciplined current scale for the first five (5) years and 100 percent (100%) policy persistency thereafter.

(12)(A) "Minimum assumed expenses" means the minimum expenses that may be used in the calculation of the disciplined current scale for a policy form.

(B) The insurer may choose to designate each year the method of determining assumed expenses for all policy forms from the following:

- (i) Fully allocated expenses:
- (ii) Marginal expenses; and
- (iii) A generally recognized expense table based on fully

allocated expenses representing a significant portion of insurance companies and approved by the National Association of Insurance Commissioners.

(C) Marginal expenses may be used only if greater than a generally recognized expense table.

(D) If no generally recognized expense table is approved, fully allocated expenses must be used.

(13) "Non-term group life" means a group policy or individual policies of life insurance issued to members of an employer group or other permitted group where:

(A) Every plan of coverage was selected by the employer or other group representative;

(B) Some portion of the premium is paid by the group or through payroll deduction; and

(C) Group underwriting or simplified underwriting is used.

(14) "Policy owner" means the owner named in the policy or the certificate holder in the case of a group policy.

(15) "Premium outlay" means the amount of premium assumed to be paid by the policy owner or other premium payer out-of-pocket.

(16)(A) "Self-supporting illustration" means an illustration of a policy form for which it can be demonstrated that, when using experience assumptions underlying

the disciplined current scale, for all illustrated points in time on or after the fifteenth policy anniversary or the twentieth policy anniversary for second-or-later-to-die policies (or upon policy expiration if sooner), the accumulated value of all policy cash flows equals or exceeds the total policy owner value available.

(B) For this purpose, policy owner value will include cash surrender values and any other illustrated benefit amounts available at the policy owner's election.

23 CAR § 155-104. Policies to Be Illustrated.

(1) Each insurer marketing policies to which this rule is applicable shall notify the Commissioner whether a policy form is to be marketed with or without an illustration.

(A) For all policy forms being actively marketed on the effective date of this rule, the insurer shall identify in writing those forms and whether or not an illustration will be used with them.

(B) For policy forms filed after the effective date of this rule, the identification shall be made at the time of filing. Any previous identification may be changed by notice to the Commissioner.

(2) If the insurer identifies a policy form as one to be marketed without an illustration, any use of an illustration for any policy using that form prior to the first policy anniversary is prohibited.

(3) If a policy form is identified by the insurer as one to be marketed with an illustration, a basic illustration prepared and delivered in accordance with this rule is required, except that a basic illustration need not be provided to individual members of

a group or to individuals insured under multiple lives coverage issued to a single applicant unless the coverage is marketed to these individuals.

(4) The illustration furnished an applicant for a group life insurance policy or policies issued to a single applicant on multiple lives may be either an individual or composite illustration representative of the coverage on the lives of members of the group or the multiple lives covered.

(5) Potential enrollees of non-term group life subject to this rule shall be furnished a quotation with the enrollment materials:

(A) The quotation shall show potential policy values for sample ages and policy years on a guaranteed and non-guaranteed basis appropriate to the group and the coverage.

(B) This quotation shall not be considered an illustration for purposes of this rule, but all information provided shall be consistent with the illustrated scale.

(C) A basic illustration shall be provided at delivery of the certificate to enrollees for non-term group life who enroll for more than the minimum premium necessary to provide pure death benefit protection.

(D) The insurer shall make a basic illustration available to any non-term group life enrollee who requests it.

23 CAR § 155-105. General Rules and Prohibitions.

(1) An illustration used in the sale of a life insurance policy shall satisfy the applicable requirements of this rule, be clearly labeled "life insurance illustration" and contain the following basic information:

- (A) Name of insurer;
- (B) Name and business address of producer or insurer's authorized representative, if any;
- (C) Name, age and sex of proposed insured, except where a composite illustration is permitted under this rule;
- (D) Underwriting or rating classification upon which the illustration is based;
- (E) Generic name of policy, the company product name, if different, and form number;
- (F) Initial death benefit; and
- (G) Dividend option election or application of non-guaranteed elements, if applicable.

(2) When using an illustration in the sale of a life insurance policy, an insurer or its producers or other authorized representatives shall not:

- (A) Represent the policy as anything other than a life insurance policy;
- (B) Use or describe non-guaranteed elements in a manner that is misleading or has the capacity or tendency to mislead;
- (C) State or imply that the payment or amount of non-guaranteed elements is guaranteed;

(D) Use an illustration that does not comply with the requirements of this rule;

(E) Use an illustration that at any policy duration depicts policy performance more favorable to the policy owner than that produced by the illustrated scale of the insurer whose policy is being illustrated;

(F) Provide an applicant with an incomplete illustration;

(G) Represent in any way that premium payments will not be required for each year of the policy in order to maintain the illustrated death benefits, unless that is the fact;

(H) Use the term "vanish" or "vanishing premium," or a similar term that implies the policy becomes paid up, to describe a plan for using non-guaranteed elements to pay a portion of future premiums;

(I) Except for policies that can never develop nonforfeiture values, use an illustration that is "lapse-supported"; or

(J) Use an illustration that is not "self-supporting."

(3) If an interest rate used to determine the illustrated non-guaranteed elements is shown, it shall not be greater than the earned interest rate underlying the disciplined current scale.

23 CAR § 155-106. Standards for Basic Illustrations.

(1) A basic illustration format shall conform with the following requirements:

(A) The illustration shall be labeled with the date on which it was prepared.

(B) Each page, including any explanatory notes or pages, shall be numbered and show its relationship to the total number of pages in the illustration (e.g., the fourth page of a seven-page illustration shall be labeled “page 4 of 7 pages”).

(C) The assumed dates of payment receipt and benefit pay-out within a policy year shall be clearly identified.

(D) If the age of the proposed insured is shown as a component of the tabular detail, it shall be issue age plus the numbers of years the policy is assumed to have been in force.

(E)(i) The assumed payments on which the illustrated benefits and values are based shall be identified as premium outlay or contract premium, as applicable.

(ii) For policies that do not require a specific contract premium, the illustrated payments shall be identified as premium outlay.

(F) Guaranteed death benefits and values available upon surrender, if any, for the illustrated premium outlay or contract premium shall be shown and clearly labeled guaranteed.

(G)(i) If the illustration shows any non-guaranteed elements, they cannot be based on a scale more favorable to the policy owner than the insurer’s illustrated scale at any duration.

(ii) These elements shall be clearly labeled non-guaranteed.

(H) The guaranteed elements, if any, shall be shown before corresponding non-guaranteed elements and shall be specifically referred to on any

page of an illustration that shows or describes only the non-guaranteed elements (e.g., “see page one for guaranteed elements.”)

(I) The account or accumulation value of a policy, if shown, shall be identified by the name this value is given in the policy being illustrated and shown in close proximity to the corresponding value available upon surrender.

(J) The value available upon surrender shall be identified by the name this value is given in the policy being illustrated and shall be the amount available to the policy owner in a lump sum after deduction of surrender charges, policy loans and policy loan interest, as applicable.

(K) Illustrations may show policy benefits and values in graphic or chart form in addition to the tabular form.

(L) Any illustration of non-guaranteed elements shall be accompanied by a statement indicating that:

- (i) The benefits and values are not guaranteed;
- (ii) The assumptions on which they are based are subject to change by the insurer; and
- (iii) Actual results may be more or less favorable.

(M)(i) If the illustration shows that the premium payer may have the option to allow policy charges to be paid using non-guaranteed values, the illustration must clearly disclose that a charge continues to be required and that, depending on actual results, the premium payer may need to continue or resume premium outlays.

(ii) Similar disclosure shall be made for premium outlay of lesser amounts or shorter durations than the contract premium.

(iii) If a contract premium is due, the premium outlay display shall not be left blank or show zero unless accompanied by an asterisk or similar mark to draw attention to the fact that the policy is not paid up.

(N) If the applicant plans to use dividends or policy values, guaranteed or non-guaranteed, to pay all or a portion of the contract premium or policy charges, or for any other purpose, the illustration may reflect those plans and the impact on future policy benefits and values.

(2) Narrative Summary. A basic illustration shall include the following:

(A) A brief description of the policy being illustrated, including a statement that it is a life insurance policy;

(B)(i) A brief description of the premium outlay or contract premium, as applicable, for the policy.

(ii) For a policy that does not require payment of a specific contract premium, the illustration shall show the premium outlay that must be paid to guarantee coverage for the term of the contract, subject to maximum premiums allowable to qualify as a life insurance policy under the applicable provisions of the Internal Revenue Code;

(C) A brief description of any policy features, riders or options, guaranteed or non-guaranteed, shown in the basic illustration and the impact they may have on the benefits and values of the policy;

(D) Identification and a brief definition of column headings and key terms used in the illustration; and

(E) A statement containing in substance the following: "This illustration assumes that the currently illustrated nonguaranteed elements will continue unchanged for all years shown. This is not likely to occur, and actual results may be more or less favorable than those shown."

(3) Numeric Summary.

(A) Following the narrative summary, a basic illustration shall include a numeric summary of the death benefits and values and the premium outlay and contract premium, as applicable.

(i) For a policy that provides for a contract premium, the guaranteed death benefits and values shall be based on the contract premium.

(ii) For multiple life policies the summary shall show policy years five (5), ten (10), twenty (20) and thirty (30).

(ii) This summary shall be shown for at least policy years five (5), ten (10) and twenty (20) and at age seventy (70), if applicable, on these three bases:

(a) Policy guarantees;

(b) Insurer's illustrated scale;

(c) Insurer's illustrated scale used but with the non-guaranteed elements reduced as follows:

(1) Dividends at fifty percent (50%) of the dividends contained in the illustrated scale used;

(2) Non-guaranteed credited interest at rates that are the average of the guaranteed rates and the rates contained in the illustrated scale used; and

(3) All non-guaranteed charges, including but not limited to, term insurance charges, mortality and expense charges, at rates that are the average of the guaranteed rates and the rates contained in the illustrated scale used.

(B) In addition, if coverage would cease prior to policy maturity or age one hundred (100), the year in which coverage ceases shall be identified for each of the three (3) bases.

(4) Statements. Statements substantially similar to the following shall be included on the same page as the numeric summary and signed by the applicant, or the policy owner in the case of an illustration provided at time of delivery, as required in this rule.

(A) A statement to be signed and dated by the applicant or policy owner reading as follows: "I have received a copy of this illustration and understand that any non-guaranteed elements illustrated are subject to change and could be either higher or lower. The agent has told me they are not guaranteed."

(B) A statement to be signed and dated by the insurance producer or other authorized representative of the insurer reading as follows: "I certify that this illustration has been presented to the applicant and that I have explained that any non-

guaranteed elements illustrated are subject to change. I have made no statements that are inconsistent with the illustration.”

(5) Tabular Detail.

(A) A basic illustration shall include the following for at least each policy year from one (1) to ten (10) and for every fifth (5th) policy year thereafter ending at age one hundred (100), policy maturity or final expiration; and except for term insurance beyond the twentieth (20th) year, for any year in which the premium outlay and contract premium, if applicable, is to change:

(i) The premium outlay and mode the applicant plans to pay and the contract premium, as applicable;

(ii) The corresponding guaranteed death benefit, as provided in the policy; and

(iii) The corresponding guaranteed value available upon surrender, as provided in the policy.

(B) For a policy that provides for a contract premium, the guaranteed death benefit and value available upon surrender shall correspond to the contract premium.

(C) Non-guaranteed elements may be shown if described in the contract:

(i) In the case of an illustration for a policy on which the insurer intends to credit terminal dividends, they may be shown if the insurer’s current practice is to pay terminal dividends.

(ii) If any non-guaranteed elements are shown they must be shown at the same durations as the corresponding guaranteed elements, if any.

(iii) If no guaranteed benefit or value is available at any duration for which a non-guaranteed benefit or value is shown, a zero shall be displayed in the guaranteed column.

23 CAR § 155-107. Standards for Supplemental Illustrations.

(1) A supplemental illustration may be provided so long as:

(A) It is appended to, accompanied by or preceded by a basic illustration that complies with this rule;

(B) The non-guaranteed elements shown are not more favorable to the policy owner than the corresponding elements based on the scale used in the basic illustration;

(C) It contains the same statement required of a basic illustration that non-guaranteed elements are not guaranteed; and

(D)(i) For a policy that has a contract premium, the contract premium underlying the supplemental illustration is equal to the contract premium shown in the basic illustration.

(ii) For policies that do not require a contract premium, the premium outlay underlying the supplemental illustration shall be equal to the premium outlay shown in the basic illustration.

(2) The supplemental illustration shall include a notice referring to the basic illustration for guaranteed elements and other important information.

23 CAR § 155-107. Delivery of Illustration and Record Retention.

(1)(A) If a basic illustration is used by an insurance producer or other authorized representative of the insurer in the sale of a life insurance policy and the policy is applied for as illustrated, a copy of that illustration, signed in accordance with this rule, shall be submitted to the insurer at the time of policy application, and a copy also shall be provided to the applicant.

(B) If the policy is issued other than as applied for, a revised basic illustration conforming to the policy as issued shall be sent with the policy.

(i) The revised illustration shall conform to the requirements of this rule, shall be labeled "Revised Illustration" and shall be signed and dated by the applicant or policy owner and producer or other authorized representative of the insurer no later than the time the policy is delivered.

(ii) A copy shall be provided to the insurer and the policy owner.

(2)(A)(i) If no illustration is used by an insurance producer or other authorized representative in the sale of a life insurance policy or if the policy is applied for other than as illustrated, the producer or representative shall certify to that effect in writing on a form provided by the insurer.

(ii) On the same form the applicant shall acknowledge that no illustration conforming to the policy applied for was provided and shall further acknowledge an understanding that an illustration conforming to the policy as issued will be provided no later than at the time of policy delivery.

(iii) This form shall be submitted to the insurer at the time of policy application.

(B) If the policy is issued, a basic illustration conforming to the policy as issued shall be sent with the policy and signed no later than the time the policy is delivered. A copy shall be provided to the insurer and the policy owner.

(3)(A) If the basic illustration or revised illustration is sent to the applicant or policy owner by mail from the insurer, it shall include instructions for the applicant or policy owner to sign the duplicate copy of the numeric summary page of the illustration for the policy issued and return the signed copy to the insurer.

(B) The insurer's obligation under this subsection shall be satisfied if it can demonstrate that it has made a diligent effort to secure a signed copy of the numeric summary page.

(C) The requirement to make a diligent effort shall be deemed satisfied if the insurer includes in the mailing a self-addressed postage prepaid envelope with instructions for the return of the signed numeric summary page.

(4)(A) A copy of the basic illustration and a revised basic illustration, if any, signed as applicable, along with any certification that either no illustration was used or that the policy was applied for other than as illustrated, shall be retained by the insurer until three (3) years after the policy is no longer in force.

(B) A copy need not be retained if no policy is issued.

23 CAR § 155-108. Annual Report; Notice to Policy Owners.

(1) In the case of a policy designated as one for which illustrations will be used, the insurer shall provide each policy owner with an annual report on the status of the policy that shall contain at least the following information:

(A) For universal life policies, the report shall include the following:

- (i) The beginning and end date of the current report period;
 - (ii) The policy value at the end of the previous report period and at the end of the current report period;
 - (iii) The total amounts that have been credited or debited to the policy value during the current report period, identifying each by type (e.g., interest, mortality, expense and riders);
 - (iv) The current death benefit at the end of the current report period on each life covered by the policy;
 - (v) The net cash surrender value of the policy as of the end of the current report period;
 - (vi) The amount of outstanding loans, if any, as of the end of the current report period; and
 - (vii) For fixed premium policies, if, assuming guaranteed interest, mortality and expense loads and continued scheduled premium payments, the policy's net cash surrender value is such that it would not maintain insurance in force until the end of the next reporting period, a notice to this effect shall be included in the report;
- or

(viii) For flexible premium policies, if, assuming guaranteed interest, mortality and expense loads, the policy's net cash surrender value will not maintain insurance in force until the end of the next reporting period unless further premium payments are made, a notice to this effect shall be included in the report.

(B) For all other policies, where applicable:

- (i) Current death benefit;
- (ii) Annual contract premium;
- (iii) Current cash surrender value;
- (iv) Current dividend;
- (v) Application of current dividend; and
- (vi) Amount of outstanding loan.

(C) Insurers writing life insurance policies that do not build nonforfeiture values shall only be required to provide an annual report with respect to these policies for those years when a change has been made to nonguaranteed policy elements by the insurer.

(2)(A) If the annual report does not include an in force illustration, it shall contain the following notice displayed prominently:

"IMPORTANT POLICY OWNER NOTICE: You should consider requesting more detailed information about your policy to understand how it may perform in the future. You should not consider replacement of your policy or make changes in your coverage without requesting a current illustration. You may annually request, without charge, such an illustration by calling [insurer's phone number], writing to [insurer's name] at

[insurer's address] or contacting your agent. If you do not receive a current illustration of your policy within thirty (30) days from your request, you should contact your state insurance department."

(B) The insurer may vary the sequential order of the methods for obtaining an in force illustration.

(3) Upon the request of the policy owner, the insurer shall furnish an in force illustration of current and future benefits and values based on the insurer's present illustrated scale.

(A) This illustration shall comply with the requirements of 23 CAR § 155-105(1) and (2) and 23 CAR § 155-106(1) and (2).

(B) No signature or other acknowledgment of receipt of this illustration shall be required.

(4) If an adverse change in non-guaranteed elements that could affect the policy has been made by the insurer since the last annual report, the annual report shall contain a notice of that fact and the nature of the change prominently displayed.

23 CAR § 155-109. Annual Certifications.

(1) The board of directors of each insurer shall appoint one or more illustration actuaries.

(2) The illustration actuary shall certify that the disciplined current scale used in illustrations is in conformity with the Actuarial Standard of Practice for Compliance with the NAIC Model Regulation on Life Insurance Illustrations promulgated by the

Actuarial Standards Board, and that the illustrated scales used in insurer-authorized illustrations meet the requirements of this rule.

(3) The illustration actuary shall:

- (A) Be a member in good standing of the American Academy of Actuaries;
- (B) Be familiar with the standard of practice regarding life insurance policy illustrations;
- (C) Not have been found by the Commissioner, following appropriate notice and hearing to have:
 - (i) Violated any provision of, or any obligation imposed by, the insurance law or other law in the course of his or her dealings as an illustration actuary;
 - (ii) Been found guilty of fraudulent or dishonest practices;
 - (iii) Demonstrated his or her incompetence, lack of cooperation, or untrustworthiness to act as an illustration actuary; or
 - (iv) Resigned or been removed as an illustration actuary within the past five (5) years as a result of acts or omissions indicated in any adverse report on examination or as a result of a failure to adhere to generally acceptable actuarial standards;
- (D) Not fail to notify the Commissioner of any action taken by a commissioner of another state similar to that under 23 CAR § 155-109(3)(c).
- (E) Disclose in the annual certification whether, since the last certification, a currently payable scale applicable for business issued within the previous

five (5) years and within the scope of the certification has been reduced for reasons other than changes in the experience factors underlying the disciplined current scale.

(i) If nonguaranteed elements illustrated for new policies are not consistent with those illustrated for similar in force policies, this must be disclosed in the annual certification.

(ii) If nonguaranteed elements illustrated for both new and in force policies are not consistent with the nonguaranteed elements actually being paid, charged or credited to the same or similar forms, this must be disclosed in the annual certification; and

(F) Disclose in the annual certification the method used to allocate overhead expenses for all illustrations:

- (i) Fully allocated expenses;
- (ii) Marginal expenses; or
- (iii) A generally recognized expense table based on fully allocated expenses representing a significant portion of insurance companies and approved by the National Association of Insurance Commissioners.

(4)(A) The illustration actuary shall file a certification with the board and with the Commissioner:

- (i) Annually for all policy forms for which illustrations are used;
- and
- (ii) Before a new policy form is illustrated.

(B) If an error in a previous certification is discovered, the illustration actuary shall notify the board of directors of the insurer and the Commissioner promptly.

(5) If an illustration actuary is unable to certify the scale for any policy form illustration the insurer intends to use, the actuary shall notify the board of directors of the insurer and the Commissioner promptly of his or her inability to certify.

(6) A responsible officer of the insurer, other than the illustration actuary, shall certify annually:

(A) That the illustration formats meet the requirements of this rule and that the scales used in insurer-authorized illustrations are those scales certified by the illustration actuary; and

(B) That the company has provided its agents with information about the expense allocation method used by the company in its illustrations and disclosed as required in 23 CAR § 155-109(3)(f).

(7) The annual certifications shall be provided to the Commissioner each year by a date determined by the insurer.

(8) If an insurer changes the illustration actuary responsible for all or a portion of the company's policy forms, the insurer shall notify the Commissioner of that fact promptly and disclose the reason for the change.

23 CAR § 155-110. Penalties.

In addition to any other penalties provided by the laws of this state, an insurer or producer that violates a requirement of this rule shall be guilty of a violation of the Trade Practices Act, Arkansas Code § 23-66-201 et seq.

23 CAR § 155-111. Separability.

If any provision of this rule or its application to any person or circumstance is for any reason held to be invalid by any court of law, the remainder of the rule and its application to other persons or circumstances shall not be affected.

~~Title 23. Public Utilities and Regulated Industries~~
~~Chapter I. State Insurance Department, Department of Commerce~~
~~Subchapter B. Life, Health, and Accident~~
~~Part 138. Patient-Centered Medical Home Standards~~

~~Codification Notes.~~ This part as promulgated prior to codification into the Code of Arkansas Rules of 2024 provided as follows:

~~“Section 1. Authority~~

~~This Rule is issued pursuant to Section One of Act 1498 of 2013 of the Arkansas Eighty-Ninth General Assembly, also known as the "Health Care Independence Act of 2013" (hereafter, the "Health Care Independence Program," or "HCIP"), now codified in Ark. Code Ann. §§ 20-77-2401 et seq. Pursuant to Ark. Code Ann. § 20-77-2405(g)(1) and Ark. Code Ann. § 20-77-2406(e), the Arkansas Insurance Department ("AID") and Arkansas Department of Human Services ("ADHS") are authorized to issue Rules to implement provisions under HCIP. In addition, this Rule is issued pursuant to Ark. Code Ann. § 23-61-108(b)(1) which states that the Arkansas Insurance Commissioner ("Commissioner") has authority to promulgate rules and regulations necessary for the effective regulation of the business of insurance."~~

~~“Section 7. Effective Date~~

~~The effective date of this Rule shall be January 1, 2015."~~

~~23 CAR § 138-101. Purpose.~~

~~The purpose of this part is to provide standards for patient-centered medical home programs for health carriers in the Health Insurance Marketplace that issue qualified health plans on or after January 1, 2015.~~

~~Authority.~~ Arkansas Code § 23-61-108.

~~23 CAR § 138-102. Applicability and scope.~~

~~(a) This part applies to all health carriers issuing QHPs in the Health Insurance Marketplace on or after January 1, 2015.~~

~~(b) Under Arkansas Code § 20-77-2406(d) [repealed], health carriers participating in the Health Insurance Marketplace are required to participate in the Arkansas Payment Improvement Initiative (APII), including:~~

- ~~_____ (1) Assignment of primary care clinician;~~
- ~~_____ (2) Support for patient-centered medical home; and~~
- ~~_____ (3) Access of clinical performance data for providers.~~

~~(c)(1) The HCIP requires health carriers to participate in the APII as multi-payer participants.~~

~~(2) This part requires health carriers to participate in PCMH standards as one (1) active or available option in QHP networks on or after January 1, 2015.~~

~~(3) Additionally, these standards set a floor for participation and do not preclude health carriers from developing and implementing standards that exceed the requirements set forth in this part.~~

~~Authority.~~ Arkansas Code § 23-61-108.

~~Codification Notes.~~ “QHP” means qualified health plan.

The Health Care Independence Act of 2013, Arkansas Code § 20-77-2401 et seq., was repealed by Acts 2019, No. 389, § 78.

~~23 CAR § 138-103. Definitions.~~

~~The following definitions shall apply in this part, unless otherwise defined by HCIP:~~

- ~~(1) "ADHS" means the Department of Human Services;~~
- ~~(2) "AID" means the State Insurance Department;~~
- ~~(3) "APII" means the Arkansas Payment Improvement Initiative, as referenced in Arkansas Code § 20-77-2406(d) [repealed], which is a multi-payer program that connects medical payment to medical providers to achieve high quality care at an appropriate cost;~~
- ~~(4) "Arkansas PCMH Model" means the provisions in Section 200 of the Arkansas Medicaid Patient-Centered Medical Home Provider Manual, 20 CAR pt. 628;~~
- ~~(5) "DMS" means the Division of Medical Services of the Department of Human Services;~~
- ~~(6) "HCIP" means the program established under Acts 2013, No. 1498, by the General Assembly known as the Health Care Independence Act of 2013, Arkansas Code § 20-77-2401 et seq. [repealed];~~
- ~~(7) "Health carrier" means a private entity certified by the State Insurance Department and offering plans through the Health Insurance Marketplace;~~
- ~~(8) "Health Insurance Marketplace" means the marketplace as defined by Arkansas Code § 20-77-2404(5) [repealed];~~
- ~~(9) "Healthcare coverage" shall mean healthcare benefits as defined under Arkansas Code § 20-77-2404(4) [repealed];~~
- ~~(10) "Patient-centered medical home (PCMH)" means a "patient-centered medical home" as defined under Section 200 of the Arkansas Medicaid Patient-Centered Medical Home Provider Manual, 20 CAR pt. 628;~~
- ~~(11) "Primary care physician" means a "primary care physician" as defined under Section 171 of the Arkansas Medicaid Patient-Centered Medical Home Provider Manual, 20 CAR pt. 628;~~
- ~~(12) "QHP enrollee" means a person insured under a qualified health plan; and~~
- ~~(13) "Qualified health plan" means a State Insurance Department-certified individual health insurance plan offered by a health carrier through the Health Insurance Marketplace.~~

Authority. Arkansas Code § 23-61-108.

Codification Notes. The Health Care Independence Act of 2013, Arkansas Code § 20-77-2401 et seq., was repealed by Acts 2019, No. 389, § 78.

~~23 CAR § 138-104. Requirements.~~

~~For QHPs issued on or after January 1, 2015, health carriers shall adopt the following requirements and provide the opportunity for primary care physicians eligible to participate in the Arkansas PCMH Model to participate in a PCMH program according to these standards:~~

- ~~(1) A health carrier shall follow the requirements of the Arkansas PCMH Model or may develop its own PCMH standards based upon an accepted national PCMH model, as approved by the Insurance Commissioner, to the extent that such provisions are consistent with and not in conflict with this part or the Arkansas PCMH Model;~~
- ~~(2)(A) Health carriers will prospectively attribute QHP enrollees to primary care practices either based on enrollee choice or according to the plurality of professional visits for primary care evaluation and management paid by the health carrier over the prior year.~~

~~_____ (B) Health carriers may develop their own method for attributing enrollees for whom coverage was discontinuous during the prior year.~~

~~_____ (C) Health carriers must attribute QHP enrollees on at least a quarterly basis and provide the State Insurance Department with access to timely and sufficient data upon request to complete an audit of health carriers' attribution process and to ensure appropriate QHP enrollee attribution;~~

~~_____ (3)(A) Notwithstanding the PCMH model chosen by the health carrier in subdivision (1) of this section, health carriers will offer practice support to primary care physician practices that have been identified by Medicaid as participating in the Arkansas PCMH Model through the APII.~~

~~_____ (B) Health carriers may identify additional PCMH participants with at least three hundred (300) enrollees for inclusion in the Arkansas PCMH Model.~~

~~_____ (C) Practice support will be provided in the form of care coordination payments equivalent to or greater than an average of five dollars (\$5.00) per enrollee per month.~~

~~_____ (D) Health carriers may use a risk adjustment method of their choosing for determining the actual payment, so long as the average payment per enrollee is no less than five dollars (\$5.00) per month;~~

~~_____ (4)(A) Health carriers may terminate payment of practice support for a primary care physician's failure to meet milestones or deadlines for practice transformation activities and benchmarks or targets for clinical quality.~~

~~_____ (B) In order to minimize provider administrative burden and encourage meaningful data reporting, quality metrics collected and reported by health carriers must incorporate Arkansas PCMH Model requirements;~~

~~_____ (5)(A) Health carriers shall provide performance reports for PCMH practice transformation and quality on a quarterly basis.~~

~~_____ (B) A standardized report form shall be made available to health carriers from the Arkansas Payment Improvement Initiative website, www.paymentinitiative.org, and reporting should include total cost of patient care and care categories (not shown in referenced report);~~

~~_____ (6) Health carriers shall share statistics with the department or its designee or designees (output of analyzed claims data used to create above reports) for streamlined provider use at an aggregate multi-payer level;~~

~~_____ (7) On or after January 1, 2016, health carriers should expect to participate in development of mechanisms to share savings with PCMH practices for achieving a per-issuer enrollee cost of care that is below its benchmark cost; and~~

~~_____ (8) Health carriers shall educate QHP enrollees about the health carrier's PCMH program and indicate which practices are participating in the program.~~

Authority. ~~Arkansas Code § 23-61-108.~~

Codification Notes. ~~"QHP" means qualified health plan.~~

~~**23 CAR § 138-105. Enforcement.**~~

~~The State Insurance Department shall review a health carrier's compliance with the provisions of this part in its role of recommending approval or nonapproval for certification of qualified health plans sold in the Health Insurance Marketplace.~~

Authority. ~~Arkansas Code § 23-61-108.~~

~~Title 23. Public Utilities and Regulated Industries~~
~~Chapter I. State Insurance Department, Department of Commerce~~
~~Subchapter B. Life, Health, and Accident~~
~~Part 107. Minimum Standards for Minimum Basic Benefit Disability Insurance~~

~~Codification Notes.~~ This part as promulgated prior to codification into the Code of Arkansas Rules of 2024 provided as follows:

~~"Section 2. Authority.~~

~~This Rule is issued pursuant to the authority vested in the Commissioner by Sections 4 through 12 of Act 238 of 1991, Arkansas Code Annotated §§23-61-108 and 25-15-201."~~

~~"Section 17. Effective Date.~~

~~This Rule and Regulation shall be effective upon signature of the Commissioner of Insurance."~~

~~_____ **23 CAR § 107-101. Purpose.**~~

~~_____ The purpose of this part is to implement the requirements of Acts 1991, No. 238, in order to:~~

- ~~_____ (1) Provide minimum standards for basic benefit disability insurance;~~
- ~~_____ (2) Regulate the development of basic benefit disability insurance for qualified:~~
 - ~~_____ (A) Groups;~~
 - ~~_____ (B) Families; and~~
 - ~~_____ (C) Individuals; and~~
- ~~_____ (3) Regulate the marketing and administrative costs of such insurance.~~

~~**Authority.** Arkansas Code § 23-61-108.~~

~~_____ **23 CAR § 107-102. Definitions.**~~

~~_____ As used in this part:~~

- ~~_____ (1) "Children's preventive healthcare services" means physician-delivered or physician-supervised services for eligible dependents from birth through age six (6), with periodic physical examinations including medical history, physical examination, developmental assessment, anticipatory guidance, and appropriate immunizations and laboratory tests, in keeping with prevailing medical standards;~~
- ~~_____ (2) "Commissioner" shall mean the Insurance Commissioner;~~
- ~~_____ (3) "Insured" shall mean any individual or group insured under a minimum basic benefit policy issued pursuant to the provisions of Acts 1991, No. 238, and this part;~~
- ~~_____ (4) "Insurer" means an insurer, health maintenance organization, hospital, or medical services corporation offering a minimum basic benefit policy pursuant to Acts 1991, No. 238;~~
- ~~_____ (5) "Loss ratio" means the percentage derived by dividing incurred claims (both reported and not reported) by the total premiums earned;~~
- ~~_____ (6) "Medically necessary" means the treatment, services, medicines, or supplies necessary and appropriate for the diagnosis or treatment of a sickness or injury that is provided in accordance with generally accepted professional standards;~~
- ~~_____ (7) "Minimum basic benefit policy" shall mean a policy offered by an insurer to a qualified individual, qualified family, or qualified group pursuant to the provisions of Acts 1991, No. 238, and this part;~~

~~_____ (8) "Periodic physical examinations" means the routine tests and procedures for the purpose of detection of abnormalities or malfunctions of bodily systems and parts according to accepted medical practice;~~

~~_____ (9) "Permitted coverages" shall mean health or hospitalization coverage under a minimum basic benefit policy issued pursuant to Acts 1991, No. 238, under:~~

~~_____ (A) Medicaid;~~

~~_____ (B) Medicare;~~

~~_____ (C) Limited benefit policies as defined by Minimum Standards for Accident and Health Insurance, 23 CAR pt. 86;~~

~~_____ (D) COBRA; or~~

~~_____ (E) The provisions of Arkansas Code § 23-86-114, § 23-86-115, or § 23-86-116;~~

~~_____ (10) "Primary and preventive care" means that medical care provided to a covered individual which constitutes the first level of entry into the healthcare system and includes:~~

~~_____ (A) Routine diagnostic office visits;~~

~~_____ (B) Routine health screening not related to reproductive or sex organ systems;~~

~~_____ (C) Preventive immunizations; and~~

~~_____ (D) Routine periodic physical examinations;~~

~~_____ (11) "Qualified family" means individuals all of whom are:~~

~~_____ (A) Qualified individuals; and~~

~~_____ (B) Related by:~~

~~_____ (i) Blood;~~

~~_____ (ii) Marriage; or~~

~~_____ (iii) Adoption;~~

~~_____ (12) "Qualified group" means a group of twenty five (25) people or less, organized other than pursuant to Section 4 of Acts 1991, No. 238, in which each covered individual, or covered dependent of such covered individual, within the group is a qualified individual, provided a "qualified group" may include less than all employees of an employer;~~

~~_____ (13) "Qualified individual" means an individual who is employed in or is a resident of Arkansas and who has been without health insurance coverage, other than permitted coverage, for the twelve-month period immediately preceding the effective date of a minimum basic benefit policy issued pursuant to Acts 1991, No. 238, and who meets reasonable underwriting standards, provided, children newborn to or adopted by an insured after the effective date of a policy issued to the insured pursuant to Acts 1991, No. 238, that covers the insured and members of the insured's family, shall be considered qualified individuals; and~~

~~_____ (14) "Qualified trust" means a group organized pursuant to Section 4 of Acts 1991, No. 238, in which each covered individual, or covered dependent of such covered individual, within the group is a qualified individual.~~

Authority. ~~Arkansas Code § 23-61-108.~~

Codification Notes. ~~The acronym "COBRA" refers to the Consolidated Omnibus Budget Reconciliation Act, which was enacted as Pub. L. No. 99-272.~~

~~**23 CAR § 107-103. Required policy provisions.**~~

~~All minimum basic benefit policies issued pursuant to Acts 1991, No. 238, and this part and filed with the Insurance Commissioner for approval shall at the minimum contain coverage at the following levels for the benefits prescribed:~~

~~(1)(A) Inpatient hospitalization coverage of fifteen (15) days per year.~~

~~_____ (B) Inpatient hospitalization shall be defined in the policy no more strictly than those services rendered to an insured who is confined in a hospital as a registered bed patient and which includes room and board in a semiprivate room, special care ward, or, when medically necessary, a private room and all medically necessary examinations, laboratory procedures or tests, and any other tests, procedures, or treatment deemed appropriate by the treating physician, as well as coverage for medicine, supplies, and equipment charges incurred during the inpatient hospitalization;~~

~~_____ (2)(A) Two (2) office or clinic visits per year for primary and preventive care, including outpatient surgery or other treatment or therapy rendered on an outpatient basis.~~

~~_____ (B) The insured may be required to pay a copayment as specified in subdivision (4) of this section for such treatment;~~

~~_____ (3)(A) An annual deductible for inpatient hospitalization and outpatient surgery of five hundred dollars (\$500) per year per covered person.~~

~~_____ (B) The maximum annual deductible for family coverage is one thousand dollars (\$1,000);~~

~~_____ (4)(A) An insured copayment provision of no more than thirty percent (30%) of the actual covered charge up to five thousand dollars (\$5,000).~~

~~_____ (B) No copayment shall be required of an insured for covered charges exceeding five thousand dollars (\$5,000) up to the annual maximum benefit provided in the policy;~~

~~_____ (5)(A) The annual maximum benefit provided shall be no less than one hundred thousand dollars (\$100,000) per policy or certificate of enrollment.~~

~~_____ (B) The lifetime maximum benefit provided shall be no less than two hundred fifty thousand dollars (\$250,000) per policy or certificate of enrollment;~~

~~_____ (6)(A) Provisions for a maximum differential of no more than twenty five percent (25%) for services rendered by a nonpreferred provider for plans incorporating preferred provider arrangements as a part of a managed cost program.~~

~~_____ (B) This subdivision (6) of this section shall apply to all benefits offered pursuant to this part;~~

~~_____ (7) A waiting period for coverage of preexisting conditions of no more than six (6) months from the effective date of coverage;~~

~~_____ (8) All group policies issued pursuant to this part shall contain those provisions required by Arkansas Code § 23-86-108(7)(A), § 23-86-114, § 23-86-115, and § 23-86-116, except that no minimum basic benefit policy shall be required to comply with Arkansas Code § 23-86-108(7)(A) unless replacing another minimum basic benefit policy approved by the commissioner pursuant to this part and Acts 1991, No. 238; and~~

~~_____ (9)(A) Every policy issued pursuant to this part that covers the insured and members of the insured's family shall include coverage for newborn infant children of the insured from the moment of birth, and for adopted minors from the date of the interlocutory decree of adoption, provided the insurer may require that the insured give notice to his or her insurer of any newborn children within ninety (90) days following the birth of such newborn infant and of any adopted child within sixty (60) days of the date the insured has filed a petition to adopt.~~

~~_____ (B) The coverage of newborn children or adopted children shall not be less than the same as is provided for other members of the insured's family.~~

Authority. ~~Arkansas Code § 23-61-108.~~

~~**23 CAR § 107-104. Prohibited policy provisions.**~~

~~_____ (a) No policy issued pursuant to this part and Acts 1991, No. 238, as a minimum basic benefit policy shall provide for coverage or benefits required to be offered pursuant to the following provisions of the Arkansas Code:~~

- ~~_____ (1) Section 23-79-129;~~
- ~~_____ (2) Section 23-79-130;~~
- ~~_____ (3) Section 23-79-137;~~
- ~~_____ (4) Section 23-79-139;~~
- ~~_____ (5) Section 23-79-140;~~
- ~~_____ (6) Section 23-79-141;~~
- ~~_____ (7) Section 23-85-131(b);~~
- ~~_____ (8) Section 23-85-137;~~
- ~~_____ (9) Section 23-86-108(4);~~
- ~~_____ (10) Section 23-86-113; and~~
- ~~_____ (11) Section 23-86-118.~~

~~_____ (b)(1) Insurers may file with the State Insurance Department for approval as minimum basic benefit policies, policy forms which contain higher or lower benefit levels than specified by 23 CAR §§ 107-103 and 107-105.~~

~~_____ (2) Provided, however, no insurer may file any policy for approval as a minimum basic benefit policy that contains any provision excluded by subsection (a) of this section.~~

~~_____ (3) Provided further, insurers may only file policies for approval pursuant to subsection (b) of this section after filing and receiving approval and offering for sale a minimum basic benefit policy form containing those benefit levels as provided in 23 CAR §§ 107-103 and 107-105.~~

Authority. ~~Arkansas Code § 23-61-108.~~

~~_____ **23 CAR § 107-105. Required options.**~~

~~_____ Every policy offered for sale as a basic benefit policy shall give the insured the option of purchasing the following coverages, subject to underwriting guidelines:~~

~~_____ (1) Children's preventive healthcare coverage for services rendered at the following age intervals by a single physician during the course of one (1) visit:~~

- ~~_____ (A) Birth;~~
- ~~_____ (B) Two (2) months;~~
- ~~_____ (C) Four (4) months;~~
- ~~_____ (D) Six (6) months;~~
- ~~_____ (E) Nine (9) months;~~
- ~~_____ (F) Twelve (12) months;~~
- ~~_____ (G) Fifteen (15) months;~~
- ~~_____ (H) Eighteen (18) months;~~
- ~~_____ (I) Two (2) years;~~
- ~~_____ (J) Three (3) years;~~
- ~~_____ (K) Four (4) years;~~
- ~~_____ (L) Five (5) years; and~~
- ~~_____ (M) Six (6) years;~~

~~_____ (2)(A) Benefits for children's preventive health care shall be reimbursed at levels equal with the levels established for the same services under the Medicaid program in the State of Arkansas.~~

~~_____ (B) Furthermore, all copayments and other amounts payable by insureds pursuant to 23 CAR § 107-103 shall be applicable to benefits payable for children's preventive health care;~~

~~(3)(A) Prenatal care coverage shall be offered, which includes coverage for:~~
~~(i) One (1) prenatal visit per month during the first two (2) trimesters of pregnancy;~~
~~(ii) Two (2) office visits per month during the seventh and eighth month of pregnancy; and~~
~~(iii) One (1) office visit per week during the ninth month until term.~~
~~(B) Coverage shall include all necessary examinations, laboratory and diagnostic procedures, and tests deemed appropriate by the treating physician; and~~
~~(4) Obstetrical care shall be offered, which includes:~~
~~(A) Physician services;~~
~~(B) Delivery room services; and~~
~~(C) Other medically necessary hospital services.~~

Authority. ~~Arkansas Code § 23-61-108.~~

~~**23 CAR § 107-106. Waiting periods — Limitations.**~~

~~(a) Except as provided in 23 CAR § 107-103(6), there shall be no probationary or waiting period during which no coverage is provided under the policy.~~
~~(b) However, 23 CAR § 107-103(7) shall not apply to a basic benefit policy that replaces coverage of another basic benefit policy.~~

Authority. ~~Arkansas Code § 23-61-108.~~

~~**23 CAR § 107-107. Rates — Filing requirements.**~~

~~(a) Rates pertaining to basic benefit policies shall be:~~
~~(1) Filed with the Insurance Commissioner no less than sixty (60) days prior to intended use; and~~
~~(2) Approved by the commissioner prior to implementation.~~
~~(b) All rates submitted shall meet the following requirements:~~
~~(1) All rates shall be based upon a pool, community rating, or other rating formula acceptable to the commissioner;~~
~~(2)(A) No rate shall be approved unless accompanied by a statement from a qualified actuary certifying the reasonableness of the proposed rate.~~
~~(B) Such statement shall outline the actuary's qualifications, and the commissioner may disapprove any rate filing accompanied by a statement from an actuary he or she deems to be unqualified.~~
~~(C) Such actuary shall possess the qualifications outlined in 23 CAR § 10-103 or such other qualifications as the commissioner shall approve;~~
~~(3) All rates submitted for group policies shall be based upon a loss ratio of not less than seventy five percent (75%);~~
~~(4) All rates submitted for individual policies shall be based upon a loss ratio of not less than sixty five percent (65%);~~
~~(5)(A) All rates submitted pursuant to this part shall be accompanied by a statement from the insurer of the portion of the rate or premium applicable to the coverages provided for the basic benefit policy.~~
~~(B) All such statements shall be made on forms provided by the commissioner;~~
~~and~~

~~_____ (6) Any insurer wishing to appeal a denial of a rate request should make a written request for hearing pursuant to the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.~~

Authority. ~~Arkansas Code § 23-61-108.~~

~~_____ **23 CAR § 107-108. Underwriting guidelines.**~~

~~_____ (a)(1) No claim shall be reduced or denied on the ground that the disease or physical condition for which a claim is made preexisted the effective date of the policy coverage and was not disclosed by the insured unless:~~

~~_____ (A) The insurer has evidence that such disease or physical condition had manifested itself prior to the effective date of coverage for the disease or physical condition; and~~

~~_____ (B) Information on such disease or physical condition was requested on the application for insurance coverage.~~

~~_____ (2) No claim shall be reduced or denied on such grounds unless the manifestation of the disease is established by proof of medical diagnosis or treatment of such disease or physical condition prior to the effective date of coverage for the disease or physical condition.~~

~~_____ (b)(1) An insurer may rescind a minimum basic benefit policy within the first three (3) years after the policy inception only upon:~~

~~_____ (A) Receipt of information concerning the insured's state of health; and~~

~~_____ (B) A finding thereon that the insured failed to disclose or misrepresented material information contained on the application.~~

~~_____ (2) Material information is that information concerning the insured's physical condition or past treatment that would, if disclosed, result in refusal to accept that insured or others treated for the same condition or in substantially the same condition as the insured.~~

~~_____ (3) The burden of proof in cases in controversy before the State Insurance Department shall be on the insurer.~~

~~_____ (c) An insurer may rescind a minimum basic benefit policy after three (3) years only upon a showing of willful fraud by an insured as to that insured's physical condition or the physical condition of an insured's covered dependent.~~

~~_____ (d) Qualified members of groups or trusts holding minimum basic benefit policies shall not be subject to individual underwriting procedures or standards normally applied to individuals holding a minimum basic benefit policy.~~

Authority. ~~Arkansas Code § 23-61-108.~~

~~_____ **23 CAR § 107-109. Cancellations — Renewals.**~~

~~_____ All basic benefit policies issued to a qualified group or trust shall contain a "noncancellable", "guaranteed renewable", or "noncancellable and guaranteed renewable" provision that provides that the policy shall not be subject to termination of coverage of the insured or the insured's dependents other than for nonpayment of premium or material willful fraud on the part of the insured that substantially increases the risk to the insurer.~~

Authority. ~~Arkansas Code § 23-61-108.~~

~~_____ **23 CAR § 107-110. Disclosure and notice.**~~

~~_____ (a) Insurers offering for approval a basic benefit policy shall provide, separate from the policy, a disclosure to the insured that contains the following information:~~

- _____ (1) An outline of the extent of coverage;
- _____ (2) A specific list of the mandated benefits not provided;
- _____ (3) An explanation of any managed care and cost control features, including all necessary telephone numbers and addresses; and
- _____ (4) An explanation of the primary and preventive care features of the policy.
- _____ (b) All disclosure statements shall use terminology and language which is easily understood by the average consumer.
- _____ (c) The type used on the statements shall be pica size and the disclosure statement shall contain the following statement in 12-point boldfaced type:

~~THIS IS A BASIC BENEFIT POLICY AND CONTAINS COVERAGE WHICH IS STRICTLY LIMITED
IN NATURE AND DOES NOT CONTAIN BENEFITS WHICH WOULD BE PROVIDED UNDER A
COMPREHENSIVE MAJOR MEDICAL POLICY. READ YOUR POLICY CAREFULLY.~~
- _____ (d) A place for the insured's signature shall be provided under the statement, and no policy shall be issued unless the:
 - _____ (1) Disclosure statement is properly signed by the insured; and
 - _____ (2) Original of such retained in the records of the insurer for the duration of coverage.
- _____ (e) The insured shall be provided a copy of the statement so retained by the insurer.
- _____ (f) All disclosure statements shall be filed along with the policy form for approval by the Insurance Commissioner.

Authority. ~~Arkansas Code § 23-61-108.~~

~~**23 CAR § 107-111. Notice to employees.**~~

_____ Employers not providing a portion of the cost of health insurance for their employees shall post the notice provided in Appendix A of this part for the benefit of their employees at the place of employment or in any other reasonable manner.

Authority. ~~Arkansas Code § 23-61-108.~~

~~**23 CAR § 107-112. Qualified trusts — Formation and regulation.**~~

- _____ (a)(1) Two (2) or more qualified individuals, qualified families, or qualified groups may make application for a certificate of approval to the Insurance Commissioner in order to form a qualified trust pursuant to Acts 1991, No. 238, and this part.
- _____ (2) Such trust may exist solely for the purpose of obtaining minimum basic benefit policies.
- _____ (b) All applicants for a certificate of approval under this section shall make application on the forms provided by the commissioner and shall submit the following:
 - _____ (1) A copy of the trust agreement to be signed by all members of the trust;
 - _____ (2) A copy of any agreements with third parties to administer the trust;
 - _____ (3) A plan of management including the method of collection and billing for premiums, administrator fees, and other expenses of the trust;
 - _____ (4) A copy of the proposed master basic benefit policy; and
 - _____ (5) A copy of the form of enrollment or certificate to be issued to the trust members evidencing coverage.
- _____ (c) All administrators of trusts organized under this part shall comply with the provisions of Arkansas Code §§ 23-92-201 — 23-92-208 in the manner as those third-party administrators covered under such Arkansas Code provisions.

~~_____ (d)(1) Upon receipt of approval from the commissioner, the trust shall be allowed to conduct its business.~~

~~_____ (2) Any trust wishing to make a modification of the information required in 23 CAR § 107-103(1) shall file a request for approval with the commissioner prior to instituting the requested change.~~

Authority. ~~Arkansas Code § 23-61-108.~~

~~_____ **23 CAR § 107-113. Record keeping — Annual statements.**~~

~~_____ (a) Each insurer issuing a minimum basic insurance policy in this state shall maintain a separate annual record of information as to its business in minimum basic insurance policies, the form for which shall be provided by the Insurance Commissioner.~~

~~_____ (b) Such record shall contain the following information:~~

~~_____ (1) Total number of minimum basic benefit policy insureds listed by type of insured as follows:~~

~~_____ (A) Number of qualified individuals;~~

~~_____ (B) Number of qualified groups; and~~

~~_____ (C) Number of qualified trusts;~~

~~_____ (2) Number of policy options sold, listed by type of option offered;~~

~~_____ (3) Amount of premium written;~~

~~_____ (4) Total amount of claims incurred; and~~

~~_____ (5) Total amount of claims paid.~~

~~_____ (c) Such record shall be attested by the president of the insurer and submitted to the State Insurance Department annually by March 1 for the preceding year ending December 31 as an exhibit to the insurer's annual statement.~~

Authority. ~~Arkansas Code § 23-61-108.~~

~~_____ **23 CAR § 107-114. Advertising.**~~

~~_____ (a) Every insurer marketing a minimum basic benefit policy in this state shall provide a copy of any advertisement intended for use whether through written, radio, or television medium to the Insurance Commissioner for review and approval by the commissioner.~~

~~_____ (b) Every insurer marketing a basic benefit policy in this state shall comply with the following standards of marketing:~~

~~_____ (1) Establishment of marketing procedures to ensure fair and accurate comparison of policies by agents or other producers;~~

~~_____ (2) Display by type, stamp, or other appropriate means on the first page of any written marketing material or outline of coverage the following: "NOTICE TO BUYER: This is a basic benefit policy and does not contain benefits required by law to be provided by a major medical disability policy.";~~

~~_____ (3) Inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for basic benefit insurance is a qualified individual, qualified family, or qualified group having only had the permitted coverages for the twelve (12) months preceding the application; and~~

~~_____ (4) Every insurer or entity marketing basic benefit policies shall establish auditable procedures for verifying compliance with this section.~~

~~_____ (c) No policy of insurance may use the words "basic benefit", "minimum benefit", "minimum basic benefit", "bare bones", or other such words or similar language in any policy, advertisement, brochure, or other materials that would lead the average consumer to assume that such policy has been~~

~~approved by the commissioner as a minimum basic benefit policy pursuant to Acts 1991, No. 238, unless the policy in question has been approved as a minimum basic benefit policy pursuant to this part and Acts 1991, No. 238.~~

~~**Authority.** Arkansas Code § 23-61-108.~~

~~**23 CAR § 107-115. Conversion to Medicare supplement.**~~

~~Every insurer shall offer a qualified insured who reaches the age of sixty-five (65) and who is covered as a named insured or a covered dependent under that insurer's basic benefit policy, conversion to a Medicare supplement policy that complies with Minimum Standards for Medicare Supplement Policies, 23 CAR pt. 89, if such insurer issues Medicare supplement policies.~~

~~**Authority.** Arkansas Code § 23-61-108.~~

APPENDIX "A"

NOTICE TO EMPLOYEES

YOU OR YOUR DEPENDENTS MAY BE ELIGIBLE FOR MINIMUM BASIC BENEFIT INSURANCE. YOU MAY CONTACT THE ARKANSAS INSURANCE DEPARTMENT AT 501-371-2600 OR THE ARKANSAS EMPLOYMENT SECURITY DIVISION AT 501-682-2121 FOR A LIST OF THOSE INSURERS AUTHORIZED TO SELL SUCH POLICIES.



Hugh McDonald
SECRETARY OF COMMERCE

Alan McClain
COMMISSIONER,
ARKANSAS INSURANCE
DEPARTMENT

DATE: May 1, 2025
TO: ALL INTERESTED PARTIES
FROM: ARKANSAS INSURANCE DEPARTMENT
SUBJECT: Proposed Rule 23 CAR pt 155, Life Insurance Illustration

NOTICE OF PUBLIC HEARING

Please find attached or available by electronic publication by the Arkansas Insurance Department Proposed Rule 23 CAR pt 155, Life Insurance Illustration.

Pursuant to the Arkansas Administrative Procedures Act, specifically Ark. Code Ann. § 25-15-204, and other applicable laws, NOTICE is hereby given that a PUBLIC HEARING will be held on June 10, 2025, at 10:00 A.M., in the Second Floor Diamond Mine Hearing Room, at the Arkansas Department of Commerce, 1 Commerce Way, Little Rock, AR 72202.

This proposed rule is based on the NAIC Model Life Illustration Rule, which has been adopted by most states. The purpose of this proposed rule is to provide requirements for life insurance policy illustrations that will protect consumers and foster consumer education. The proposed rule provides illustration formats, prescribes standards to be followed when illustrations are used, and specifies the disclosures that are required in connection with illustrations.

Pursuant to Executive Order No. 23-02, the Arkansas Insurance Department also proposes to repeal (2) rules:

23 CAR pt 138: Patient-Centered Medical Home Standards

23 CAR pt 107: Minimum Standards for Minimum Basic Benefit Disability Insurance

Copies of the proposed rule may be obtained by writing or calling the Arkansas Insurance Department, or by visiting its Internet site at <https://www.insurance.arkansas.gov/pages/industry-regulation/legal/proposed-rules/>. Comments from the public will be accepted until close of business on June 10, 2025, and may be submitted to the Department in writing at the address above or electronically to the following email address: insurance.legal@arkansas.gov.