

# Arkansas Insurance Department

Asa Hutchinson  
Governor



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Commissioner

JULY 22, 2019

BULLETIN NO. 6 - 2019

**TO: ALL LICENSED HEALTH INSURERS, HEALTH MAINTENANCE ORGANIZATIONS, SELF-FUNDED EMPLOYER PLANS, THIRD-PARTY ADMINISTRATORS, PHARMACY BENEFIT MANAGERS, AND OTHER INTERESTED PARTIES**

**FROM: ARKANSAS INSURANCE DEPARTMENT**

**SUBJECT: HEALTH PLAN AND PRESCRIPTION DRUG COVERAGE IDENTIFICATION CARDS**

This Bulletin is directed to health benefit plan issuers in the fully-insured and self-insured health benefits markets, including third party administrators and pharmacy benefits managers servicing such plans for enrollees residing in this State. Arkansas recently enacted legislation in Act 706 of 2019 requiring disclosure by “healthcare payors” (as defined in Ark. Code Ann. 23-79-1802(2)(A)) of whether its plans are fully-insured or self-funded on health plan identification cards. Please be advised that this legislation was enacted with an emergency clause and has been in effect since April 4, 2019. The Arkansas Insurance Department (“Department”) has received concerns from medical providers advising us that some healthcare payors may not be in compliance with this new law. The purpose of this Bulletin is to advise healthcare payors of the law, the purpose of this law, and to address immediately needed interpretation issues due to the law’s enactment with an emergency clause. The Department may later address more detailed issues on implementation of this law in rule making.

Pursuant to Act 706 of 2019, now codified in Ark. Code Ann. § 23-79-1801, et. seq., a “healthcare payor” is required to issue an identification card to a member that provides an “indication of whether the health benefit plan is insured or self-funded.” See Ark. Code Ann. § 23-79-1803.” The terms, “healthcare payor,” and “identification card,” are defined in Ark. Code Ann. § 23-79-1802. Although the legislation did not define “healthcare services,” the Department believes it is reasonable to include pharmacy benefits as a “healthcare service” under a health benefit plan, and, therefore, the Department believes that pharmacy benefit cards are also subject to this law.

The core disclosure requirement in the Act is in Ark. Code Ann. § 23-79-1803. Plans in both the fully-insured and self-funded markets are to provide their insureds or enrollees with plan benefit ID cards which state whether the plan is insured [by an insurer or HMO] or whether it is a self-funded employer plan.

The Department is aware of the resource costs the health care plans have in re-issuing and modifying member or enrollee ID cards, as well is aware of the circumstance that there is only

so much information which can be stated in these cards with other benefit information. However, the law is only requiring disclosure of whether the plan is insured, or whether it is self-funded. The language needs to be simple, clear and aimed toward consumers and healthcare payors, who are not versed in insurance industry parlance or third-party network administration structures. For purposes of examples only, the phrase, "insured by ACME Insurer," or "issued by ACME Insurer or ACME HMO," are preferable to, "underwritten by ACME Insurer." The phrase, "[this] benefit plan is self-funded and administered by ACME Administrators," is preferable to stating "this plan is administered by ACME Administrators," because the providers are having to infer it is a self-funded plan in this last phrase. For self-funded plans, the Department strongly advises using the word, "self-funded," in its identification. It is also what the law requires. See Ark. Code Ann. § 23-79-1803. A fully-insured plan should simply state, "this plan is insured by [name of insurer or HMO]," a self-funded plan should simply state, "this plan is self-funded and administered by [name of administrator]."

The Department shall enforce this law on plans effective upon renewal of those plans after the effective date of Act 706. For questions related to this Bulletin, please contact Booth Rand, at the Department, (501) 371-2820.



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**July 22, 2019**  
DATE