
IN RE ARKANSAS BLUE CROSS & BLUE SHIELD AID ORDER # 2023-41
LIMITED SCOPE EXAMINATION
TEMPORARY HOSPITAL ACT

AMENDED ADMINISTRATIVE ORDER

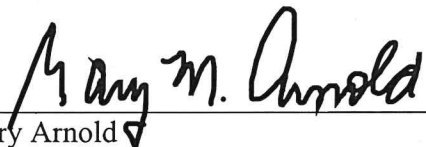
Following a preliminary conference, held on April 10, 2023 at the Arkansas Insurance Department (“AID”), the appointed Hearing Officer in this matter, Judge Gary Arnold (“Hearing Officer”) issues the following Amended Order in this matter:

1. The Motion to Intervene filed by Petitioners in this matter on March 7, 2023 from Freeway Surgery Center, LLC, and Centerview Surgery Center LLC (hereafter, “Intervenors”) is hereby granted.

2. The parties in this matter—AID; HMO Partners Inc. d/b/a Health Advantage and Arkansas Blue Cross & Shield (these two entities collectively referred to “ABCBS”); and the two Temporary Hospital Intervenors (all collectively referred to as “Parties”) have agreed to the following briefing issues during Phase I of this matter:

- a. Does the Arkansas Temporary Hospital Facility Act, Ark. Code Ann. § 23-99-1401, *et. seq.* (“The Temporary Hospital Facility Act”) apply under the circumstances complained of by the Intervenors;
 - b. If The Temporary Hospital Facility Act does apply, what type of contract does The Temporary Hospital Facility Act require ABCBS to offer to a temporary hospital;
 - c. If The Temporary Hospital Facility Act does apply, and Intervenors are entitled to what Intervenors refer to as a “hospital contract,” does Arkansas’s Any Willing Provider laws apply to the relationship between ABCBS and Intervenors;
 - d. Is The Temporary Hospital Facility Act retroactive and, if so, is retroactivity unconstitutional;
 - e. Should Phase I rulings be appealable; and
 - f. Does the AID need administrative rules governing administrative hearings for this proceeding.
3. The Parties have agreed to the following briefing schedule for Phase I of this matter:
- a. The AID shall submit its Phase I briefing on or before **April 28, 2023**; and

-
- b. ABCBS and Intervenors shall submit responses to the AID's briefing on or before **June 20, 2023**.
4. The Parties shall provide Phase I oral argument on **June 27, 2023**.
5. Arkansas Blue Cross and Blue Shield's Response To Petition Complaint filed on or about October 25, 2021, in connection with AID Order No. 2021-45 is hereby incorporated and made part of this proceeding on behalf of ABCBS.
6. Claimants Reply Brief filed on or about November 19, 2021, in connection with AID Order No. 2021-45 is hereby incorporated and made part of this proceeding on behalf of Intervenors.
7. After the Phase I hearing, the Hearing Office will issue recommended findings of facts and conclusions of law to be submitted to the Insurance Commissioner. The Insurance Commissioner shall then issue a final order for Phase I.
8. Phase II of this matter, if necessary, will be scheduled later. A separate scheduling order will be issued addressing Phase II briefing and hearings and will include, without limitation, opportunities for briefing and evidence on issues of restitution and penalties.



Gary Arnold
HEARING OFFICER

April 18, 2023

Date