

PROPOSED RULE 120
COVERAGE FOR EARLY REFILLS OF
PRESCRIPTION EYE DROPS

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SECTION 1. AUTHORITY

This Rule is issued pursuant to the authority granted the Arkansas Insurance Commissioner (“Commissioner”) by Act 357 of 2021, codified at Ark. Code Ann. § 23-79-2101 et seq., which provides the Commissioner with authority necessary to promulgate rules to implement Act 357 of 2021, “Arkansas Coverage for Early Refills of Prescription Eye Drops Act.”

SECTION 2. APPLICABILITY AND SCOPE

This Rule shall apply to all entities defined by Ark. Code Ann. § 23-79-2102 as “healthcare insurers” that provide coverage for prescription eye drops under a health benefit plan to a covered person on and after January 1, 2022.

SECTION 3. DEFINITIONS

The following words and terms, when used in this Rule, shall have the following meanings, unless the context clearly indicates otherwise.

(1) "Covered person" means a person who is and continues to remain eligible for coverage under a health benefit plan and is covered under the health benefit plan.

(2) (a) “Health benefit plan” means:

(1) An individual, blanket, or group plan, policy, or contract for healthcare services issued or delivered by a healthcare insurer; and

(2) Any health benefit program receiving state or federal appropriations from the State of Arkansas, including the Arkansas Medicaid Program and the Arkansas Works Program, or any successor program.

(b) "Health benefit plan" includes:

(1) Indemnity and managed care plans; and

(2) Nonfederal governmental plans as defined in 29 U.S.C. § 1002(32), as it existed on January 1, 2021.

(c) "Health benefit plan" does not include:

(1) A disability income plan;

(2) A credit insurance plan;

(3) Insurance coverage issued as a supplement to liability insurance;

(4) A medical payment under automobile or homeowners insurance plans;

(5) A health benefit plan provided under Arkansas Constitution, Article 5, § 32, the Workers' Compensation Law, § 11-9-101 et seq., or the Public Employee Workers' Compensation Act, § 21-5-601 et seq.;

(6) A plan that provides only indemnity for hospital confinement;

(7) An accident-only plan;

(8) A specified disease plan;

(9) A long-term-care-only plan;

(10) A dental-only plan; or

(11) A vision-only plan.

(3) "Healthcare insurer" means an entity subject to the insurance laws of this state or the jurisdiction of the Insurance Commissioner that contracts or offers to contract to provide health insurance coverage, including without limitation an insurance company, a health maintenance organization, a hospital medical service corporation, a self-insured governmental or church plan in this state, or the Arkansas Medicaid Program.

(4) "Healthcare professional" means a person who is licensed, certified, or otherwise authorized by the laws of this state to administer health care in the ordinary course of the practice of his or her profession.

(5) "Prescription eye drops" means a prescription topical eye medication that is delivered through eye drops and is used to treat a chronic condition of the eye.

SECTION 4. REQUIREMENT TO PROVIDE EARLY REFILLS OF PRESCRIPTION EYE DROPS

A healthcare insurer that provides coverage for prescription eye drops under a health benefit plan shall provide coverage for early refills of prescription eye drops to a covered person on and after January 1, 2022, if:

(a) For a thirty-day supply:

(1) The amount of time has passed after which a covered person should have used seventy percent (70%) of the dosage of the prescription eye drops according to a healthcare professional's instructions on the prescription; or

(2) Twenty-two (22) days have passed from:

(A) The original date the prescription eye drops were distributed to a covered person; or

(B) The date the most recent refill of the prescription eye drops was distributed to a covered person;

(b) The healthcare professional indicates on the original prescription that additional quantities of the prescription eye drops are needed;

(c) A refill request of a covered person for prescription eye drops does not exceed the number of additional quantities needed as described in section (b) of this section; and

(d) The prescription eye drops prescribed by a healthcare professional are a covered benefit under the health benefit plan of the covered person.

SECTION 5. ENFORCEMENT

Violations of this Rule shall constitute an unfair or deceptive act under Ark. Code Ann. § 23-66-206. Therefore, the penalties, actions or orders, including but not limited to monetary fines, suspension, or revocation of license, as authorized under Ark. Code Ann. §§ 23-66-209 and 23-66-210, shall apply to violations of this Rule.

SECTION 6. EFFECTIVE DATE

The effective date of this Rule is November 1, 2021.

ALAN MCCLAIN
INSURANCE COMMISSIONER

DATE