

BEFORE THE ARKANSAS INSURANCE DEPARTMENT

IN RE CENTRAL ARKANSAS
RADIATION THERAPY
INSTITUTE, INC. ("CARTI")

AID ORDER No. 2021- 03

RESPONSE TO PETITION FOR DECLARATORY ORDER

Comes now the Arkansas Insurance Department ("Department"), by and through its attorney, Crystal Phelps, and, for its Order, states the following findings:

FINDINGS OF FACT

1. On December 3, 2020, Petitioner Central Arkansas Radiation Therapy Institute, Inc. ("CARTI" or "Petitioner") filed a Petition for Declaratory Order pursuant to Department Rule 121, requesting the Department to issue a declaratory order on the applicability of certain statutes and rules to the Employee Benefits Division ("EBD") and plans administered by the EBD. CARTI is a healthcare provider serving patients who are beneficiaries of plans administered by EBD.

2. Department Rule 121 provides a means of resolving a controversy or answering questions or doubts concerning the applicability of statutory provisions, rules, or orders over which the Department has authority. A petition for declaratory order may be used only to resolve questions or doubts as to how the statutes, rules, or orders may apply to the petitioner's particular circumstances. A declaratory order has the same status as agency orders in cases of adjudication.

3. The Employee Benefits Division is a Division of the Department of Transformation and Shared Services. See Ark. Code Ann. § 25-43-1505. The Director of EBD and his or her staff manage the State and Public School Life and Health Insurance Program under the guidance of the Arkansas State and Public School Life and Health Insurance Board. See Ark. Code Ann. § 21-5-401 et seq.

4. Pursuant to Ark. Code Ann. § 23-61-503, the Department has jurisdiction over any person, entity, or plan that provides coverage in Arkansas for medical, surgical, chiropractic, physical therapy, speech pathology, audiology, professional mental health, dental, hospital, or optometric expenses, whether the coverage is by direct payment, reimbursement, or otherwise, unless the person, entity, or plan shows that it is not subject to the jurisdiction of the Department.

5. When state law or the rule promulgated to implement the state law defines “health carrier” or “health benefit plan” using the term “self-insured governmental plan,” or when a statute references policies, contracts, certificates, or healthcare plans issued by a “self-insured governmental plan,” the term captures EBD, and establishes the Department’s jurisdiction over EBD and its plans for purposes of that law or rule. The Department also has jurisdiction over EBD and its plans when a statute within the Department’s jurisdiction references health plans provided by Arkansas to state employees.

CONCLUSIONS OF LAW AND DECLARATORY ORDER

Wherefore, the Department issues this Declaratory Order, providing its response to the Petitioner’s request by pairing the statutes and rules identified by Petitioner with a “Yes” or “No” answer indicating whether the Department concludes it has jurisdiction over EBD and the plans administered by EBD pursuant to the cited statute or rule.

1. Audits of Medical Providers, Ark Code Ann. § 23-63-1801 et seq. Yes.
2. The Trade Practices Act, Ark Code Ann. § 23-66-201 et seq. No with the exception of Ark. Code Ann. § 23-66-215. The Department has jurisdiction when a statute or rule defines a health benefit plan or healthcare insurer to be a self-funded governmental plan or when a statute specifically mentions the state employee health plan. Ark. Code Ann. § 23-66-215

specifically defines “health carrier” to include “a self-insured governmental or church plan and third-party administrators that administer or adjust disability benefits for a disability insurer, hospital medical service corporation, health maintenance organization, self-insured governmental plan, or self-insured church plan.”

3. The Arkansas Healthcare Consumer Act, A.C.A. § 23-99-401 et seq. Yes.
4. The Prior Authorization Transparency Act, A.C.A. § 23-99-1101 et seq. Yes.
5. The Healthcare Contracting Simplification Act, A.C.A. § 23-99-1201 et seq. Yes.
6. Minimum Standards for Accident and Health Insurance, AID Rule 18. No.
7. Accident and Health Insurance Policies, AID Rule 21. Yes.
8. Unfair Claims Settlement Practices, AID Rule 43. No.
9. Complaint Registers, AID Rule 44. No.
10. Arkansas External Review Regulation, AID Rule 76. Yes.
11. Recoupment, AID Rule 85. Yes.
12. Arkansas Healthcare Transparency Initiative Standards, AID Rule 100. Yes.
13. Prior Authorization Transparency Act, AID Rule 115. Yes.

IT IS SO DECLARED AND ORDERED.



Alan McClain
Insurance Commissioner
State of Arkansas



Date