HEARING

IN THE MATTER OF

PROPOSED RULE 100
"ARKANSAS HEALTHCARE
TRANSPARENCY
INITIATIVE STANDARDS"

HONORABLE RUSS GALBRAITH
CHIEF DEPUTY COMMISSIONER & HEARING OFFICER
ARKANSAS INSURANCE DEPARTMENT

HEARING PROCEEDINGS

SEPTEMBER 14, 2015

at 10:00 A.M.

APPEARANCES

ON BEHALF OF THE ARKANSAS INSURANCE DEPARTMENT:

MR. BOOTH RAND
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ORIGINAL

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EXHIBITS

CAPTION

PROCEEDINGS in the above-styled and numbered cause on the 14th day of September, 2015, before Faith Grigsby, Arkansas Supreme Court Certified Court Reporter #686, at 10:00 a.m., in the Hearing Room of the Arkansas Insurance Department, 1200 West Third Street, Little Rock, Arkansas, pursuant to the agreement hereinafter set forth.

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PROCEEDINGS

SEPTEMBER 14, 2015

HEARING OFFICER: Good morning. Today is September 14, 2015. We're here in the matter of Proposed Rule 100, "Arkansas Healthcare Transparency Initiative Standards". My name is Russ Galbraith, and Commissioner Kerr has appointed me to be the hearing officer in this matter. Present, representing the Department, is Mr. Booth Rand.

Mr. Rand, you may proceed.

MR. RAND: Thank you, Mr. Hearing Officer. I have with me at the table some persons that are going to help explain this rule. Dan Honey is our director of the APC division, and I'll let Craig introduce himself, and titles for ACHI.

MR. WILSON: Craig Wilson, director of access to quality care with the Arkansas Center for Health Improvement.

MS. MONEY: Kenley Money, director of the health data initiative at the Arkansas Center for Health Improvement, and director of the APCD.

MR. RAND: Thank you, Mr. Hearing Officer.

We have some preliminary exhibits we'd like to admit into the administrative record for this rule. The first exhibit is your designation as hearing officer by Commissioner Kerr, which is Exhibit Number 1.

Exhibit Number 2 is a copy of the Department's Notice of Public Hearing. As you know, under the Arkansas Procedures Act, you have to provide notice of public hearings, and Exhibit 2 is a copy of what we mailed out to the industry. Exhibit Number 3 is the proposed rule itself, which came with the NOPH, or Notice of Public Hearing.

Exhibit Number 4 and Exhibit Number 5 are items that we send to the Arkansas Democrat-Gazette, which is the largest daily circulatory newspaper in the state. Under the APA, as you know, Mr. Hearing Officer, we have to provide three days notice of hearings, thirty days in advance.

Exhibit 4 shows the notice to Ms. Dicus at the Arkansas Democrat-Gazette. There is some billing information. And Exhibit 5 is the copy of the notice that ran in the back of the newspaper indicating today's subject matter of

the hearing, September 14th at 10:00 a.m., to consider adoption of Proposed Rule 100. As you can see from Exhibit Number 5, the notice of public hearing ran from August the 9th including August the 11th, so it ran for three days.

A copy of Exhibit Number 6 is a copy of an electronic distribution that we send to interested persons who want copies of proposed rule-making, whenever we do promulgate rules. This is a copy of what Ms. Rowland sends to everybody who is signed up to receive our notices of public hearing and copies of our proposed rules.

Exhibit Number 7 is a cover letter that we send to the Arkansas Legislative Council, which is part of the Arkansas Bureau of Legislative Research. Behind it will be, in addition to the cover letter, Mr. Hearing Officer, the required Bureau of Legislative Research filings, a Legislative Council Questionnaire, a Financial and Economic Impact Statement, and a Summary. Those are Exhibits 7, 8 and 9, which we filed with BLR on August the 6th, 2015. Those are all required to be filed by BLR. In

the Arkansas Legislative Council's requirements, those are the forms that we have to submit to them to get the rule promulgated and out the door and, ultimately, reviewed by ALC.

Exhibit Number 10 is a summary. BLR warrants a short summary of the proposed rule. I tried to make it as short as I could. But that is our Exhibit Number 10. The rest of the items are peripheral items that we send courtesy copies of, Mr. Hearing Officer. It is part of a custom, not necessarily required by law. But we do try to give advance notice to a variety of other State officials about when we're intending to do a proposed rule.

Exhibit Number 11 is a copy of a letter which we included to the Arkansas Attorney General's Office, to Ms. Sara Farris, who, at that time, was the liaison. Exhibit Number 12 is a copy -- I've included both the cover letter to the Secretary of State as well as the State Library as Exhibit 12, indicating our Proposed Rule 100.

Exhibit 13, which we included in the record, as you know, we provide a courtesy copy

of our proposed rules to the Governor's Office. In fact, this one here, as we all know, was reviewed by the Governor's Office and authorized under their executive order for promulgation of the rule by the Governor's Office.

My letter dated August the 6th is a copy of a letter I sent to Mr. Carlton Saffa at the Governor's Office, and in it somewhere I do recognize the date which we received an e-mail confirmation from the Governor's Office that they had authorized promulgation of Proposed Rule 100.

Exhibit 14 is a copy of a letter that we sent to Arkansas Economic Development Authority, just to give them a heads up on rules that we are adopting or proposing to adopt that might affect small business.

Exhibit 15, Mr. Hearing Officer, are the written comments that we have received, in your notebook that we provide to you, at the time. We have now received five, I think, written comments. I would suggest to you that I would go through those after I explain what the rule does, if that's okay.

HEARING OFFICER: Sure.

MR. RAND: But just briefly, we have a comment from AHIP, the Association of Health Insurance Plans. We received a comment from the Arkansas Medical Society, a comment from QualChoice, and a comment from Arkansas BlueCross BlueShield. I have not checked my e-mail this morning. There may be someone who sent in a comment. They tend to wait until the last minute to do so. But those are the only five that we've received so far.

Exhibit Number 16 are the proposed edits or modifications that the Department has already agreed to modify in response to comments that we received. These are our edits or modifications of the proposed rule after it was filed, and it's been in response to comments that we've already received during the public comment period. It is, of course, up to the Hearing Officer and Commissioner to adopt those edits or modifications that we've agreed to, is the punch line on that.

These edits or modifications are essentially everyone that suggested modifications or edits, at least to the rule,

that were suggested by AHIP, or the Association of Health Insurance Plan.

Exhibit 17 is a copy of a Data Use Agreement. I will let Mr. Wilson explain this later, after we get through with explaining what the rule does and what the comments were.

Exhibit 18 and 19 are copies of e-mails and distributions by ACHI that have attached copies of the proposed rule, copies of the DSG. It was sent to the Advisory Board Members that were required to be appointed by statute by the Governor's Office. On two occasions, August 24, 2015, and September 10, 2015, Craig and the Department sent to all the Advisory Board Members copies of the proposed rule and a copy of the DSG.

I also want to add into the record, in addition to these items, a copy of the DSG, at the time, the Proposed Data Guide that we initially drafted. I will tell you that we'd like to make that also a part of the exhibits that we intend to introduce into evidence.

At this time, we move to admit all those exhibits into the administrative record.

HEARING OFFICER: What exhibit number is

the DSG going to be?

MR. RAND: I'm going to make it Exhibit 20.

HEARING OFFICER: So Exhibits 1 through 20 will be admitted into the record.

(WHEREUPON, Exhibits Number 1 through 20 were marked for identification and are attached hereto.)

MR. RAND: At this time I will explain the rule. Mr. Hearing Officer, as you know, this rule was implemented in Act 1233 of 2015, which is the "Arkansas Healthcare Transparency Initiative Act" sponsored by Senator Sanders and others. Essentially, this act -- this rule is implementing the need for gathering data (claims data, enrollment data, provider file data) from medical, dental and pharmaceutical carriers, as well as plans. I will hit some of the highlights on it.

The intent here of the rule is to set standards out. And the key point of this rule is the promulgation, or the development of the Data Submission Guide, upon which, for most standards and fields, the carriers and plan will submit claims, enrollment data, as well as provider file data pursuant to the fields that

are drafted in the DSG. The rule is implementing Act 1233, essentially.

The definitions section mirror those in the Act, largely, I believe, verbatim, most of the time, in Section 4. Section 5 are the general reporting requirements. And under the law, Mr. Hearing Officer, as you know, the law written under Act 1233 requires submissions of the claims and enrollment data. Effective on January 1st, 2016, this rule is going to further elaborate on what those time periods are.

Section 5 essentially provides a description of when the data submission timing is due. There's an exhibit to the rule, which is Exhibit A, which, if you will see, Mr. Hearing Officer, establishes staggered dates for time periods for the submission of the data from the DSG. I believe there is an initial historical request for records going back to 1/1/2013. The staggered dates are triggered off of the size of the submitting entity, and they're set out in the table in Appendix A.

Section 5 also describes exemption processes. First of all, a submitting entity

is not subject to this rule or law unless it's got over 2,000 covered individuals. The rule explains those particular Group Code level, the way we're going to count covered individuals.

The other part of Section 5 relates to exemptions from the rule. And the rule provides that a submitting entity can ask for an exemption for good cause. The rule does not define what good cause is but, essentially, leaving it up to the Commissioner to respond for exemption requests within 30 days.

Section 6 establishes also a variance requirement for submitting entities that are unable to meet the requirements of the rule related to DSG for one reason or another. They can submit an exemption request to the Commissioner asking that it be extended or varied or waived, as long as they explain the reason why, the methodology they propose to eliminate the need for an extension and so on. So the Commissioner can also, independently, provide variances to particular data field objections or exemption requests.

Section 7 discussed the revisions to the DSG, what the DSG does, and how it's made

publicly available in response to changes. Items here are that, for material modifications, that can only be done once a year. The Commissioner, as currently proposed in this rule, has to consult with the Advisory Board about the need for material modification.

For technical changes, those that do not make any significant alterations to the DSG or do not materially change it, the Commissioner can make those changes, and they're effective within, I believe, 30 days. For material modifications, the Commissioner -- those do not go into effect until 120 days, and the submitting entities have 30 days to review and comment on material changes to the DSG. Again, the Administrator can make technical corrections to the DSG at any time.

I will say that one of the comment sections by AHIP was to further elaborate what a technical correction is. We have, in our modifications or suggested edits, further elaborated on what a technical correction is. So we'll get into that in a minute.

Section 8 is, essentially, a repeat or restatement of what the law already designates

as persons that are to be appointed on the Advisory Board. And the rest of it is regurgitation of statutory compliance requirements. The statement that -- the material that we gather from this enterprise is not subject to FOIA, and may not be subject to subpoena, and this is not significant. The other items, I believe, are. So that is some of the highlights.

Craig, do you have anything that you want to add to that?

MR. WILSON: Just one clarification on the exemption versus exception process. The exemption process is intended to allow a process by which submitting entities can propose to the Insurance Commissioner a variance or waiver of requirements in the rule itself. The exception process, on the contrary, is for specific data fields in the Data Submission Guide. So just one clarification.

MR. RAND: The suggested edits or proposed edits, instead of reading through each one of those, I will tell you, Mr. Hearing Officer, that if you look in the public comment section

under Exhibit 15, all of the proposed suggestions related to what's in the rule that were offered by AHIP we did adopt in our proposed modifications of the rule. There were several items that we did not agree with, I believe, in regard to the DSG, but it would be up to the Commissioner and Hearing Officer.

And Craig, I'll let you address the items that we don't necessarily agree with right now.

MR. WILSON: Most of these as it relates to definitional items in the AHIP letter were accepted, I believe, in the revised version of the rule that's in the exhibits. The only couple of ones that were not accepted, one was related to data submission timing, which is something that, I believe, the Insurance Department didn't feel was something that could be moved because it's statutorily guided, and that the exemption process would allow for a process by which, on an individual basis, carriers could request an exemption.

Separately, on a permanent exemption for self funded plans, there is a pending Supreme Court case and, until that is resolved, there will be no consideration of permanent exemption

for those entities.

Then, separately, as it relates to aggregated reports to be made available for the submitting entities at no charge, until the Insurance Department can consult with the Initiative Board on sustainability plan and a fee schedule, more generally, that request was not adopted in the rule itself.

There were some modifications to the Data Submission Guide, as well, which we'll go into in a minute, based on the AHIP comments. But those were the only ones related to the rule.

HEARING OFFICER: Craig, can you reference in the AHIP letter the sections that you're --

MR. WILSON: That were not adopted?

HEARING OFFICER: Right. One of them is 5.B.1, right?

MR. WILSON: One of them was 5.B.1. The second was 5.C. The third one was Section 11. And that's it.

HEARING OFFICER: Thank you.

MR. RAND: Mr. Hearing Officer, just for your notebook reference -- you may have already picked this up -- Exhibit 16 is the exhibit in your notebook that reflects our changes to the

proposed rule, which are, essentially, all of AHIP's suggested changes to the rule. And those are outlined in red.

And if I can, I'll just go ahead and go through the next public comment, if that's okay.

HEARING OFFICER: Sure.

MR. RAND: Arkansas BlueCross and BlueShield is here if they want to speak to this. I'm not going to read Mr. Gauger's letter, but I'll certainly hit the point of it. One of the concerns that has been raised is the material modification of the DSG.

But first, before that, the need for including the DSG into the record, which we have done this morning. It is not finished. We intend to have a final Data Submission Guide no later than Friday of this week, and you'll hear me ask you to keep the record open as to the DSG, to allow it to be kept open until Friday of this week. So we are willing to allow the record to be kept open and we're willing to put it into the record as Mr. Gauger requested.

One of the objections or concerns has been,

under the APA, the need to consider material modifications of the DSG to be a rule itself. I've got a view of that, and I understand Mr. Gauger's explanation. If you look at the APA, which is very broadly written, any policy change, any interpretation by the departments or agencies has to go through rule-making. I agree with that general notion.

We have proposed, however, as you know, Mr. Hearing Officer, to allow for the modification of the DSG to occur without going through formal ruling, and it is less about legality than it is pragmatics. The time period now to do rules has been extended and is significantly long, requiring everybody to review things now.

We propose to at least set out a rule that allows Legislative Council to review this procedure, and it's our view that it would meet the APA if the Legislative Council reviews and approves the procedure of how we do edits and material modifications of the DSG. So I don't necessarily agree that it offends the APA if the Legislative Committee is reviewing this process in the rule itself.

So one of the good things about the rule,

and one of the good things about material modifications is, they can't happen any more than one time a year. So we're not going to get a lot of material modifications once a year.

One of the things that has been suggested or proposed is having the Advisory Board approve material modifications if there's a concern that the Commissioner, whoever is Commissioner, is going to act arbitrary, and agreed material modifications or consumer groups to do so. But one of the things that we can suggest to the Hearing Officer and Commissioner is to change the rule and allow the Advisory Board to actually approve material modifications. That is a suggestion that we would be willing to agree with to help provide some protection or concern over arbitrary material modifications.

The next public comment, Mr. Hearing Officer, is from the Arkansas Medical Society. Essentially, the Medical Society, under the DSG, as I understand it, there are a variety of data fields and we asked for provider files on a remittance level.

We want billed charges, apparently, and the Medical Society argues that, really, the focus ought to be on the allowed charges, since it's the basis for which consumers made and formed price comparison.

In addition, the AMS, that's the Arkansas Medical Society, requests that the rule not require the individual physician to provide their social security number, their medicare number, their National Provider Identification Number, and tax ID. And they questioned the need for providing why we've got to know the medical school name and medical school completion date.

So I will let Craig respond to why we have to have some of those fields, and what sort of revisions or maybe minor modifications that we might be willing to advise the Hearing Officer and Commissioner to alternatively take.

MR. WILSON: So first addressing the billed charges. The important thing there is, the intent of the legislation was not done solely for consumer-facing information. So analyses related to billed charges, what a consumer might be exposed to if, for example, he or she

was uninsured, the level of the discount offered by the carriers, that's information that the APCD was intended to collect and to provide some analysis for. So it's not all consumer-facing information.

Separately, on their second request we had made some modifications to the DSG, eliminating the collection of social security number, making optional, I believe, the collection of the medicare number. There is some significant importance in collecting both National Provider Identification Number and provider's tax ID number, which let's us know, for example, if an individual were associated with a group entity. And the remainder of variables there have been made optional in the Data Submission Guide.

MR. RAND: Mr. Hearing Officer, if you don't have any questions on that, I can go on to the next public comment.

HEARING OFFICER: Just real quick, Craig, you said that the remaining were made optional. Are you talking about the medical school name and the rest of the things that are listed there?

MR. WILSON: Correct.

MR. RAND: The last public comment that I've gotten is from QualChoice, and I'm going to let Craig address that. But essentially, Liz asks a good questions. She says law prohibits the gathering of geographic or demographic information that would allow identification of the covered person. The rule, however, references -- or the Data Submission Guide is asking for sex and race. It doesn't ask for name or zip code, I believe, but gender. Why does this not offend the intent of the Act to exclude that, because somebody could reconstruct or re-identify, potentially, who these people are. So I'll let Craig address that.

MR. WILSON: So the important thing about the definitional phrase there of direct personal identifiers is the definition and the exclusion of geographic information and demographic information, such as a three digit CID code or county indications. Those things allow for analyses of regional level information, age information. So if you wanted to do an analysis of a particular quality metric where you needed a certain set of ages

to look at, that would allow for some analyses like that.

The important thing about the exclusionary language there is that geographic and demographic information, in isolation, relative to the direct personal identifiers that are named there, such as street address and social security number, would not allow for identification of the individual in isolation.

And separately, the important thing about the statute itself is, it acknowledges that there is some information that will be collected that, when combined together, could ultimately result in identification of an individual, and it specifically provides protection from re-identification based on that information. So there's an acknowledgment and a protection there.

MR. RAND: And if I may address that. In that it's statutory, Mr. Hearing Officer, in the Arkansas Healthcare Transparency Initiative Act, 23-61-907 forbids re-identification of an individual for people who gather or get the data from us, is the way I understand it. Those are the comments that we've gotten.

Before we close on our end of it, Craig, I promised the Hearing Officer that you would explain the Data Use Agreement and one of the whole points here about people who are wanting access, what we do give them.

MR. WILSON: So there have been a number of other initiatives like this around the nation that have developed Data Use Agreements and regulatory frameworks for use and release of the information gathered, and the Data Use Agreement that we fashioned is very much modeled after some of those other initiatives.

The Data Use Agreement will be for any individual or entity that requests information from the initiatives or the APCD, and will be between that individual and the Insurance Department, based on whatever they decide to release, in consultation with the Board itself.

MR. RAND: And we have a form agreement, which is draft. It's one of the exhibits in the Hearing Officer's notebook. I believe it is Exhibit 17, and it is our proposed draft that we would like to use, at least initially, subject to modifications that we may later make for Data Use Agreements.

Mr. Hearing Officer, that is all we have in terms of explaining the rule and some of the comments, and we would request that, for purposes of the rule, you keep the record open until noon tomorrow for review of the rule by yourself and the Commissioner about what you want to accept for modifications; that you keep the record open for the DSG until Friday to allow Ms. Kenley to make her changes.

By the way, I'm wrong. I believe she's going to explain the DSG for us. So before we close, she will provide an overview of what the DSG does require.

But for record purposes, we'd like to keep the record open for the rule until noon tomorrow, and Friday for the DSG. The reason why is because under the BOR requirements, we want to get this rule into effect no later than November 2nd of this year, to give the industry and submitting entities enough time to prepare for the DSG test data that are going to be asked the first of this year. So Dan Honey wanted -- the industry wanted enough advance notice.

To get the rule in effect for November the

2nd, we had to get it on the October calendar. Under the Bureau of Legislative Research requirements, to get on the October calendar, we have to have a final rule over to BLR or ALC no later than the 15th of this month. It is the 14th today. This is why we're kind of in a rush. And I know it's frustrating, but we're trying to get this out.

And Dan might want to speak to that, if you want to, Dan.

MR. HONEY: I'd reiterate that also. And I'm sure that Kenley will make this point as well, but before she reviews the requirements of the DSG, I wanted to also let you know that in addition to -- obviously, you can see on the rule itself there's been quite a bit of industry input and we've been working through the various issues and details of that. I wanted to let you know that we are very close -- I would say over 90 percent agreed to as far as what goes into the DSG.

We've had a lot of correspondence, and we had a big phone call on Friday, sponsored by AHIP, where they got together a lot of their member carriers and went through some of the

DSG issues, which I'm sure that Kenley will get into. But did want to get everything -- all the specifics of ironing out the document itself. As you can see, it's quite a voluminous document and it would be, I think, probably not in everyone's best interest to try to rush that through by noon tomorrow, so we are going to request that we leave the record open until Friday to get all of that ironed out.

HEARING OFFICER: What's a good time on Friday? End of the day? Five p.m.?

MR. HONEY: That's fine.

MR. RAND: And I would turn this over to Ms. Kenley.

MS. MONEY: Thank you very much. The Data Submission Guide, I'm sure we're all painfully aware, the one that went out on August 6, we first posted it on our website in draft, in September, when the first APCD voluntary bill was being put up, and it has since taken some revision.

But you'll note that the Data Submission Guide provides the variables required from all the carriers for the categories of data,

medical claims, pharmacy claims, dental claims, member data and provider data. It includes submission and format requirements, threshold requirements, nits like how to submit the files, the technical requirements that your technical teams will need.

It talks about encryption protocols. It does not provide encryption protocols, because we want to protect the safety of all of the data. But there will be training sessions after the DSG is submitted finally, and as the registration process begins, so that all carriers will be informed and trained on the encryptions protocols and how to submit data through the web portal that is also described in there.

Additionally, there is the data exception process. Craig mentioned exemption versus exception. The DSG focuses on exception, which is any question or concern about a field that is required, a data exception can be submitted.

Since August 6, we have gotten a lot of comments and our team has reviewed the DSG continually to look for things to clarify, and I thought I would just give some highlights of

the feedback that we have received and incorporated, and things that we found. All will be noted in the revision history section of the one that is published at the end of the week.

We did get some input about denied claims, so we have removed the requirement for denied claims. As Craig mentioned earlier, we removed the requirement for provider licensure certification data.

There was some question about the unique ID that we require. One carrier had an older version of the DSG, the one from the -- one of the middle ones, and the rules have changed about what data fields are required for the unique ID, last name and date of birth instead of full name and social.

Several carriers questioned the need -- Craig.

MR. WILSON: Just a clarification. Last name and date of birth will be used for the encryption process.

MS. MONEY: Yes. Thank you.

MR. WILSON: Not that it would be provided.

MS. MONEY: Thank you, Craig. We will not

receive last name, but the carriers will build a unique ID based on that and we will receive hashed value and, upon receipt, we will rehash that value for additional security. Thank you, Craig.

There was a lot of concern about our DSG's increased size from the APCD core. There is a core set of variables that the APCD Council recommends and our DSG is larger than that. And the core data values that are used throughout the country are dated from 2011 and, since then, many more variables have been added. And in consultation with the APCD Council, the author of the core, they've said, because the need and use of APCD's has changed and evolved, more data fields are added. However, in our release on August 6, we asked for 24 diagnosis codes, procedure codes, and we've reduced that to 12, because the core only has 12, and it was excessive in that area.

Again, we removed the provider SSN. The August 6 DSG had a provider file added update component that has been replaced with -- removed and replaced with just a complete file replacement. It was too complicated and did

not serve the purpose.

We've made changes to the enrollment data required submission based on AHIP's proposal, or request, replacing the word "for" with "from". We updated header and trailer record requirements for processing. We added three fields that were not in the August 6 version: actuarial status, grandfather status and drug code. I talked about the removal of data elements.

We did receive some feedback from a PBM OptumRx, which now owns Catamaran, and they had been reviewing a very old version of the DSG and had several questions about fields that we had removed, a few we had not yet and did not apply, so we removed those.

There is a field that, in this August 6 version, was called Product ID, and that has been replaced with HIOS ID. We replaced some required to optional thresholds. And then you'll see, in the latest version that we'll provide on Friday, some edits where we fixed spelling, grammar, capitalization, that sort of thing.

So in a nut shell, those are the changes

that we have made in the past few weeks. Any questions?

MR. WILSON: Just clarification on the timing of providing the Data Submission Guide. It will be provided by the end of the day tomorrow for comment, before Friday.

MS. MONEY: Thank you.

MR. RAND: So Mr. Hearing Officer, you've heard an explanation of the rule, the exhibits, and the public comments, and changes to the DSG, and so I guess we're ready to hear public comments here.

HEARING OFFICER: Real quick question. The amended version, is that going to be -- when you do submit that, is it going to be marked up so we can look at the difference between the two?

MR. WILSON: There will be a modification section at the beginning, or revision history, that will show each of the changes.

MS. MONEY: Yes. Thank you.

HEARING OFFICER: So public comments. I believe Derrick Smith, are you --

MR. SMITH: I'm the only one?

HEARING OFFICER: You're the only one.

MR. SMITH: Well, then I'll keep it brief, if that's okay. Let me begin by expressing AHIP's appreciation to the Department of Insurance for your willingness to consider the thoughts and perspective of the industry. We especially appreciate the call that Dan Honey mentioned that allowed us to actually talk back and forth rather than just send letters and get a response back. We also appreciate the incorporation of some of those comments into the draft rule.

Despite that, we still do have some concerns that I'd like to mention. Most of them deal with the Data Submission Guide; although, it sounds like it's being revised to address some of those. Without having seen it, let me express those here.

The primary concern is one that Ms. Money mentioned that relates to the sheer volume of requested elements. She mentioned the requests go beyond what's in the APCD core, and we think that's going to significantly impact the time it takes to provide responses, as well as may impact cost.

In addition to going beyond the core, we

also have some concerns about requesting information that carriers just typically don't collect. One of those was social security numbers, but it sounds like that's been removed. But another relates to provider dates of birth, and I didn't hear reference to that, whether that's still included or not. But those are just two examples of things that carriers typically don't collect and, if it's optional, that's an improvement. But we'll have to wait and see if there are others in the revised DSG that comes out tomorrow.

We also have a concern that's just, the DSG is not complete at this point. We think that's going to impact the time. We understand the Department's position that you can't delay the period within the deadline for submitting, and so we would suggest/recommend/request that the Department consider issuing some type of blanket waiver on sanctions for failure to submit by date certain.

We understand that you can have an exemption or exception process, but this is going to impact the entire industry and we think it's not something that might necessarily

need to be included in the rule. Perhaps a bulletin or a notice from the Department that suggests that a submission that gets in within a certain number of days or a certain time period from completion of the DSG would not be subject to sanctions. I think those are -- and we think you can do that under Section 14 as the rule is written now.

Again, although we have these concerns, we are encouraged by the Department's willingness to consider things we expressed thus far and look forward to seeing the final DSG tomorrow, and hope to comments back soon thereafter.

HEARING OFFICER: Thank you, Derrick.

Is there anybody else here, present, that would like to speak on this topic?

(No audible response given)

HEARING OFFICER: If not -- so we're going to keep the record open on Rule 100 until noon tomorrow, correct.

MR. RAND: That's correct.

HEARING OFFICER: And then keep the DSG record open until Friday at the end of the day, so we'll say 5:00 p.m., for that.

If there's nothing else, then we'll close

the record and adjourn.

(WHEREUPON, the proceedings were concluded in this matter at 9:55 a.m.)

CERTIFICATE

STATE OF ARKANSAS)
)ss
COUNTY OF PULASKI)

I, Faith Grigsby, CCR, Certified Stenomask Reporter before whom the foregoing testimony was taken, do hereby certify that the witness was duly sworn by me; that the testimony of said witness was taken by me and was thereafter reduced to typewritten form under my supervision; that the deposition is a true and correct record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by the parties to the action in which this deposition was taken, and further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested in the outcome of this action.

I FURTHER CERTIFY, that I have no contract with the parties within this action that affects or has a substantial tendency to affect impartiality, that requires me to relinquish control of an original deposition transcript or copies of the transcript before it is certified and delivered to the custodial attorney, or that requires me to provide any service not made available to all parties to the action.

WITNESS MY HAND AND SEAL this 24th day of September, 2014.

ARKANSAS SUPREME COURT
FAITH
GRIGSBY
No. 686
CERTIFIED COURT REPORTER

FAITH GRIGSBY
Arkansas Supreme Court
Certified Court Reporter #686

EXHIBIT LIST

DATE: **SEPTEMBER 14, 2015**

SUBJECT: **RULE 100 – ARKANSAS HEALTHCARE TRANSPARENCY INITIATIVE STANDARDS**

HEARING OFFICER: **HONORABLE RUSS GALBRAITH, DEPUTY COMMISSIONER**

EXHIBIT #	DESCRIPTION

1. Designation of Hearing Officer.

2. Copy of Arkansas Insurance Department August 6, 2015 NOTICE OF PUBLIC HEARING, concerning Rule 100 "Arkansas Healthcare Transparency Initiative Standards".

3. Proposed Filed Rule 100 and Proposed Filed Data Submission Guide (attached to notebook separately).

4. Copy of August 6, 2015 Arkansas Insurance Department electronic email to Ms. Pam Dicus, Arkansas Democrat-Gazette requesting notice publication.

5. Newspaper Notice –Copy of Ad which ran for 3 days in ADG and billing statement.

6. Copy of electronic mail distribution to insurance industry regarding proposed Rule 100 and Notice of Public Hearing.

7. Copy of Arkansas Insurance Department August 6, 2015 letter to Donna Davis of Arkansas Legislative Counsel & Arkansas Bureau of Legislative Research.

8. Legislative Counsel Questionnaire.

9. Financial & Economic Impact Statement.

10. Rule 100 Summary for Arkansas Bureau of Legislative Research.

11. Copy of August 6, 2015 Arkansas Insurance Department letter to Sara Farris, Office of the Attorney General.

12. Copy of August 6, 2015 Arkansas Insurance Department letter to Secretary of State and copy of August 6, 2015 letter to Arkansas State Library.

13. Copy of August 6, 2015 Arkansas Insurance Department letter to Carlton Saffa, Regulatory Liaison, Office of the Governor.

14. Copy of August 6, 2015 Arkansas Insurance Department Letter Pat Brown.

15. Public Comments Section. Received written public comments (attached to notebook separately).

16. Proposed edits or modifications to Rule in response to already received public or industry comments.

17. Proposed data use agreement ("DUA") draft.

18. 8-24-2015 ACHI notice to Healthcare Transparency Advisory Board Members regarding education forum and proposed Rule 100 and Data Submission Guide.

19. 9-10-2015 ACHI notice to Healthcare Transparency Advisory Board Members for comments to proposed Rule 100 and Data Submission Guide.

Arkansas Insurance Department

Asa Hutchinson
Governor

Allen Kerr
Commissioner

DESIGNATION OF HEARING OFFICER

DATE: September 14, 2015

SUBJECT: PROPOSED RULE 100 "ARKANSAS HEALTHCARE TRANSPARENCY INITIATIVE STANDARDS"

HEARING OFFICER: Russ Galbraith,
CHIEF DEPUTY COMMISSIONER

Pursuant to Ark. Code Ann. § 23-61-103(e)(1), I hereby delegate Russ Galbraith, Chief Deputy Commissioner, to serve as the Hearing Officer in the above-referenced matter. Pursuant to this Designation, Mr. Galbraith will have at his disposal all of the powers and duties vested in the office of the Commissioner of Insurance for the State of Arkansas.

Allen Kerr
INSURANCE COMMISSIONER
STATE OF ARKANSAS

9-10-15
Date

EXHIBIT
1

Arkansas Insurance Department

Asa Hutchinson
Governor

Allen Kerr
Commissioner

DATE: AUGUST 6, 2015

AUG 06 2015

TO: ALL ACCIDENT AND HEALTH INSURERS, HEALTH MAINTENANCE ORGANIZATIONS AND HOSPITAL AND MEDICAL SERVICE CORPORATIONS & OTHER INTERESTED PARTIES

FROM: ARKANSAS INSURANCE DEPARTMENT

SUBJECT: RULE 100: "ARKANSAS HEALTHCARE TRANSPARENCY INITIATIVE STANDARDS"

NOTICE OF PUBLIC HEARING

Please find attached or available by electronic publication by the Arkansas Insurance Department ("Department") Proposed Rule 100, "ARKANSAS HEALTHCARE TRANSPARENCY INITIATIVE STANDARDS." The Arkansas Insurance Commissioner ("Commissioner") is filing for public comment and public hearing a proposed regulation implementing Act 1233 of 2015, the "Arkansas Healthcare Transparency Initiative. The Act and proposed implementing Rule govern the required disclosure by health plans of various types of data to better help provide both the State and consumers with information about healthcare utilization, quality, and pricing of healthcare plans operating in this State.

Pursuant to Ark. Code Ann. §§ 23-99-417(a)(1), 23-99-417(e), 23-61-108(a)(1), and other applicable laws or rules, NOTICE is hereby given that a PUBLIC HEARING will be held on September 14, 2015 at 10:00 A.M., in the First Floor Hearing Room, Arkansas Insurance Department ("Department"), 1200 West Third Street, Little Rock, Arkansas.

The purpose of the Public Hearing will be to determine whether the Commissioner should adopt Proposed Rule 100, "ARKANSAS HEALTHCARE TRANSPARENCY INITIATIVE STANDARDS."

All interested persons are encouraged to make comments, statements or opinions to the address below or attend the Public Hearing and present, orally or in writing, statements, arguments or opinions on the proposed Rule. All licensees and other interested persons are responsible for notifying all their personnel, agents, and employees about this Public Hearing.

Persons wishing to testify should notify the Legal Division as soon as possible, and are requested to submit intended statements in writing in advance.

Direct your inquiries to the Legal Division at (501) 371-2820 or insurance.legal@arkansas.gov.

A copy of Proposed Rule 100 can be obtained or viewed on the Legal Division's Internet Web Site at http://insurance.arkansas.gov/prop-rules.htm

Sincerely,

EXHIBIT 2

Booth Rand
Managing Attorney
Arkansas Insurance Department
(501) 371-2820

PROPOSED RULE 100

ARKANSAS HEALTHCARE TRANSPARENCY INITIATIVE STANDARDS

Section 1. Authority

This Rule is issued pursuant to Act 1233 of 2015 of the Arkansas 90th General Assembly, also known as the "Arkansas Healthcare Transparency Initiative Act of 2015" (hereafter "Healthcare Transparency Initiative Act" or "Act"). Pursuant to Act 1233 of 2015, which became effective upon signature by the Governor of the State of Arkansas on April 8, 2015, the Arkansas Insurance Department ("AID") is authorized to issue Rules to implement provisions of the Healthcare Transparency Initiative Act. 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 2. Purpose

The purpose of the this Rule is to establish the guidelines for submission of medical, dental, and pharmaceutical claims, unique identifiers and geographic and demographic information for covered individuals, and provider files to the Arkansas Healthcare Transparency Initiative for the purpose of creating and maintaining a multi-payer claims database as a source of healthcare information to support consumers, researchers, and policymakers in healthcare decisions within the state. The Rule is intended to create and maintain an informative source of healthcare information to support consumers, researchers and policymakers in healthcare decisions within the state and empower Arkansans to drive, deliver, and seek out value in the healthcare system.

Section 3. Applicability & Scope

This Rule applies to all submitting entities as defined in Section 4 of this Rule unless otherwise exempted pursuant to Section 5.C of this Rule.

Section 4. Definitions

The following definitions shall apply in this Rule:

(1) "Administrator" means the Arkansas Center for Health Improvement;
(2) "AID" means the Arkansas Insurance Department;
(3) "All-payer claims database" or "APCD" means the database created and maintained by the Arkansas Healthcare Transparency Initiative, including the ongoing all-payer claims database project funded through the Arkansas Insurance Department, that receives and stores data from submitting entities;
(4) "APCD Council" means a federation of government, private, non-profit, and academic organizations focused on improving the development and deployment of state-based APCDs;
(5) "Arkansas Healthcare Transparency Initiative" or "Initiative" means the initiative established pursuant to Act 1233 of 2015 to create and maintain a database, including the ongoing all-payer claims database project funded through the Arkansas Insurance Department, that receives and stores data from submitting entities;
(6) "Arkansas Healthcare Transparency Initiative Board" or "Initiative Board" means the advisory board established under Act 1233 of 2015;
(7) "Arkansas resident" means an individual for whom a submitting entity has identified an Arkansas address as the individual's primary place of residence;
(8) "Commissioner" means the person in charge of the Arkansas Insurance Department;
(9) "Covered individual" means a natural person who is an Arkansas resident and is eligible to receive medical, dental, or pharmaceutical benefits under any policy, contract, certificate, evidence of coverage, rider, binder, or endorsement that provides for or describes coverage;
(10) "Data" means information consisting of, or derived directly from enrollment files, medical claims files, dental claims files, pharmacy claims files, provider files and validation reports;
(11) "Data set" means a collection of individual data records and data elements that comprises the file types for an enrollment file, medical claims file, dental claims files, pharmacy claims file, and a provider file submitted quarterly, and in the format outlined in the DSG.
(12) "Data Submission Guide" or "DSG" means a document approved by the Commissioner in consultation with the Initiative Board, that sets forth the required data file format, data elements, code tables, edit specifications, thresholds required for a submission to be deemed complete, methods for submitting data, validation reports, exception processes, adjustment files, and other information associated with the submitting entities' reporting duties;

(13) "Dental claims file" means, as further defined in the DSG, a data file that contains service level remittance information for all paid and denied claims for each billed dental service for covered individuals including without limitation unique identifiers, geographic and demographic information but not direct personal identifiers; provider information and services rendered to a covered individual; charge/payment information; and clinical diagnosis/procedure codes. Claims and benefits not subject to this Rule will not be included in a dental claims file. The term may exclude certain data that is prohibited to release according to state or federal law;

(14) "Direct personal identifiers" means information relating to a covered individual that contains primary or obvious identifiers, such as the individual's name, street address, e-mail address, telephone number, and Social Security number. "Direct personal identifiers" does not include geographic or demographic information that would not allow the identification of a covered individual;

(15) "Enrollment file" means unique identifiers, demographic and geographic information relating to covered individuals;

(16) "HIPAA" means the Health Insurance Portability and Accountability Act, 42 U.S.C. Section 1320d – 1320d-8 and its implementing regulations, 45 C.F.R. Parts 160, 162 and 164, as may be amended;

(17) "Historical data" means a one-time data submission following submission of a test file and for a period commencing on January 1, 2013 and ending according to the data submission schedule in this Rule;

(18) "Medical claims file" means, as further defined in the DSG, a data file that contains service level remittance information for all paid and denied claims for each billed medical service for covered individuals including without limitation unique identifiers, geographic and demographic information but not personal identifiers; provider information and services rendered to a covered individual; charge/payment information; and clinical diagnosis/procedure codes. Claims and benefits not subject to this Rule will not be included in a medical claims file. The term may exclude certain data that is prohibited to release according to state or federal law;

(19) "Pharmacy claims file" means a data file containing service level remittance information from all paid and denied claims for each prescription for covered individuals including without limitation unique identifiers, geographic and demographic information but not personal identifiers; provider information; charge/payment information; and national drug codes. The term may exclude certain data that is prohibited to release according to state or federal law;

(20) "Provider file" means a data file that includes additional information as set forth in the DSG about the providers that are included in a medical claims file, dental claims file, or pharmacy claims file;

(21) "Submitting entity" means an entity that is subject to this Rule and its data reporting requirements;

a. "Submitting entity" includes the following entities:

i. an entity that provides health or dental insurance or a health or dental benefit plan in the state, including without limitation an insurance company, medical services plan, hospital plan, hospital

medical service corporation, health maintenance organization, or fraternal benefits society, provided that the entity has covered individuals and the entity had at least two thousand (2,000) covered individuals as of December 31 in the previous calendar year;

ii. a health benefit plan offered or administered by or on behalf of the state or an agency or instrumentality of the state;

iii. a health benefit plan offered or administered by or on behalf of the federal government with the agreement of the federal government;

iv. the Arkansas Workers' Compensation Commission;

v. any other entity providing a plan of health insurance or medical, dental, or pharmaceutical benefits subject to state insurance regulation, a third-party administrator, or a pharmacy benefits manager, provided that the entity has covered individuals and the entity had at least two thousand (2,000) covered individuals as of December 31 in the previous calendar year; and

vi. an entity that contracts with institutions of the Department of Correction or Department of Community Correction to provide medical, dental, or pharmaceutical care to inmates;

vii. A health benefit plan subject to the Employee Retirement Income Security Act of 1974, Pub. L. No. 93-406 ("ERISA");

b. "Submitting entity" does not include an entity that provides health insurance or a health benefit plan that is accident-only, specified disease, hospital indemnity, long-term care, disability income, or other supplemental benefit coverage from which benefit payments are directly to the covered individual;

c. In instances where more than one submitting entity is involved in the administration of a policy, the payer shall be responsible for submitting the claims data on policies that it has written or sold as a bundle, provided however that in instances where more than one submitting entity is involved in the administration of a policy, those entities will work together to use the same unique identifier for a covered individual across separate feeds for medical, prescription, and other claims; and

d. If a "submitting entity" contracts with another entity to provide subcontracted claims processing services, the entity which contracts directly with the customer shall be the submitting entity for purposes of this Rule;

(22) "Test file" means a data file, as further defined by the DSG, that includes a sample of service level remittance information for billed medical or dental services or prescriptions for covered individuals;

(23) "Unique identifier" means, as further defined in the DSG, an identifier that is guaranteed to be unique among all identifiers for covered individuals but does not include direct personal identifiers;

(24) "Validation report" means, as further defined in the DSG, a report from the submitting entity that provides aggregated information about a quarterly data submission to provide control totals and record counts.

Section 5. General Reporting Requirements; Exemptions.

A. Submitting Entity Requirements. Unless exempted by the Commissioner in accordance with Section 5.C of this Rule or by the explicit language of this Rule, a submitting entity shall submit to the Arkansas Insurance Department through the Administrator a completed data set for an enrollment file, a medical claims file, a dental claims file, a pharmacy claims file, a provider file, and a validation report in accordance with Section 5 of this Rule and with the requirements outlined in the Data Submission Guide.

B. Data Submission Timing. Submitting entities shall provide data in accordance with the following schedule:

1. Test files for submitting entities must be submitted no later than January 1, 2016.

2. Historical data and regular quarterly submission will commence following submission of test files according to the submission schedule in Appendix A. For purposes of the submission schedule the following groupings apply:
   a. Group 1 means submitting entities listed in the Definition Section 4(21)a.i. with at least 100,000 covered individuals as of December 31, 2015 and entities listed in the Definition Section 4(21)a.ii., iii., iv., and vi.;
   b. Group 2 means submitting entities listed in Definition Section 4(21)a.i. with at least 25,000 covered individuals but fewer than 100,000 covered individuals as of December 31, 2015;
   c. Group 3 means submitting entities listed in Definition Section 4(21)a.i. with at least 10,000 covered individuals but fewer than 25,000 covered individuals as of December 31, 2015;
   d. Group 4 means submitting entities listed in Definition Section 4(21)a.v. and submitting entities listed in Definition Section 4(21)a.i. with at least 2,000 covered individuals but fewer than 10,000 covered individuals as of December 31, 2015.

3. Unless otherwise exempted under Section 5.C of this Rule, submitting entities must submit data according to the established patterns identified in the submission schedule in Appendix A for future years not explicitly listed in the schedule.

4. Entities qualifying in more than one Group listed in Section 5.B.2 must submit claims for all covered individuals according to the schedule listed for the first Group in which the entity qualifies.

C. Submitting Entity Exemptions. An entity with fewer than two thousand (2,000) covered individuals as of December 31 of the previous calendar year will not be

required to submit data in accordance with this Rule. For purposes of determining whether an entity is subject to the requirements of this rule and for data submission timing in Section 5.B of this Rule, entities must aggregate the number of covered individuals for all companies at the Group Code level as defined by the National Association of Insurance Commissioners. Entities that offer medical, dental, and pharmaceutical benefits, or any combination thereof, under separate or combined plans will count all covered individuals, irrespective of the comprehensiveness of the plan, toward the two thousand (2,000) covered individual threshold.

The Arkansas Workers' Compensation Commission is exempt from submitting a provider file as required by this Section. Until further notice, employer self-funded health plans are exempt from all requirements in this Rule.

The Commissioner may, for good cause, grant an exemption to a submitting entity (or to a class of which the entity is a member) for all or some of the requirements of this Rule. "Good cause" includes without limitation pending litigation which may preempt application of the Act to a submitting entity. The Commissioner will respond in writing within 30 days to any exemption request.

If an entity does not believe it meets the definition of a submitting entity herein or does not believe it meets the 2,000 covered individuals threshold, that entity may dispute the Commissioner's decision in accordance with the administrative procedures of the State of Arkansas.

Section 6. Submission Exclusions; Data Submission Guide.

A. Extension, Variance or Waiver of Data Submission Requirements. If a submitting entity is temporarily unable to meet the requirements of this Rule including the standards in the Data Submission Guide other than those outlined in the exceptions process in the DSG for specific data variables, a submitting entity may submit an exemption request to the Commissioner including the specific requirement to be extended, varied or waived; an explanation of the reason or cause; the methodology proposed to eliminate the necessity of the extension, variance or waiver, if applicable; and the time frame required to come into compliance. The Commissioner will respond in writing within 30 days to any exemption request.

B. Submission Exclusions. For purposes of clarity and without limiting the foregoing, the following data are excluded from this Rule: data related to a health benefit plan that is accident-only, specified disease, hospital indemnity, long-term care, disability income, or other supplemental benefit coverage where benefits are paid directly to the covered individual.

Section 7. Data Submission Guide.

A. Data Submission Guide Standards. The Administrator in consultation with the Initiative Board will develop and make publicly available a Data Submission Guide that will be used to evaluate data submissions, including minimum completion rates ("thresholds") as well as detailed information about criteria tested in automated reviews. The Administrator will provide a periodic update of data submission standards to facilitate submitting entities' creation of files that conform to the DSG. In developing the DSG the Administrator will consult with organizations such as the APCD Council in order to examine appropriate APCD Core Standard provisions.

B. Revisions to Data Submission Guide. The Administrator may make material DSG revisions no more than once per year. Material DSG revisions include adding new data elements, adding new codes to existing data elements or otherwise significantly amending the DSG. Submitting entities will have 30 days to review and comment on the proposed revisions. The Administrator will review the comments with the Initiative Board and Commissioner prior to issuing a revised DSG. The Commissioner will post a final revised version on the AID website. The revised DSG will be effective for the files to be submitted not less than 120 days after the posting date on the AID website.

The Administrator may make technical corrections to the DSG at any time. Technical corrections are those intended to clarify or otherwise expedite the process of submitting files that conform to the DSG.

The Administrator will notify submitting entities about all material and technical revisions, including the start and end of comment periods for material revisions.

C. Manner of Data Submission. Submitting entities will submit data in accordance with the manner outlined in the DSG and in compliance with the HIPAA Security Rule or any applicable state law that is more restrictive than the HIPAA Security Rule.

Except as provided in this Rule, bulletin, order or directive issued by the Commissioner, each submitting entity shall provide data in the form and manner set forth in this Rule and according to the applicable version of the Data Submission Guide and at such times set forth in any applicable submission schedules.

Section 8. Arkansas Healthcare Transparency Initiative Board; Subcommittees.

A. Initiative Board Duties and Composition.

1. The Initiative Board will serve in an advisory capacity, providing input into the various functions of the Arkansas Healthcare Transparency Initiative and its APCD, assisting in the development of and revisions to the Data Submission Guide, and reviewing recommendations from the Data Oversight and Scientific Advisory subcommittee regarding data use and release.

2. The Initiative Board will be composed of the following members:

a. A representative of the Arkansas Department of Human Services;
b. A representative of the Department of Health;
c. A representative of the Office of Health Information Technology or its successor entity;
d. The Arkansas Surgeon General; and
e. The following Governor-appointed members:
    i. Two representatives from the health insurance industry, one of whom will be a multi-state representative and one of whom will be a domestic representative;
    ii. A representative from a self-insured employer;
    iii. A representative from an employer of fewer than one hundred (100) full-time employees that provides healthcare coverage to employees through a fully-insured product;
    iv. A representative from a healthcare consumer organization;
    v. A representative from the academic research community with expertise in healthcare claims data analysis; and
    vi. An representative with expertise in health data privacy and security.

3. Governor-appointed members of the Initiative Board will serve a term of three (3) years. The Initiative Board will appoint one (1) member as a chair and determine the qualifications, duties and term of office for the chair. Seven (7) members constitute a quorum for a meeting of the Initiative Board; provided however, that the lack of a quorum does not preclude action by the Commissioner with respect to the duties required by the Act or this Rule.

B. Subcommittees.

1. The Data Oversight Committee, which will be composed of three (3) Governor-appointed members and an individual healthcare consumer appointed by the Commissioner, will review and make recommendations to AID regarding:
    a. Whether specific data requests are consistent with the purpose and intent of the Act 1233, including without limitation whether the data request contains the minimum required information; and
    b. Reports and publications generated from data requests to ensure compliance with the Act.

3. The Scientific Advisory Committee, which will be composed of the Governor-appointed member of the Initiative Board from the academic research community and two (2) nonmembers of the Initiative Board who are academic researchers and appointed by the Commissioner, will serve as peer review for academic researchers and provide advice regarding data requests for academic proposals and the scientific rigor of analytic work.

4. The Commissioner may establish and convene as necessary additional subcommittees to carry out the responsibilities of the Act and this Rule.

Section 9. Administrator. The Arkansas Center for Health Improvement will host and administer the APCD and have custody of the data collected by the APCD as part of the Arkansas Healthcare Transparency Initiative. Except as authorized in state law, the Administrator is prohibited from collecting, disclosing or using data obtained in its capacity as Administrator for any purposes other than those specifically authorized in the Act, this Rule, or any agreement with AID to administer the APCD.

Section 10. Initiative Public Use and Reports. Contingent upon available funding and in consultation with the Initiative Board, the Arkansas Insurance Department will issue reports from data collected by the Initiative which may include descriptions of patterns of incidence and variation of medical treatment options, comparisons of health care quality and performance, state and regional cost patterns, utilization of services, how health care dollars are being spent and health care research activities. Reports generated by AID will be available to the public on a website.

Any and all reports will comply with federal and state privacy laws. Any and all reports will preserve competition consistent with Statement 6 of the Department of Justice and Federal Trade Commission Enforcement Policy and not deprive payers of existing trade secret protections.

After soliciting input from the Initiative Board, AID will develop a process by which individuals can request data sets to be reviewed by the Data Oversight Subcommittee and the Initiative Board and approved by the Commissioner. Where appropriate, individuals requesting data sets will sign a data use agreement to be approved or denied by the Commissioner, upon recommendation of the Data Oversight Subcommittee and the Initiative Board. AID will not release data sets for solely commercial purposes. The Commissioner may adopt a fee schedule to fulfill data requests under this Section.

Section 11. Limited Data Set Requests. AID, in consultation with the Initiative Board, will determine a limited data set of elements to be made available for research projects. The requester will submit to the Scientific Advisory Committee through the Administrator a detailed research scope and purpose to determine if a limited data set can be made available. The Commissioner will approve or deny each request for a Limited Data Set, upon recommendation by the Scientific Advisory Committee and the Initiative Board. The requester will sign a data use agreement with the Commissioner if data is supplied to the requestor.

The requester shall protect patient privacy and confidentiality information contained in the limited data set according to HIPAA, applicable laws of the Arkansas, and the data use agreement. The Commissioner may adopt a fee schedule to fulfill the data requests under this Section.

Section 12. Public Record. Data submitted by submitting entities to the Arkansas Insurance Department through the Administrator are confidential and are exempt from disclosure under the Freedom of Information Act of 1967, Ark Code. Ann. § 25-19-101 et seq., and are not subject to subpoena, except to the extent provided in Ark. Code Ann § 23-61-205.

Section 13. Compliance. Each time a submitting entity submits a file, AID will evaluate each submitting entity's submissions in accordance with the DSG. Upon completion of the evaluation, AID will promptly notify each submitting entity in writing whether its submissions satisfy the DSG standards. This notification shall identify the specific files and the data sets that do not conform to DSG standards. Each submitting entity notified of a non-compliant data submission shall respond within 30 days of the notification by making the changes necessary to satisfy the DSG standards unless an extension, variance or waiver has been submitted in accordance with Section 6.B.

Section 14. Penalties for Non-Compliance. Following notice to the submitting entity and the failure to comply during the 30-day cure period, the Commissioner may impose a maximum penalty on a submitting entity of one thousand dollars ($1000.00) per day. The Commissioner may delay, reduce, or waive any penalty.

Section 15. Privacy and Security. AID will institute appropriate administrative, physical and technical safeguards to ensure that the APCD, its operations, data collection and storage, and reporting disclosures are in compliance with the requirements applicable federal and state law.

Section 16. Effective Date. This Rule will be effective on November 2, 2015.

_____

ALLEN W. KERR
INSURANCE COMMISSIONER

_____

DATE

APPENDIX A
SUBMISSION SCHEDULE

Group Number	Date of Data Receipt	Claims Dates From:	To:
Group 1	3/31/2016	1/1/2013	12/31/2015
Group 2	6/30/2016	1/1/2013	12/31/2015
Group 3	9/30/2016	1/1/2013	12/31/2015
Group 4	12/31/2016	1/1/2013	12/31/2015
All Groups	3/31/2017	1/1/2016	12/31/2016
All Groups	6/30/2017	1/1/2017	3/31/2017
All Groups	9/30/2017	4/1/2017	6/30/2017
All Groups	12/31/2017	7/1/2017	9/30/2017
All Groups	3/31/2018	10/1/2017	12/31/2017
All Groups	6/30/2018	1/1/2018	3/31/2018
All Groups	9/30/2018	4/1/2018	6/30/2018
All Groups	12/31/2018	7/1/2018	9/30/2018
All Groups	3/31/2019	10/1/2018	12/31/2018
All Groups	6/30/2019	1/1/2019	3/31/2019
All Groups	9/30/2019	4/1/2019	6/30/2019
All Groups	12/31/2019	7/1/2019	9/30/2019

Data submitters who are newly required to submit files under this rule after January 1, 2016 shall submit data according to a schedule developed by the Administrator in consultation with AID.

Arkansas Insurance Department

Asa Hutchinson
Governor

Allen Kerr
Commissioner

Thursday, August 06, 2015

Arkansas Democrat-Gazette
P O Box 2221
Little Rock, AR 72203
Attn: Ms. Pam Dicus, Legal Ad Department
Facsimile: 501-378-3591

RE: Legal Notices: Public Hearing on Proposed Rule # 100

Dear Ms. Dicus:

The Insurance Commissioner is proposing to adopt Rule 100, "Arkansas Healthcare Transparency Initiative Standards." In order to publish it per the Arkansas Administrative Procedure Act, as amended, and per the Arkansas Insurance Code, we need to publish a **FULL RUN** legal ad or notice on the Commissioner's Public Hearing for the Rule set on September 14, 2015 at 10:00 a.m.

In compliance with Ark. Code Ann. § 25-15-204 and § 16-3-102, please find enclosed a legal ad for Notice of Public Hearing which should be published for three (3) consecutive days beginning on August 9, 2015.

Please send the billing invoices to Mrs. Pam Looney, Assistant Commissioner, Accounting Division, Arkansas Insurance Department, 1200 West Third, Little Rock, Arkansas 72201-1904, accompanied by a printed copy of the Legal Ad and proof of publication. Thank you in advance for your cooperation.

Sincerely,

(signed by Booth Rand)

Booth Rand
Managing Attorney/Legal Division
booth.rand@arkansas.gov

RECEIVED
AUG 06 2015
BUREAU OF
LEGISLATIVE RESEARCH

LRR

Attachment – Legal Ad for Proposed Rule 100 Adoption

cc: LoRraine Rowland, Administrative Analyst

EXHIBIT
4

NOTICE OF PUBLIC HEARING

The Arkansas Insurance Department will host a Public Hearing on September 14, 2015 beginning at 10:00 a.m. in the First Floor Hearing Room, Arkansas Insurance Department, 1200 West Third Street (Third and Cross Streets), Little Rock, Arkansas, to consider adoption of proposed Rule 100, "Arkansas Healthcare Transparency Initiative Standards." Copies of proposed Rule 100 may be obtained by writing or calling the Arkansas Insurance Department, or by visiting our Internet site at http://www.state.ar.us/insurance/legal/legal_p1.html. Or www.accessarkansas.org/insurance for links there. For more information, please contact Ms. LoRraine Rowland, Legal Division, Arkansas Insurance Department at 501-371-2820.

LoRraine Rowland

om: Legal Ads <legalads@arkansasonline.com>
Sent: Thursday, August 06, 2015 1:35 PM
To: LoRraine Rowland
Subject: Re: Proposed Rule 100

Received and processed as requested
thanks
pam

From: LoRraine Rowland
Sent: Thursday, August 06, 2015 1:30 PM
To: Legal Ads (legalads@arkansasonline.com)
Cc: LoRraine Rowland
Subject: Proposed Rule 100

Please provide me with the dates this will run in the newspaper.

Thank you,

LoRraine Rowland
Administrative Analyst/Legal Division
Arkansas Insurance Department
:00 West 3rd Street
Little Rock, AR 72201
501-371-2831 (office)
501-371-2639 (fax)
lorraine.rowland@arkansas.gov

"This will be the best day and the best year of my life"

Arkansas Democrat Gazette

STATEMENT OF LEGAL ADVERTISING

ARK INSURANCE DEPARTMENT
1200 W THIRD
LITTLE ROCK AR 72201

ATTN: Pam Looney
DATE : 08/11/15 INVOICE #: 3029342
ACCT #: L801001 P.O. #:

REMIT TO:
ARKANSAS DEMOCRAT-GAZETTE, INC.
P.O. BOX 2221
LITTLE ROCK, AR 72203

BILLING QUESTIONS CALL 378-3812

STATE OF ARKANSAS, }
COUNTY OF PULASKI, } ss.

I, Yvette Hines, do solemnly swear that I am the Legal Billing Clerk of the Arkansas Democrat - Gazette, a daily newspaper printed and published in said County, State of Arkansas; that I was so related to this publication at and during the publication of the annexed legal advertisement in the matter of:

hearing

pending in the Court, in said County, and at the dates of the several publications of said advertisement stated below, and that during said periods and at said dates, said newspaper was printed and had a bona fide circulation in said County; that said newspaper had been regularly printed and published in said County, and had a bona fide circulation therein for the period of one month before the date of the first publication of said advertisement; and that said advertisement was published in the regular daily issues of said newspaper as stated below.

DATE	DAY	LINAGE	RATE	DATE	DAY	LINAGE	RATE
08/09	Sun	33	1.57				
08/10	Mon	33	1.35				
08/11	Tue	33	1.35				

TOTAL COST ---------- 140.91
Billing Ad #: 73305706

Yvette Hines

Subscribed and sworn to me this 11 day of August, 20 15

Bennie J. Fuller
Notary Public

OFFICIAL SEAL - # 12381364
BENNIE J. FULLER
NOTARY PUBLIC - ARKANSAS
PULASKI COUNTY
MY COMMISSION EXPIRES: 3-21-2021

AD COPY

NOTICE OF PUBLIC HEARING
The Arkansas Insurance Department will host a Public Hearing on September 14, 2015 beginning at 10:00 a.m. in the First Floor Hearing Room, Arkansas Insurance Department, 1200 West Third Street (Third and Cross Streets), Little Rock, Arkansas, to consider adoption of proposed Rule 100, "Arkansas Healthcare Transparency Initiative Standards." Copies of proposed Rule 100 may be obtained by writing or calling the Arkansas Insurance Department, or by visiting our internet site at http://www.state.ar.us/insurance/legal/legal_p1.html. Or www.accessarkansas.org/insurance for links there. For more information, please contact Ms. LoRraine Rowland, Legal Division, Arkansas Insurance Department at 501-371-2820.
73305706f

RECEIVED
AUG 13 2015
ACCOUNTING
ARKANSAS INSURANCE DEPARTMENT

EXHIBIT
5

LoRraine Rowland

om: Arkansas Insurance Department <insurance.legal=arkansas.gov@mail28.us4.mcsv.net> on behalf of Arkansas Insurance Department <insurance.legal@arkansas.gov>
Sent: Friday, August 07, 2015 3:40 PM
To: LoRraine Rowland
Subject: Notice of Hearing: Proposed Rule 100

Notice of Hearing: ??Proposed Rule 100?? View this email in your browser

Arkansas Insurance Department

Asa Hutchinson
Governor

Allen Kerr
Commissioner

Legal Notice

Notice of Hearing
Proposed Rule 100

Please click on the link below to view the Department's Proposed Rule 100 "ARKANSAS HEALTHCARE TRANSPARENCY INITIATIVE STANDARDS" and Notice of Hearing information.

http://insurance.arkansas.gov/prop-rules.htm

Should you have questions regarding this Rule please contact Booth Rand at 501-371-2820 or via email at booth.rand@arkansas.gov

EXHIBIT
6

Arkansas Insurance Department

Mike Beebe
Governor

Jay Bradford
Commissioner

Thursday, August 06, 2015

HAND DELIVERY

Ms. Donna Davis
Arkansas Legislative Council
Arkansas Bureau of Legislative Research
State Capitol, Suite 315
Little Rock, Arkansas 72201

RE: Proposed Rule 100: "Arkansas Healthcare Transparency Initiative Standards"

Dear Ms. Davis:

Enclosed for your review and for filing with the Subcommittee of the Arkansas Legislative Council, is proposed Rule 100, "Arkansas Healthcare Transparency Initiative Standards."

The Arkansas Insurance Department ("Department") is proposing a Rule to implement Act 1233 of 2015, the "Arkansas Healthcare Transparency Initiative." The Act and proposed implementing Rule govern the required disclosure by health plans of various types of data to better help provide both the State and consumers with information about healthcare utilization, quality, and pricing of healthcare plans operating in this State.

The Department has scheduled a public hearing for September 14, 2015, at 10:00 A.M., at the Arkansas Insurance Department, to consider adopting this proposed Rule.

I have enclosed a triplicate set of the proposed Rule, our Notice of Public Hearing, the standard Questionnaire, Financial Impact Statement as well as a summary of the proposed Rule.

Sincerely,

Booth Rand
Managing Attorney/Legal Division
booth.rand@arkansas.gov

cc: LoRraine Rowland, Administrative Analyst

BR/lrr

EXHIBIT

QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE

DEPARTMENT/AGENCY Arkansas Insurance Department

DIVISION Legal Division

DIVISION DIRECTOR Suzanne Tipton, Deputy Commissioner & General Counsel

CONTACT PERSON Booth Rand, Managing Attorney

ADDRESS 1200 West Third Street, Little Rock, Arkansas 72201-1904

PHONE NO. 501-371-2820 **FAX NO.** 501-371-2618 **E-MAIL** booth.rand@arkansas.gov

NAME OF PRESENTER AT COMMITTEE MEETING Booth Rand, Managing Attorney

PRESENTER E-MAIL booth.rand@arkansas.gov

INSTRUCTIONS

A. Please make copies of this form for future use.
B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.
C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Donna K. Davis
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201

RECEIVED
AUG 06 2015
BUREAU OF LEGISLATIVE RESEARCH

****

1. What is the short title of this rule? Rule 100: Arkansas Healthcare Transparency Initiative Standards

2. What is the subject of the proposed rule? The proposed Rule addresses the collection of healthcare data required to be submitted to the Arkansas Insurance Department by healthcare plans in this State under Act 1233 of 2015, under the "Arkansas Healthcare Transparency Initiative."

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes ☐ No ☒
If yes, please provide the federal rule, regulation, and/or statute citation. _____

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes ☐ No ☒
If yes, what is the effective date of the emergency rule? _____

When does the emergency rule _____

EXHIBIT 8

expire?

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes ☐ No ☒

5. Is this a new rule? Yes ☒ No ☐
If yes, please provide a brief summary explaining the regulation. See attached Summary.

Does this repeal an existing rule? Yes ☐ No ☒
If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does. N/A

Is this an amendment to an existing rule? Yes ☐ No ☒
If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. Ark. Code Ann. § 23-61-905(b)(D) states that the Arkansas Insurance Department has authority under Act 1233 of 2015 under the Arkansas Healthcare Transparency Initiative to adopt any rules necessary to implement the Arkansas Healthcare Transparency Initiative subchapter.

7. What is the purpose of this proposed rule? Why is it necessary? The purpose of the proposed rule is to provide standards related to the submission, timing and format of healthcare data required to be submitted to the Arkansas Insurance Department after January 1, 2016 by various healthcare plans subject to Act 1233 of 2015, under the Arkansas Healthcare Transparency Initiative.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b). http://www.insurance.arkansas.gov/prop-rules.htm

9. Will a public hearing be held on this proposed rule? Yes ☒ No ☐
If yes, please complete the following:

Date: September 14, 2015
Time: 10:00 A.M.
Place: Arkansas Insurance Department, 1200 West Third Street, Little Rock, Arkansas

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)
After the hearing ends on September 14, 2015 unless the Commissioner decides to keep the record open longer to receive comments.

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

At this time, our goal effective date is November 2, 2015

12. Do you expect this rule to be controversial? Yes ☐ No ☐

If yes, please explain. Unknown at this time. We will update and advise the Bureau and Legislative Council of adverse comments or objections we receive to the proposed Rule in the public comments period, hearing, or at any time during the rule-making process.

13. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.

We do not know of these persons or groups at this time, but will update this information in public comment summaries after the public hearing on September 14, 2015.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Insurance Department
DIVISION Legal Division
PERSON COMPLETING THIS STATEMENT Booth Rand, Managing Attorney
TELEPHONE NO. 501-519-0484 **FAX NO.** 501-371-2618 **EMAIL:** booth.rand@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Rule 100:Arkansas Healthcare Transparency Initiative Standards

1. Does this proposed, amended, or repealed rule have a financial impact? Yes ☒ No ☐

2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule? Yes ☒ No ☐

3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes ☒ No ☐

If an agency is proposing a more costly rule, please state the following:

(a) How the additional benefits of the more costly rule justify its additional cost;

(b) The reason for adoption of the more costly rule;

(c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;

(d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

(a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year		**Next Fiscal Year**	
General Revenue	N/A	General Revenue	
Federal Funds	N/A	Federal Funds	
Cash Funds	N/A	Cash Funds	
Special Revenue	N/A	Special Revenue	
Other (Identify)	N/A	Other (Identify)	

Total		Total	

(b) What is the additional cost of the state rule?

Current Fiscal Year		**Next Fiscal Year**	
General Revenue	N/A	General Revenue	
Federal Funds	SEE ANSWER TO #6 BELOW	Federal Funds	SEE ANSWER TO #6
Cash Funds	N/A	Cash Funds	
Special Revenue	N/A	Special Revenue	
Other (Identify)	N/A	Other (Identify)	
Total	N/A	Total	

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year	**Next Fiscal Year**
$ ACHI CONTRACT	$

We do not know right now what the exact cost impact to insurers and health benefit plans for any compliance costs that will be imposed on health insurers and health plan adminstrators to comply with this proposed Rule and Heatlhcare Transparency Initiative, but will update this information as soon as available.

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year	**Next Fiscal Year**
$ ACHI CONTRACT	$

As described previously, the Arkansas Center for Health Improvement ("ACHI") was awarded vendor contract by AID to administer an all-payer claims database program via awarded cycle contracts from federal grant funds. In terms of AID staff, we will review and process the data with already exisitng AID staff. In terms of federal grant funds which were awarded by the State (AID) to ACHI to administer the program: AID, through it Health Insurance Rate Review Division has two federally funded contracts addressing an all-payer claims database program. Cycle III contract for $1,700,000 runs from June 2014 through December 2015. Cycle IV contract runs from March 2015 through June 2016. Both of these contracts were awarded to ACHI have been approved by the appropriate legislative committees and are funded by HHS grants which have been legislatively appropriated. Cycle III contract date: June 20, 2014 - December 31, 2015 amount $1,700,000.00. The Cycle IV contract date March 24, 2015 – June 30, 2016 amount $1,050,000.00.

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars ($100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes ☐ No ☒

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

(1) a statement of the rule's basis and purpose;

(2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;

(3) a description of the factual evidence that:
    (a) justifies the agency's need for the proposed rule; and
    (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;

(4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;

(5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;

(6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and

(7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
    (a) the rule is achieving the statutory objectives;
    (b) the benefits of the rule continue to justify its costs; and
    (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

ECONOMIC IMPACT STATEMENT
OF PROPOSED RULES OR REGULATIONS
EO 05-04: Regulatory Flexibility

Department: Arkansas Insurance Department
Division: Legal
Contact Person: Booth Rand
Date: August 6, 2015
Contact Phone: 501-371-2820
Contact Email: booth.rand@arkansas.gov

Title or Subject:

Proposed Rule 100 "Arkansas Healthcare Transparency Initiative Standards"

Benefits of the Proposed Rule or Regulation

1. Explain the need for the proposed change(s). Did any complaints motivate you to pursue regulatory action? If so, please explain the nature of such complaints.

   The proposed rule implements Act 1233 of 2015, the "Arkansas Healthcare Transparency Initiative," (hereafter, the "Transparency Initiative") by providing standards and processes for the submission and reporting of medical, pharmaceutical and dental claims, enrollment, and provider data submitted by health plans subject to the Transparency Initiative.

2. What are the top three benefits of the proposed rule or regulation?
   1. Provides policymakers with information about healthcare utilization, quality, and pricing of healthcare plans operating in this State. Facilitates policymakers evaluation of health programs for cost efficiency and enhanced access, reduction of healthcare costs, and improvements of healthcare quality and population health.
   2. Intended to help consumers of healthcare by providing more transparent information or knowledge to the consumer on the pricing and quality of medical services and benefits they are to purchase, leading to a more informed, engaged, and activated consumer in his or her choice of medical, dental and pharmaceutical services and benefits.
   3. Provides healthcare claims, enrollment and provider cost & quality data for the benefit of legitimate research purposes of the state's academic institutions and the continued study of the evolving landscape of the state's health and healthcare system.

3. What, in your estimation, would be the consequence of taking no action, thereby maintaining the status quo?

The consequence of not promulgating this proposed Rule would result in the State and healthcare plans subject to Act 1233 of 2015, possibly being in non-compliance with the Transparency Initiative. This proposed rule establishes the details to implement the "all-payer claims database" ("APCD"), as required by Act 1233, and defines the process, timing, format and standards the subject health plans have to comply with to submit timely healthcare data on and after January 1, 2016, to meet the requirements under the Transparency Initiative. This proposed Rule is therefore needed to comply with State law and to implement the Transparency Initiative.

4. Describe market-based alternatives or voluntary standards that were considered in place of the proposed regulation and state the reason(s) for not selecting those alternatives.

   We believe there was no significant impetus in the healthcare plan market, by health care plans and insurers, and other submitting entities subject to the Transparency Initiative, to provide claims, enrollment and provider data voluntarily to the State, as an alternative which existed prior to the passage of the Transparency Initiative. The proposed rule is simply implementing a legislative mandate which decided to require the data to be submitted instead of opting for a voluntary method.

Impact of Proposed Rule or Regulation

5. Estimate the cost to state government of collecting information, completing paperwork, filing, recordkeeping, auditing and inspecting associated with this new rule or regulation.

   The Arkansas Insurance Department ("AID") has contracted with the Arkansas Center for Health Improvement ("ACHI") for administration of an all-payer claims database system. AID, through it Health Insurance Rate Review Division has two federally funded contracts. Cycle III contract for $1,700,000 runs from June 2014 through December 2015. Cycle IV contract runs from March 2015 through June 2016. Both of these contracts have been approved by the appropriate legislative committees and are funded by HHS grants which have been legislatively appropriated. Cycle III contract date: June 20, 2014 - December 31, 2015 amount $1,700,000.00. The Cycle IV contract date March 24, 2015 – June 30, 2016 amount $1,050,000.00.

6. What types of small businesses will be required to comply with the proposed rule or regulation? Please estimate the number of small businesses affected.

   The Transparency Initiative and the proposed Rule does not directly apply to small businesses. Both the Transparency Initiative and proposed Rule may however impact and apply to all employer healthcare plans in this State, however the Act and propose Rule will only apply to those healthcare plans with more than 2,000 covered lives, so we do not believe this to impose regulator compliance costs on "small employers."

7. Does the proposed regulation create barriers to entry? If so, please describe those barriers and why those barriers are necessary.

   None.

8. Explain the additional requirements with which small business owners will have to comply and estimate the costs associated with compliance.

   None.

9. State whether the proposed regulation contains different requirements for different sized entities, and explain why this is, or is not, necessary.

   It does for healthcare plan entities related to the timing and due dates of submission of healthcare data to the Transparency Initiative. See Section Five (5) (B) and Appendix A. The due dates for data submission depend upon the entities number of covered lives, with the larger number of persons in affected plans requiring data submission to the State at earlier dates.

10. Describe your understanding of the ability of small business owners to implement changes required by the proposed regulation.

    See our answer to #6 above.

11. How does this rule or regulation compare to similar rules and regulations in other states or the federal government?

    The proposed rule is an amalgamation of what we have found promulgated or adopted in other States implementing an All-Payer Claims Database.

12. Provide a summary of the input your agency has received from small business or small business advocates about the proposed rule or regulation.

    None so far as of the date of filing. We will be glad to submit this summary and comments as soon as, or if we receive them.

SUMMARY

AID PROPOSED RULE 100: ARKANSAS HEALTHCARE TRANSPARENCY INITIATIVE STANDARDS

- The proposed rule establishes the timing, format and procedures for healthcare plans subject to Act 1233 of 2015, under the Arkansas Healthcare Transparency Initiative, to submit healthcare data to the State, on and after January 1, 2016.
- The proposed rule is needed to timely implement Act 1233 of 2015 to provide healthcare plans with data forms and sets needed to comply with State law under the Arkansas Healthcare Transparency Initiative.
- Proposed rule helps facilitate the collection and reporting of healthcare data to provide policymakers with information about healthcare utilization, quality, and pricing of healthcare plans operating in this State. Facilitates policymakers evaluation of health programs for cost efficiency and enhanced access, reduction of healthcare costs, and improvements of healthcare quality and population health.
- Proposed rule's data collection and reporting will help consumers of healthcare by providing more transparent information or knowledge to the consumer on the pricing and quality of medical services and benefits they are to purchase, leading to a more informed, engaged, and activated consumer in his or her choice of medical, dental and pharmaceutical services and benefits.
- Proposed rule helps provide healthcare claims, enrollment and provider cost & quality data for the benefit of legitimate research

purposes of the state's academic institutions and the continued study of the evolving landscape of the state's health and healthcare system.

Arkansas Insurance Department

Asa Hutchinson
Governor

Allen Kerr
Commissioner

Thursday, August 06, 2015

Ms. Sara Farris, ESQ.
Office of the Attorney General
323 Center Street, Suite 200
Little Rock, AR 72201

RE: Arkansas Insurance Department Rule 100: "Arkansas Healthcare Transparency Initiative Standards"

Dear Mr. Robinson:

Enclosed for your review is the Arkansas Insurance Department's proposed Rule 100, "Arkansas Healthcare Transparency Initiative Standards."

The Arkansas Insurance Department ("Department") is proposing a Rule to implement Act 1233 of 2015, the "Arkansas Healthcare Transparency Initiative." The Act and proposed implementing Rule govern the required disclosure by health plans of various types of data to better help provide both the State and consumers with information about healthcare utilization, quality, and pricing of healthcare plans operating in this State.

The Department has scheduled a public hearing for September 14, 2015, at 10:00 A.M., at the Arkansas Insurance Department, to consider adopting this proposed Rule.

Please do not hesitate to contact me at 371-2820 if you have any questions.

Sincerely,

Booth Rand
Managing Attorney/Legal Division
booth.rand@arkansas.gov

cc: LoRraine Rowland, Administrative Analyst

EXHIBIT
11

Arkansas Insurance Department

Asa Hutchinson
Governor

Allen Kerr
Commissioner

Thursday, August 06, 2015

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

Re: Rule 100, "Arkansas Healthcare Transparency Initiative Standards"

Dear Secretary:

Arkansas Act 1478 of 2003 adds to requirements for adoption and re-adoption of public agency rules and regulations. In that regard, the new Act:

(a) Requires notice of proposed Rule 100, as well as the Public Rule Hearing at the Arkansas Insurance Department, to be published by the Arkansas Secretary Of State on the Internet for thirty (30) days pursuant to Ark. Code Ann. § 25-15-218 of the Arkansas Administrative Procedure Act, as amended; and

(b) Requires DOI filing of its adopted and proposed rules and notices with the Arkansas Secretary Of State in an electronic format acceptable to the Secretary.

In that regard, the Department has scheduled a public hearing as to proposed adoption of Rule 100. Enclosed are the DOI Notices of Public Hearing and a copy of the proposed rule.

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,

LoRraine Rowland
Administrative Analyst/Legal Division
Lorraine.rowland@arkansas.gov
371-2820

Enclosures

EXHIBIT
TABBIES
12

Arkansas Insurance Department

Mike Beebe
Governor

Jay Bradford
Commissioner

Thursday, August 06, 2015

VIA HAND DELIVERY

Mary Brewer
Arkansas State Library
One Capitol Mall
Little Rock, AR 72201

RE: Arkansas Insurance Department Rule 100, "Arkansas Healthcare Transparency Initiative Standards"

Dear Ms. Brewer:

Please find enclosed fifteen (15) copies of proposed Rule 100, "Arkansas Healthcare Transparency Initiative Standards," fifteen (15) copies of the Financial Impact Statement, and four (4) copies of the Notice of Public Hearing.

Sincerely,

Booth Rand
Managing Attorney/Legal Division
Booth.rand@arkansas.gov
501-371-2820

Enclosures

cc: LoRraine Rowland, Administrative Analyst

Arkansas Insurance Department

Mike Beebe
Governor

Jay Bradford
Commissioner

Thursday, August 06, 2015

VIA STATE MESSENGER

Mr. Carlton Saffa
Regulatory Liaison
Office of the Governor
State Capitol Building
Little Rock, AR 72201

RE: Arkansas Insurance Department Rule 100: "Arkansas Healthcare Transparency Initiative Standards"

Dear Mr. Saffa:

Carlton, as previously sent to the Governor's office for review, please find enclosed for your review is the Arkansas Insurance Department's proposed Rule 100, "Arkansas Healthcare Transparency Initiative Standards." As per your email to the Commissioner, the Governor's office authorized the Department to begin promulgation of this proposed Rule on July 30, 2015.

I'm sending you this letter because the Arkansas Insurance Department ("Department") separately and routinely provides the Governor's office, AG's office, Secretary of State's office and Economic Development Commission with copies of our proposed Rules when we institute rule-making.

As you already know, the Department is proposing this Rule to implement Act 1233 of 2015, the "Arkansas Healthcare Transparency Initiative." The Act and proposed implementing Rule govern the required disclosure by health plans of various types of data to better help provide both the State and consumers with information about healthcare utilization, quality, and pricing of healthcare plans operating in this State.

The Department has scheduled a public hearing for September 14, 2015, at 10:00 A.M., at the Arkansas Insurance Department, to consider adopting this proposed Rule.

Please do not hesitate to contact me at 371-2820 if you have any questions.

Sincerely,

Booth Rand
Managing Attorney/Legal Division
booth.rand@arkansas.gov

cc: LoRraine Rowland, Administrative Analyst

EXHIBIT
13

Arkansas Insurance Department

Mike Beebe
Governor

Jay Bradford
Commissioner

Thursday, August 06, 2015

Ms. Pat Brown
Economic Development Commission
One Capitol Mall
Little Rock, AR 72202

RE: Arkansas Insurance Department proposed Rule 100, "Arkansas Healthcare Transparency Initiative Standards"

Dear Ms. Brown:

The Arkansas Insurance Department ("Department") is proposing a Rule to implement Act 1233 of 2015, the "Arkansas Healthcare Transparency Initiative." The Act and proposed implementing Rule govern the required disclosure by health plans of various types of data to better help provide both the State and consumers with information about healthcare utilization, quality, and pricing of healthcare plans operating in this State.

The Department has scheduled a public hearing for September 14, 2015 at 10:00 A.M., at the Arkansas Insurance Department, to consider adopting this proposed Rule.

Please do not hesitate to contact me at 371-2820 if you have any questions.

Sincerely yours,

LoRraine Rowland
Administrative Analyst/Legal Division
Lorraine.rowland@arkansas.gov
501-371-2831

Enclosures

LRR/

EXHIBIT
14

Public Comments Section. Received written public comments. (Attached to book.)

Public Comments Section

America's Health Insurance Plans

601 Pennsylvania Avenue, NW
South Building
Suite Five Hundred
Washington, DC 20004

202.778.3200
www.ahip.org

September 3, 2015

Booth Rand
Managing Attorney
Arkansas Insurance Department
1200 West 3rd Street
Little Rock, AR 72201

Dear Mr. Rand,

On behalf of America's Health Insurance Plans (AHIP) I am pleased to submit comments regarding draft Proposed Rule 100 (Arkansas Healthcare Transparency Initiative Standards) and Draft Version 3.0.2015 of the Data Submission Guide (DSG).

AHIP is the national trade association representing the health insurance industry. AHIP members provide health and supplemental benefits to more than 200 million Americans through employer-sponsored coverage, the individual and small group insurance markets, and public programs such as Medicare and Medicaid. AHIP members, including many who provide coverage in Arkansas, offer a broad range of health insurance products in the commercial marketplace and have also demonstrated a strong commitment to participation in public programs throughout the country.

We appreciate the Department's interest in working with health insurers to ensure that the APCD data submission process is not onerous or unreasonable. All stakeholders will benefit from your openness to input from industry representatives who have considerable technical expertise and, in several cases, experience with submitting data to APCDs in other states. *Toward that goal, we very much appreciate your willingness to host a conference call on Friday, September 11 during which health plan representatives can gather with staff of the AID and the Arkansas Center for Health Improvement (ACHI) to discuss the APCD and especially the requirements reflected in the draft Data Submission Guide before it is finalized.* We would be pleased to assist you with outreach to carriers to notify them of this opportunity.

In anticipation of that meeting we are pleased to provide you with the following comments that reflect input we have received from AHIP member companies.

PROPOSED RULE 100

- **Section 4 (7). Definition of "Arkansas resident."** We recommend that the definition of "Arkansas resident" be amended to include students enrolled in a student plan for an Arkansas college or university. We request this for the following reasons: A carrier

providing a student plan does not always get a student's home address but instead may have only the student's campus address on file. In addition, since students covered by an Arkansas student plan are attending school in Arkansas, these students will likely receive most or all of their health care in Arkansas -- health care that the APCD exists to profile. (Alternately, Arkansans who are covered by a student plan at an out-of-state college or university will likely be receiving medical care in those states. Presumably data generated in those states would be of minimal value to a data-based assessment of health care in Arkansas.) And finally, other states' APCDs include such students in their APCD data submission protocols. So, if the definition of "Arkansas resident" would be amended, carriers who submit data in other states will not have to make a special system change to accommodate a definition unique to Arkansas. For all of these reasons, we suggest that the definition of "Arkansas resident" be amended to read as follows (new language underlined):

(7) "Arkansas resident" means an individual for whom a submitting entity has identified an Arkansas address as the individual's primary place of residence. For individuals covered by a student health plan, "Arkansas resident" means any student enrolled in a student plan for an Arkansas college or university regardless of his or her address of record;

- **Section 4 (21) b.** We recommend that the definition of "Submitting entity" be amended to reflect current terminology related to hospital indemnity products and also to clarify that Medicare supplement plans are excluded. Accordingly, the definition would read as follows:

  "b. 'Submitting entity' does not include an entity that provides health insurance or a health benefit plan that is accident-only, specified disease, hospital indemnity and other fixed indemnity, long-term care, disability income, Medicare supplement, or other supplemental benefit coverage;"

- **Section 5. B 1. Data Submission Timing.** We especially appreciate the opportunity to review and provide comments on the Draft Version 3.0.2015 of the Data Submission Guide. Some comments about selected elements of the DSG are provided below; however there are likely other technical issues not discussed here that would best be addressed before Version 3.0.2015 is finalized (and will no doubt be raised during the upcoming carrier meeting). Because carriers will need time to modify their systems to accommodate the requirements of the DSG once final, and because it is not clear at this point when the Data Submission Guide will be finished, we ask that the language of Section 5 B 1 be amended to read as follows:

  "B. Data Submission Timing. Submitting entities shall provide data in accordance with the following schedule:

  1. Test files for submitting entities must be submitted no later than January 1, 2016. Consideration will be given to later submission of test files (not less than 180 days from approval to first production submission) should Version 3.0.2015 of the Data Submission

Guide not be finalized in time to allow submitters sufficient time to adjust their systems to accommodate the requirements of the DSG, including the development of test files. Consideration will be given to staggered submission schedule for test files, similar to the production Appendix A Submission schedule with test files due 60 days prior to the current Date of Data Receipt. "

- **Section 5 C. Submitting Entity Exemptions.** We appreciate the AID's excluding plans subject to ERISA from all requirement of the rule "[u]ntil further notice." We understand this is based on the US Supreme Court's recent decision to consider a case that challenges Vermont's contention that the ERISA does not preempt a state statute and regulation requiring self-insured employee health plans to report claims and other health care data to the state. We strongly encourage the Department to retain this exemption regardless of the outcome of the Supreme Court Decision. Should the Court find in favor of the Plaintiffs, we would encourage the AID to seek an amendment to the Arkansas Healthcare Transparency Initiative Act of 2015 to strike the requirement that ERISA plans submit data. Should the Court find in favor of the State, we urge the Department to permit self-insured plans to opt out of the program, as has been done elsewhere.

- **Section 6 B. Submission Exclusions.** We recommend that the language regarding "Submissions Exclusions" be amended to reflect current terminology related to hospital indemnity products and also to clarify that Medicare supplement plans are excluded. Accordingly, the Section would be amended as follows:

  " . . . . accident-only, specified disease, hospital indemnity and other fixed indemnity, long-term care, disability income, Medicare supplement, or other supplemental benefit coverage where benefits are paid directly to the covered individual."

- **Section 7. B. Revisions to Data Submission Guide.** To clarify the definition of technical corrections and to provide sufficient time for submitters to implement such changes, we request that the language to the second paragraph of Section 7 B (Revisions to Data Submission Guide) be amended as follows:

  "The Administrator may make technical corrections to the DSG at any time. Technical corrections are simple revisions to formatting of existing data elements, the addition of codes to existing data elements, changes to thresholds that can be accommodated by updated exceptions, and those intended to clarify or otherwise expedite the process of submitting files that conform to the DSG. Submitters will have no less than 90 days to implement a technical correction."

- **Section 10. Initiative Public Use and Reports.** Reference is made to a data use agreement (DUA) in Section 10 and again in Section 11 (Limited Data Set Request). Because the data

being requested and used will be submitters' data, we respectfully request the opportunity to review and comment on the DUA which is referenced but not provided.

- **Section 11. Limited Data Set Requests.** We understand that for purposes of financial sustainability, the APCD intends to adopt a schedule of fees to fill data requests from individuals and entities not associated with the APCD. However given the considerable costs associated with submitting data to the Arkansas APCD, we request that data submitters not be charged to use AID aggregated data for purposes of research or analysis. Accordingly, we request that the following sentence be added to the end of Section 11, paragraph two:

  "Aggregated data for research or analysis purposes will be made available to data submitters without charge."

- **Section 14. Penalties for Non-Compliance.** To better align with the APCD submission in other states, and to acknowledge that submitters will actively work with the Arkansas APCD on all reported issues, we request that a cap on penalties be set at $30,000. Therefore we request that the language of Section 14 be amended to read:

  ". . . the Commissioner may impose a maximum penalty on a submitting entity of one thousand dollars ($1,000.00) per day, not to exceed $30,000. The Commissioner may delay, reduce, or waive any penalty."

- **Section 15. Privacy and Security.** At this time of unprecedented focus on the security of data and protection of patient privacy, we urge the Department to strengthen the language related to privacy and security. We suggest the following amendments:

  "AID will institute appropriate administrative, physical, and technical safeguards to ensure that the APCD, its operations, data collection and storage, and reporting disclosures are in compliance with the requirements of applicable federal and state law. The AID shall also ensure that its vendors comply with applicable federal and state law related to protecting patient privacy and confidentiality."

DRAFT DATA SUBMISSION GUIDE VERSION 3.0 2015

In reviewing the draft Data Submission Guide Version 3.0.215, AHIP members expressed concern and/or a need for clarification about some of the data requests. The following are representative examples, but do not represent all of the concerns and questions raised:

- **Page 7. Enrollment Data.** There is a small but significant error in the language of the first bullet. We believe the correct language is as follows:

"All covered and termed members who are Arkansas residents (based on home address ZIP code) covered by subscribers holding certificates of coverage ~~for~~ from submitting entities"

- **Page 11. Provider Data.** Submitting entities must provide information on every provider who was contracted at any time since the beginning of the APCD study date, January 1, 2013. The data required is quite extensive, more extensive than required by most other APCDs. As a result, carriers might not be able to provide all of the requested information because it is data that carriers do not collect. Examples of such data are a provider's social security number and date of birth.

- **Page 13. Validation Data.** Submitting entities must provide validation counts representing key indicators in the data to provide benchmarks against which to measure data accuracy. This is a new process that is not included in APCD filings in other states. It would therefore need to be developed and, in one plan's claims system, would require manual processing. For validation of counts, carriers usually provide only the number of records. It is the role of the APCD to develop such details based on the data submitted to it by the carriers.

- **Page 25. Enrollment Data.** The description of ME000 (Unique ID) is "Encrypted identifier representing member's first, middle, last names and Society Security Number. Unique IDs should be consistent across records, representing every instance of a unique combination of the fields represented." There is concern with the usage of a name as the key due to the potential changes over time and differences as the data comes in on a medical, pharmacy, or dental claim. We request that the population of this field be revisited.

- **Page 82. Provider Data.** We request more clarification regarding this statement: "All fields should be coded with the values specified in the Medical Claims Data table." The data relationships are not clear. For example, with PV023 (National Provider ID), there is a concern with the usage of this as the key for master provider index, as NPIs can be listed multiple times in a provider data file due to addresses and specialties.

- **Exhibit A. Data Elements.** AHIP members also noted that some of the required data are not APCD core elements that are commonly captured and will significantly impact the time it will take carriers to produce the files. These are examples:

  Page 27: ME063 (Benefit Status), ME066 (COBRA Status), ME072 (Covered Individuals)
  Page 28: ME123 (Monthly Premium)
  Page 29: ME132 (Total Monthly Premium), ME049 (Member Deductible), ME050 (Member Deductible Used), ME113 (Medical Deductible), ME112 (Pharmacy Deductible), ME059 (Disability Status)

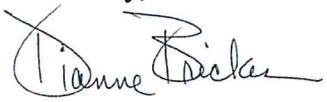
Page 30: ME083 (Employer EIN), ME159A (Employer Federal Tax ID), ME077 (Member SIC Code), ME170 (Member NAICS code, Member industry description), ME057 (Date of Death)
Page 31: ME060 (Employment Status), ME062 (Marital Status)
Page 32: ME065 (Retirement Date)
Page 33: ME056 (Last Activity Date)
Page 35: MC992 (Product ID Number)
Page 38: MC090 (LOINC Code, Logical Observation Identifiers, Names and Codes), MC093 (Non Covered Days)
Page 64: PC058 (Script Number)
Page 66: PC963 (Dispensing Status), PC964 (Drug Strength), PC070 (Rebate Status)
Page 69: PC965 (USC Code)
Page 70: PC066 (Other Insurance Paid Amount), PC067 (Medicare Paid Amount)
Page 71: PC059 (Recipient PCP ID)
Page 84: PVO 12 – 18 (Provider's mailing address), PV036 (Provider SSN), PV033 (Provider's date of birth).

- **Exhibit D. Enrollment Elements and Record Adds/Updates.** We note that maintaining separate records for each enrollment product and accounting for only additions and updates are requirements that are significantly different from those of other APCDs. Programming and maintenance for the proposed process will be cumbersome and require longer to deliver the data due to the need for new logic. We suggest an enrollment process where a monthly status update is provided for current eligibility and we respectfully request that the Department revisit this.

- **Changes to the DSG.** Given the critical importance of the DSG to submitters' ability to provide data to the APCD and the APCD's ability to process that data, we ask that any changes to the DSG be made through published sub-regulatory/FAQ guidance and backed by the force of law.

Again, thank you for the opportunity to comment on the draft Proposed Rule 100 (Arkansas Healthcare Transparency Initiative Standards) and Draft Version 3.0.2015 of the Data Submission Guide. Should you have any questions or wish to discuss this further, please feel free to contact me at dbricker@ahip.org, 202-861-6378 or AHIP's Arkansas Retained Counsel Derrick Smith at dsmith@mwlaw.com, 501-688-8845. Thank you.

Sincerely,



Dianne L. Bricker
Regional Director – State Advocacy

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September 11, 2015

VIA ELECTRONIC AND U.S. MAIL

Mr. Booth Rand
Managing Attorney
Arkansas Insurance Department
1200 West Third Street
Little Rock, Arkansas 72201-1904
booth.rand@arkansas.gov

Re: Comments on Proposed Rule 100,
"Arkansas Healthcare Transparency Initiative Standards"
Public Hearing: September 14, 2015, 10:00 a.m.

Dear Mr. Rand:

In response to the Notice of Public Hearing issued by the Arkansas Insurance Department on August 6, 2015, please accept the following comments on behalf of Arkansas Blue Cross and Blue Shield in connection with Proposed Rule 100, "Arkansas Transparency Initiative Standards."

First, while we appreciate the efforts that have been made to date to work with submitting entities in the development of a Data Submission Guide (DSG), we are concerned about the uncertain current status of the DSG. Clearly, the DSG is a material part of Proposed Rule 100, and the DSG is intended to supply substantive legal requirements which must be adhered to by submitting entities, under pain of potential monetary penalties that might be imposed by the Commissioner. See, e.g., Proposed Rule 100, Section 4, subsections (18), (20), (22), (23), (24) (referencing key terms of the Rule "as further defined by the DSG"); Section 5.A. (requiring submitting entities to submit data in accord with "the requirements of the Data Submission Guide"); Section 7.C. (requiring data to be submitted "according to the applicable version of the Data Submission Guide"); and Sections 13 and 14 (data submissions not conforming to DSG, if not cured within 30 days, are punishable by penalty of up to $1000 per day). Despite the fact that the DSG is incorporated by reference into the Proposed

Rule, the Proposed Rule suggests the DSG will not be finalized until some unspecified future date,[1] and the Notice of Hearing did not attach or make reference to any specific version of a proposed DSG upon which the public might comment at this time.

While we assume and hope that the Department and the Administrator will soon have completed a "final" proposed version of a DSG for public comment purposes, we suggest that the Commissioner identify and put in the record a version of DSG that the Commissioner and the Administrator are reasonably confident will be "final" for public comment purposes, and keep the record open for a reasonable period of time to allow further public comment.

On a related matter, Section 7.B. of proposed Rule 100, if adopted, would allow the Administrator to "make material DSG revisions no more than once per year." Such future "material" revisions are defined to "include adding new data elements, adding new codes to existing data elements or *otherwise significantly amending* the DSG" (emphasis supplied). We do not believe Arkansas law permits the Administrator or the Commissioner to make future revisions to the DSG in the manner described in the proposed rule. Once the rule is finalized, we believe that changes to the DSG (which is incorporated by reference and becomes part of Rule 100) must be made in accord with the applicable provisions of the Arkansas Administrative Procedure Act. See Ark. Code Ann. § 25-15-202(9)(A) and (10) ("Rule" includes "the *amendment* or repeal of a prior rule" and "rulemaking" means an agency process for the "formulation, *amendment*, or repeal of a rule"). Section 7.B. should be revised to make clear that future changes to the DSG will be promulgated by the Department in compliance with the Administrative Procedure Act.

In addition to the foregoing, we have reviewed the letter to you dated September 3, 2015, from America's Health Insurance Plans (AHIP). To the extent we can, at this time, comment on an available version of the DSG (Draft Version 3.0.2015, last accessed at https://www.arkansasapcd.net/Docs/51/

[1] See Proposed Rule 100, Section 7.A. ("The Administrator in consultation with the Initiative Board, *will* develop and make publicly available a Data Submission Guide.") and Section 4, subsection (12) (defining "Data Submission Guide" as "a document approved by the Commissioner in consultation with the Initiative Board").

on September 10, 2015), we substantially agree with the comments and suggestions outlined in AHIP's letter.

Mr. Rand, please let me know if you have any questions. I plan to be present at the hearing on September 14, 2015.

Cordially yours,

Tim Gauger

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WRITER'S E.MAIL
divers@mitchellblackstock.com

September 11, 2015

Booth Rand
Managing Attorney/Legal Division
Arkansas Insurance Department
1200 West Third Street
Little Rock, AR 72201-1904

Re: Proposed Rule 100, "Arkansas Healthcare Transparency Initiatives Standards."

Dear Mr. Rand:

On behalf of the Arkansas Medical Society, we are submitting the following comments on proposed Rule 100, "Arkansas Healthcare Transparency Initiative Standards."

1. Billed charges have no comparative value in a health insurance transparency analysis given that virtually no carrier ever pays the billed charge. The focus should rightfully be on "allowed" charges since that is the basis for which consumers would be able to make an informed price comparison.

2. We request that the following information not be subject to reporting under this rule since it could compromise individual physician privacy and potentially lead to identity theft or other fraudulent activity:

Provider's Social Security Number
Provider's Medicare Number
Provider's National Provider Identification (NPI) number
Provider's Tax ID number

We also question the need for:

Medical school name
Medical school completion date
Residency program
Residency completion date
Fellowship
Fellowship completion date

We strongly urge the Department to require the least amount of information necessary to accomplish the purposes of the act. Just because some of these elements may be publicly available from other sources does not mean that the state should package the information in one location and thereby give unscrupulous individuals the opportunity to use this information for criminal purposes.

Thank you for the opportunity to review the proposed rule. We look forward to working with you on these issues.

Sincerely,

David Ivers

DI/jdg

Booth Rand

From: Liz Hubbard <liz.hubbard@qualchoice.com>
Sent: Friday, September 11, 2015 1:56 PM
To: Booth Rand
Cc: Michael Stock; Jeff Brinsfield; Billy White; Wilson, Craig (JCWilson@uams.edu)
Subject: RE: APCD Rule & Data Guide/ Sept 14 AID Hearing

Booth,

We don't have comments on the language in the body of the rule, as it seems to match up with the requirements set forth in the statute, but we do have some issues with the DSG.

As I understand the law and the rule, we are not to provide any geographic or demographic information that would allow the identification of a covered individual; the DSG, however, requires several pieces of information that could be put together to determine an individual's identity (e.g., member gender, member date of birth, member zip code, member race, member ethnicity, employer name, date of death, marital status, retirement date).

Am I missing something in the statute/rule that permits and/or requires us to provide that level of information?

Also, there are some data elements that we do not currently collect – what is our responsibility to get that information (especially considering that the first submission will be historical information)?

I believe our IT team has some other questions/concerns about the DSG, and I will get those to you as soon as possible.

Thanks,

Liz Hubbard, JD | Corporate Responsibility
Corporate Responsibility Officer
QualChoice Health Insurance
12615 Chenal Parkway, Suite 300 | Little Rock, AR 72211
P 501/219-5129 | F 501/707-6729 | mailto:Liz.Hubbard@qualchoice.com

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From: Booth Rand [mailto:booth.rand@arkansas.gov]
Sent: Tuesday, September 01, 2015 7:52 AM
To: FBSEWALL@arkbluecross.com; Gauger, Timothy G (Tim) (TGGAUGER@arkbluecross.com); 'Morris, John F'; Jamie Gilmore (JGILMORE@CENTENE.COM); Nickole Ellis (Nickole.Ellis@NovaSysHealth.com)
Cc: jryan@centene.com; Michael Stock; Liz Hubbard; DSmith@mwlaw.com; Bricker, Dianne (dbricker@ahip.org); 'Jim Couch'; Dan Honey; Suzanne Tipton; Russ Galbraith; JCWilson@uams.edu; Money, Kenley (KMoney@uams.edu)
Subject: APCD Rule & Data Guide/ Sept 14 AID Hearing

Just to encourage and remind everyone on AID proposed Rule 100 on the Transparency Initiative and Data Submission Guide "Rule," we have an administrative hearing at AID set to go in thirteen (13) days. Following NOPH of the proposed Rule and data guide, on August 6, 2015, I have not yet received any comments or suggested edits. The record will be kept open for comments until the close of the hearing. Nonetheless, given the significant data obligations in the Rule, and the need you will have to review a rather large document in the proposed Guide, I'm just advising everyone, that 13-14 days from today is going to run pretty quick as we may have to work on other matters. You may be already reviewing this Rule and due to the length or volume of it, its just taking time to complete review.
We would like to know pretty quick what objections or complications exist, to avoid having to keep the record open past September 14, 2015. We would like to have the proposed Rule and Guide reviewed by Legislative Council in their October of 2015 date, to have this Rule and Guide go out for subject insurers and plans to be notified as early as possibly what is required to produced. To do that, under the ALC/BLR rules, we have to get the public comments and record over

to ALC before the 15th of September. For comments, suggested edits, I would appreciate it, if you would copy Craig Wilson at ACHI, too in addition to me.

Just sending out a friendly email reminder that this is going come up in 2 weeks, and it will be here before you know it. I could not find the earlier email with other persons email addresses who wanted information about this initiative from the prior meeting we had on this earlier this summer. Craig or Dan, feel free to urge others who have contacted us, not in this email, of the looming Sept 14, 2015 hearing and public comment period.

PROPOSED RULE 100

ARKANSAS HEALTHCARE TRANSPARENCY INITIATIVE STANDARDS

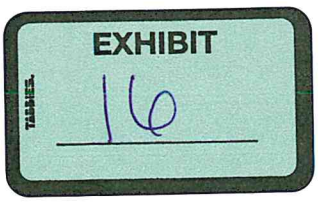
Section 1. Authority

This Rule is issued pursuant to Act 1233 of 2015 of the Arkansas 90th General Assembly, also known as the "Arkansas Healthcare Transparency Initiative Act of 2015" (hereafter "Healthcare Transparency Initiative Act" or "Act"). Pursuant to Act 1233 of 2015, which became effective upon signature by the Governor of the State of Arkansas on April 8, 2015, the Arkansas Insurance Department ("AID") is authorized to issue Rules to implement provisions of the Healthcare Transparency Initiative Act. 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 2. Purpose

The purpose of the this Rule is to establish the guidelines for submission of medical, dental, and pharmaceutical claims, unique identifiers and geographic and demographic information for covered individuals, and provider files to the Arkansas Healthcare Transparency Initiative for the purpose of creating and maintaining a multi-payer claims database as a source of healthcare information to support consumers, researchers, and policymakers in healthcare decisions within the state. The Rule is intended to create and maintain an informative source of healthcare information to support consumers, researchers and policymakers in healthcare decisions within the state and empower Arkansans to drive, deliver, and seek out value in the healthcare system.

Section 3. Applicability & Scope



This Rule applies to all submitting entities as defined in Section 4 of this Rule unless otherwise exempted pursuant to Section 5.C of this Rule.

Section 4. Definitions

The following definitions shall apply in this Rule:

(1) "Administrator" means the Arkansas Center for Health Improvement;
(2) "AID" means the Arkansas Insurance Department;
(3) "All-payer claims database" or "APCD" means the database created and maintained by the Arkansas Healthcare Transparency Initiative, including the ongoing all-payer claims database project funded through the Arkansas Insurance Department, that receives and stores data from submitting entities;
(4) "APCD Council" means a federation of government, private, non-profit, and academic organizations focused on improving the development and deployment of state-based APCDs;
(5) "Arkansas Healthcare Transparency Initiative" or "Initiative" means the initiative established pursuant to Act 1233 of 2015 to create and maintain a database, including the ongoing all-payer claims database project funded through the Arkansas Insurance Department, that receives and stores data from submitting entities;
(6) "Arkansas Healthcare Transparency Initiative Board" or "Initiative Board" means the advisory board established under Act 1233 of 2015;
(7) "Arkansas resident" means an individual for whom a submitting entity has identified an Arkansas address as the individual's primary place of residence. For individuals covered by a student health plan, Arkansas resident" means any student enrolled in a student plan for an Arkansas college or university regardless of his or her address of record;
(8) "Commissioner" means the person in charge of the Arkansas Insurance Department;
(9) "Covered individual" means a natural person who is an Arkansas resident and is eligible to receive medical, dental, or pharmaceutical benefits under any policy, contract, certificate, evidence of coverage, rider, binder, or endorsement that provides for or describes coverage;
(10) "Data" means information consisting of, or derived directly from enrollment files, medical claims files, dental claims files, pharmacy claims files, provider files and validation reports;
(11) "Data set" means a collection of individual data records and data elements that comprises the file types for an enrollment file, medical claims file, dental claims files, pharmacy claims file, and a provider file submitted quarterly, and in the format outlined in the DSG.
(12) "Data Submission Guide" or "DSG" means a document approved by the Commissioner in consultation with the Initiative Board, that sets forth the required data file format, data elements, code tables, edit specifications, thresholds required for a submission to be deemed complete, methods for

submitting data, validation reports, exception processes, adjustment files, and other information associated with the submitting entities' reporting duties;

(13) "Dental claims file" means, as further defined in the DSG, a data file that contains service level remittance information for all paid and denied claims for each billed dental service for covered individuals including without limitation unique identifiers, geographic and demographic information but not direct personal identifiers; provider information and services rendered to a covered individual; charge/payment information; and clinical diagnosis/procedure codes. Claims and benefits not subject to this Rule will not be included in a dental claims file. The term may exclude certain data that is prohibited to release according to state or federal law;

(14) "Direct personal identifiers" means information relating to a covered individual that contains primary or obvious identifiers, such as the individual's name, street address, e-mail address, telephone number, and Social Security number. "Direct personal identifiers" does not include geographic or demographic information that would not allow the identification of a covered individual;

(15) "Enrollment file" means unique identifiers, demographic and geographic information relating to covered individuals;

(16) "HIPAA" means the Health Insurance Portability and Accountability Act, 42 U.S.C. Section 1320d – 1320d-8 and its implementing regulations, 45 C.F.R. Parts 160, 162 and 164, as may be amended;

(17) "Historical data" means a one-time data submission following submission of a test file and for a period commencing on January 1, 2013 and ending according to the data submission schedule in this Rule;

(18) "Medical claims file" means, as further defined in the DSG, a data file that contains service level remittance information for all paid and denied claims for each billed medical service for covered individuals including without limitation unique identifiers, geographic and demographic information but not personal identifiers; provider information and services rendered to a covered individual; charge/payment information; and clinical diagnosis/procedure codes. Claims and benefits not subject to this Rule will not be included in a medical claims file. The term may exclude certain data that is prohibited to release according to state or federal law;

(19) "Pharmacy claims file" means a data file containing service level remittance information from all paid and denied claims for each prescription for covered individuals including without limitation unique identifiers, geographic and demographic information but not personal identifiers; provider information; charge/payment information; and national drug codes. The term may exclude certain data that is prohibited to release according to state or federal law;

(20) "Provider file" means a data file that includes additional information as set forth in the DSG about the providers that are included in a medical claims file, dental claims file, or pharmacy claims file;

(21) "Submitting entity" means an entity that is subject to this Rule and its data reporting requirements;

a. "Submitting entity" includes the following entities:

i. an entity that provides health or dental insurance or a health or dental benefit plan in the state, including without limitation an insurance company, medical services plan, hospital plan, hospital medical service corporation, health maintenance organization, or fraternal benefits society, provided that the entity has covered individuals and the entity had at least two thousand (2,000) covered individuals as of December 31 in the previous calendar year;
ii. a health benefit plan offered or administered by or on behalf of the state or an agency or instrumentality of the state;
iii. a health benefit plan offered or administered by or on behalf of the federal government with the agreement of the federal government;
iv. the Arkansas Workers' Compensation Commission;
v. any other entity providing a plan of health insurance or medical, dental, or pharmaceutical benefits subject to state insurance regulation, a third-party administrator, or a pharmacy benefits manager, provided that the entity has covered individuals and the entity had at least two thousand (2,000) covered individuals as of December 31 in the previous calendar year; and
vi. an entity that contracts with institutions of the Department of Correction or Department of Community Correction to provide medical, dental, or pharmaceutical care to inmates;
vii. A health benefit plan subject to the Employee Retirement Income Security Act of 1974, Pub. L. No. 93-406 ("ERISA");

b. "Submitting entity" does not include an entity that provides health insurance or a health benefit plan that is accident-only, specified disease, hospital indemnity and other fixed indemnity, long-term care, disability income, Medicare supplement, or other supplemental benefit coverage from which benefit payments are directly to the covered individual;
c. In instances where more than one submitting entity is involved in the administration of a policy, the payer shall be responsible for submitting the claims data on policies that it has written or sold as a bundle, provided however that in instances where more than one submitting entity is involved in the administration of a policy, those entities will work together to use the same unique identifier for a covered individual across separate feeds for medical, prescription, and other claims; and
d. If a "submitting entity" contracts with another entity to provide subcontracted claims processing services, the entity which contracts directly with the customer shall be the submitting entity for purposes of this Rule;

(22) "Test file" means a data file, as further defined by the DSG, that includes a sample of service level remittance information for billed medical or dental services or prescriptions for covered individuals;
(23) "Unique identifier" means, as further defined in the DSG, an identifier that is guaranteed to be unique among all identifiers for covered individuals but does not include direct personal identifiers;

(24) "Validation report" means, as further defined in the DSG, a report from the submitting entity that provides aggregated information about a quarterly data submission to provide control totals and record counts.

Section 5. General Reporting Requirements; Exemptions.

A. Submitting Entity Requirements. Unless exempted by the Commissioner in accordance with Section 5.C of this Rule or by the explicit language of this Rule, a submitting entity shall submit to the Arkansas Insurance Department through the Administrator a completed data set for an enrollment file, a medical claims file, a dental claims file, a pharmacy claims file, a provider file, and a validation report in accordance with Section 5 of this Rule and with the requirements outlined in the Data Submission Guide.

B. Data Submission Timing. Submitting entities shall provide data in accordance with the following schedule:

1. Test files for submitting entities must be submitted no later than January 1, 2016.

2. Historical data and regular quarterly submission will commence following submission of test files according to the submission schedule in Appendix A. For purposes of the submission schedule the following groupings apply:
   a. Group 1 means submitting entities listed in the Definition Section 4(21)a.i. with at least 100,000 covered individuals as of December 31, 2015 and entities listed in the Definition Section 4(21)a.ii., iii., iv., and vi.;
   b. Group 2 means submitting entities listed in Definition Section 4(21)a.i. with at least 25,000 covered individuals but fewer than 100,000 covered individuals as of December 31, 2015;
   c. Group 3 means submitting entities listed in Definition Section 4(21)a.i. with at least 10,000 covered individuals but fewer than 25,000 covered individuals as of December 31, 2015;
   d. Group 4 means submitting entities listed in Definition Section 4(21)a.v. and submitting entities listed in Definition Section 4(21)a.i. with at least 2,000 covered individuals but fewer than 10,000 covered individuals as of December 31, 2015.

3. Unless otherwise exempted under Section 5.C of this Rule, submitting entities must submit data according to the established patterns identified in the submission schedule in Appendix A for future years not explicitly listed in the schedule.

4. Entities qualifying in more than one Group listed in Section 5.B.2 must submit claims for all covered individuals according to the schedule listed for the first Group in which the entity qualifies.

C. Submitting Entity Exemptions. An entity with fewer than two thousand (2,000) covered individuals as of December 31 of the previous calendar year will not be required to submit data in accordance with this Rule. For purposes of determining whether an entity is subject to the requirements of this rule and for data submission timing in Section 5.B of this Rule, entities must aggregate the number of covered individuals for all companies at the Group Code level as defined by the National Association of Insurance Commissioners. Entities that offer medical, dental, and pharmaceutical benefits, or any combination thereof, under separate or combined plans will count all covered individuals, irrespective of the comprehensiveness of the plan, toward the two thousand (2,000) covered individual threshold.

The Arkansas Workers' Compensation Commission is exempt from submitting a provider file as required by this Section. Until further notice, employer self-funded health plans are exempt from all requirements in this Rule.

The Commissioner may, for good cause, grant an exemption to a submitting entity (or to a class of which the entity is a member) for all or some of the requirements of this Rule. "Good cause" includes without limitation pending litigation which may preempt application of the Act to a submitting entity. The Commissioner will respond in writing within 30 days to any exemption request.

If an entity does not believe it meets the definition of a submitting entity herein or does not believe it meets the 2,000 covered individuals threshold, that entity may dispute the Commissioner's decision in accordance with the administrative procedures of the State of Arkansas.

Section 6. Submission Exclusions; Data Submission Guide.

A. Extension, Variance or Waiver of Data Submission Requirements. If a submitting entity is temporarily unable to meet the requirements of this Rule including the standards in the Data Submission Guide other than those outlined in the exceptions process in the DSG for specific data variables, a submitting entity may submit an exemption request to the Commissioner including the specific requirement to be extended, varied or waived; an explanation of the reason or cause; the methodology proposed to eliminate the necessity of the extension, variance or waiver, if applicable; and the time frame required to come into compliance. The Commissioner will respond in writing within 30 days to any exemption request.

B. Submission Exclusions. For purposes of clarity and without limiting the foregoing, the following data are excluded from this Rule: data related to a health benefit plan that is accident-only, specified disease, hospital indemnity and other fixed indemnity, long-term care, disability income, Medicare supplement, or other supplemental benefit coverage where benefits are paid directly to the covered individual.

Section 7. Data Submission Guide.

A. Data Submission Guide Standards. The Administrator in consultation with the Initiative Board will develop and make publicly available a Data Submission Guide that will be used to evaluate data submissions, including minimum completion rates ("thresholds") as well as detailed information about criteria tested in automated reviews. The Administrator will provide a periodic update of data submission standards to facilitate submitting entities' creation of files that conform to the DSG. In developing the DSG the Administrator will consult with organizations such as the APCD Council in order to examine appropriate APCD Core Standard provisions.

B. Revisions to Data Submission Guide. The Administrator may make material DSG revisions no more than once per year. Material DSG revisions include adding new data elements, adding new codes to existing data elements or otherwise significantly amending the DSG. Submitting entities will have 30 days to review and comment on the proposed revisions. The Administrator will review the comments with the Initiative Board and Commissioner prior to issuing a revised DSG. The Commissioner will post a final revised version on the AID website. The revised DSG will be effective for the files to be submitted not less than 120 days after the posting date on the AID website.

The Administrator may make technical corrections to the DSG at any time. Technical corrections are simple revisions to formatting of existing data elements, the addition of codes to existing data elements, changes to thresholds that can be accommodated by updated exceptions, and those intended to clarify or otherwise expedite the process of submitting files that conform to the DSG. Submitting entities will have 120 days to implement a technical correction.

The Administrator will notify submitting entities about all material and technical revisions, including the start and end of comment periods for material revisions.

C. Manner of Data Submission. Submitting entities will submit data in accordance with the manner outlined in the DSG and in compliance with the HIPAA Security Rule or any applicable state law that is more restrictive than the HIPAA Security Rule.

Except as provided in this Rule, bulletin, order or directive issued by the Commissioner, each submitting entity shall provide data in the form and manner set forth in this Rule and according to the applicable version of the Data Submission Guide and at such times set forth in any applicable submission schedules.

Section 8. Arkansas Healthcare Transparency Initiative Board; Subcommittees.

A. Initiative Board Duties and Composition.

1. The Initiative Board will serve in an advisory capacity, providing input into the various functions of the Arkansas Healthcare Transparency Initiative and its APCD, assisting in the development of and revisions

to the Data Submission Guide, and reviewing recommendations from the Data Oversight and Scientific Advisory subcommittee regarding data use and release.

2. The Initiative Board will be composed of the following members:
   a. A representative of the Arkansas Department of Human Services;
   b. A representative of the Department of Health;
   c. A representative of the Office of Health Information Technology or its successor entity;
   d. The Arkansas Surgeon General; and
   e. The following Governor-appointed members:
      i. Two representatives from the health insurance industry, one of whom will be a multi-state representative and one of whom will be a domestic representative;
      ii. A representative from a self-insured employer;
      iii. A representative from an employer of fewer than one hundred (100) full-time employees that provides healthcare coverage to employees through a fully-insured product;
      iv. A representative from a healthcare consumer organization;
      v. A representative from the academic research community with expertise in healthcare claims data analysis; and
      vi. An representative with expertise in health data privacy and security.

3. Governor-appointed members of the Initiative Board will serve a term of three (3) years. The Initiative Board will appoint one (1) member as a chair and determine the qualifications, duties and term of office for the chair. Seven (7) members constitute a quorum for a meeting of the Initiative Board; provided however, that the lack of a quorum does not preclude action by the Commissioner with respect to the duties required by the Act or this Rule.

B. Subcommittees.

1. The Data Oversight Committee, which will be composed of three (3) Governor-appointed members and an individual healthcare consumer appointed by the Commissioner, will review and make recommendations to AID regarding:
   a. Whether specific data requests are consistent with the purpose and intent of the Act 1233, including without limitation whether the data request contains the minimum required information; and
   b. Reports and publications generated from data requests to ensure compliance with the Act.

3. The Scientific Advisory Committee, which will be composed of the Governor-appointed member of the Initiative Board from the academic research community and two (2) nonmembers of the Initiative Board who

are academic researchers and appointed by the Commissioner, will serve as peer review for academic researchers and provide advice regarding data requests for academic proposals and the scientific rigor of analytic work.

4. The Commissioner may establish and convene as necessary additional subcommittees to carry out the responsibilities of the Act and this Rule.

Section 9. Administrator. The Arkansas Center for Health Improvement will host and administer the APCD and have custody of the data collected by the APCD as part of the Arkansas Healthcare Transparency Initiative. Except as authorized in state law, the Administrator is prohibited from collecting, disclosing or using data obtained in its capacity as Administrator for any purposes other than those specifically authorized in the Act, this Rule, or any agreement with AID to administer the APCD.

Section 10. Initiative Public Use and Reports. Contingent upon available funding and in consultation with the Initiative Board, the Arkansas Insurance Department will issue reports from data collected by the Initiative which may include descriptions of patterns of incidence and variation of medical treatment options, comparisons of health care quality and performance, state and regional cost patterns, utilization of services, how health care dollars are being spent and health care research activities. Reports generated by AID will be available to the public on a website.

Any and all reports will comply with federal and state privacy laws. Any and all reports will preserve competition consistent with Statement 6 of the Department of Justice and Federal Trade Commission Enforcement Policy and not deprive payers of existing trade secret protections.

After soliciting input from the Initiative Board, AID will develop a process by which individuals can request data sets to be reviewed by the Data Oversight Subcommittee and the Initiative Board and approved by the Commissioner. Where appropriate, individuals requesting data sets will sign a data use agreement to be approved or denied by the Commissioner, upon recommendation of the Data Oversight Subcommittee and the Initiative Board. AID will not release data sets for solely commercial purposes. The Commissioner may adopt a fee schedule to fulfill data requests under this Section.

Section 11. Limited Data Set Requests. AID, in consultation with the Initiative Board, will determine a limited data set of elements to be made available for research projects. The requester will submit to the Scientific Advisory Committee through the Administrator a detailed research scope and purpose to determine if a limited data set can be made available. The Commissioner will approve or deny each request for a Limited Data Set, upon recommendation by the Scientific Advisory Committee and the Initiative Board. The requester will sign a data use agreement with the Commissioner if data is supplied to the requestor.

The requester shall protect patient privacy and confidentiality information contained in the limited data set according to HIPAA, applicable laws of the Arkansas, and the data use agreement. The Commissioner may adopt a fee schedule to fulfill the data requests under this Section.

Section 12. Public Record. Data submitted by submitting entities to the Arkansas Insurance Department through the Administrator are confidential and are exempt from disclosure under the Freedom of Information Act of 1967, Ark Code. Ann. § 25-19-101 et seq., and are not subject to subpoena, except to the extent provided in Ark. Code Ann § 23-61-205.

Section 13. Compliance. Each time a submitting entity submits a file, AID will evaluate each submitting entity's submissions in accordance with the DSG. Upon completion of the evaluation, AID will promptly notify each submitting entity in writing whether its submissions satisfy the DSG standards. This notification shall identify the specific files and the data sets that do not conform to DSG standards. Each submitting entity notified of a non-compliant data submission shall respond within 30 days of the notification by making the changes necessary to satisfy the DSG standards unless an extension, variance or waiver has been submitted in accordance with Section 6.B.

Section 14. Penalties for Non-Compliance. Following notice to the submitting entity and the failure to comply during the 30-day cure period, the Commissioner may impose a maximum penalty on a submitting entity of one thousand dollars ($1000.00) per day, not to exceed thirty thousand dollars ($30,000.00). The Commissioner may delay, reduce, or waive any penalty.

Section 15. Privacy and Security. AID will institute appropriate administrative, physical and technical safeguards to ensure that the APCD, its operations, data collection and storage, and reporting disclosures are in compliance with the requirements applicable federal and state law. AID will also ensure that the Administrator and any vendors comply with applicable federal and state law related to protecting patient privacy and confidentiality.

Section 16. Effective Date. This Rule will be effective on November 2, 2015.

_____

ALLEN W. KERR
INSURANCE COMMISSIONER

_____

DATE

APPENDIX A
SUBMISSION SCHEDULE

Group Number	Date of Data Receipt	Claims Dates From:	To:
Group 1	3/31/2016	1/1/2013	12/31/2015
Group 2	6/30/2016	1/1/2013	12/31/2015
Group 3	9/30/2016	1/1/2013	12/31/2015
Group 4	12/31/2016	1/1/2013	12/31/2015
All Groups	3/31/2017	1/1/2016	12/31/2016
All Groups	6/30/2017	1/1/2017	3/31/2017
All Groups	9/30/2017	4/1/2017	6/30/2017
All Groups	12/31/2017	7/1/2017	9/30/2017
All Groups	3/31/2018	10/1/2017	12/31/2017
All Groups	6/30/2018	1/1/2018	3/31/2018
All Groups	9/30/2018	4/1/2018	6/30/2018
All Groups	12/31/2018	7/1/2018	9/30/2018
All Groups	3/31/2019	10/1/2018	12/31/2018
All Groups	6/30/2019	1/1/2019	3/31/2019
All Groups	9/30/2019	4/1/2019	6/30/2019
All Groups	12/31/2019	7/1/2019	9/30/2019

Data submitters who are newly required to submit files under this rule after January 1, 2016 shall submit data according to a schedule developed by the Administrator in consultation with AID.

DUA #____

DATA USE AGREEMENT

AGREEMENT FOR USE OF ARKANSAS HEALTHCARE TRANSPARENCY INITIATIVE DATA

[NOTE: This Data Use Agreement serves as a template that may be modified at the discretion of the Arkansas Insurance Department Commissioner with additional provisions including without limitation privacy, security or competitive use restrictions other than those outlined in this template.]

This Data Use Agreement ("Agreement" or "DUA") is made and entered as of _____ (the "Effective Date") by and between the **Arkansas Insurance Department** ("AID"), in its capacity as the regulatory agency with oversight of the Arkansas Healthcare Transparency Initiative ("Initiative) as enabled by Act 1233 of 2015, and _____, ("Receiving Organization") (together, the "Parties").

This Agreement addresses the conditions under which the Arkansas Center for Health Improvement ("Administrator") on behalf of AID will disclose and the Receiving Organization may obtain, use, reuse, and disclose the Initiative data file(s) or reports specified in this Agreement and/or any derivative file(s) (collectively, the "Data" or "Initiative Data"). This Agreement supersedes any and all agreements between the Parties with respect to the use of Initiative Data. The terms of this Agreement can be changed only by a written modification to this Agreement agreed to by both Parties or by the Parties adopting a new agreement. The Parties agree further that instructions or interpretations issued to the Receiving Organization concerning this Agreement, or the Data specified herein, shall not be valid unless issued in writing by AID.

1. **Project and Data Release Application**. This Agreement pertains to the following project entitled: _____ and as described in the Data Release Request ("Request") approved by AID and incorporated into this Agreement as Exhibit A.

2. **Requested Data Elements or File**. This Agreement pertains to access to the data elements specified in Exhibit A through an electronic interface or to the following specialized data file created in accordance with the specifications contained in the Request: _____.

3. **Permitted Data Uses and Purposes**. The Receiving Organization will not use or disclose the Data disclosed pursuant to this Agreement for any other purpose or in any other way than the purpose and uses described in this Agreement.

4. **Safeguards**. The Receiving Organization agrees to establish appropriate administrative, technical, and physical safeguards to protect the confidentiality of and prevent unauthorized use of or access to the Data. The Receiving Organization acknowledges that the use of unsecured telecommunications, including the Internet, to transmit individually identifiable, or deducible, information derived from the Initiative Data is prohibited. Further, the Receiving Organization agrees that the Data must not be physically moved, transmitted, or disclosed in any way from or by the site indicated in the Receiving Organization's Data Management Plan as described in Exhibit B without written approval from AID unless such movement, transmission, or disclosure is required by law.

5. **Inspections**. The Receiving Organization agrees to grant access to its personnel, facilities, and the Data to the authorized representatives of AID at the site indicated in the Receiving Organization's

Data Management Plan in Exhibit B for the purpose of inspecting to confirm compliance with the terms of this Agreement.

6. **Cell Suppression Policy**. The Receiving Organization agrees that any use of Initiative Data in the creation of any document (manuscript, table, chart, study, report, etc.) concerning the specified purpose must adhere to Initiative Data cell size suppression policy. This policy stipulates that no cell (e.g., admittances, discharges, patients, services, others) with less than eleven observations may be displayed. Also, no use of percentages or other mathematical formulas may be used if they result in the display of a cell displaying less than eleven observations. Individual level records may not be published in any form, electronic or printed. Reports and analytics must use complementary cell suppression techniques to ensure that cells with fewer than eleven observations cannot be identified by manipulating Data in adjacent rows, columns or other manipulations of the report. Examples of such data elements include, but are not limited to geographic location, age if > 89, sex, diagnosis and procedure, admission/discharge date(s), or date of death.

7. **No Identification of Individuals**. The Receiving Organization will not attempt to identify individuals in the Initiative Data. The Receiving Organization agrees that, absent express written authorization from AID, the Receiving Organization shall not attempt to link records included in the Data to any other individually identifiable source of information. A protocol that includes the linkage of specific files that has been approved in accordance with the protocols described in the Request and this Agreement constitutes express authorization from AID to link files as described in the protocol.

8. **Results and Reports**. The Receiving Organization agrees to provide the AID with a copy of any results derived from the Initiative Data and information regarding the outcome of the project, as it is described in the Request. The Receiving Organization must obtain approval from AID to release any reports or outputs prior to distribution outside the named project team. Distribution includes but is not limited to: peer review, submission to any federal or state agency, presentation of findings, or synopsis of research. AID will review the report in consultation with the Arkansas Healthcare Transparency Initiative Board within six weeks of receipt to confirm:

    a. The Receiving Organization's compliance with minimum cell size and complimentary cell suppression rules;
    b. That the report or output has incorporated appropriate protections to prevent inferential identification; and
    c. That the report or output is consistent with the project description contained in the Receiving Organization's Request, as approved.

9. **Additional Projects**. Use of the same Data for a project other than the one described in this Agreement must be approved through a separate request process. The Receiving Organization understands and agrees that original or derivative Data file(s) cannot be reused or further disclosed without prior written approval from AID.

10. **Exhibits and Attachments**. The Parties mutually agree that the following specified Exhibits and Attachments are part of this Agreement:
    a. Exhibit A: Approved Request for the Release and Use of Initiative Data
    b. Exhibit B: Receiving Organization's Data Management Plan
    c. Exhibit C: List of Requested Data Elements
    d. Exhibit D: Initiative Data Fee Schedule
    e. Exhibit E: Certification of Project Completion & Destruction or Retention of Data
    f. Other_____

11. **Reporting and Treatment of Unauthorized Uses or Disclosures of Data**. The Receiving Organization will report any unauthorized use or disclosure of the Data to AID and the Administrator within two days of discovery of such unauthorized use or disclosure. In the event that AID determines or has a reasonable belief that the Receiving Organization has made or may have made a use, reuse, or disclosure of the Initiative Data that is not authorized by this Agreement, or another written authorization from AID, AID may, at its sole discretion, require the Receiving Organization to perform one or more of the following, or such other actions as the AID, in its sole discretion, deems appropriate:
    a. promptly investigate and report to AID the Receiving Organization's determinations regarding any alleged or actual unauthorized use, reuse, or disclosure;
    b. promptly resolve any issues or problems identified by the investigation;
    c. submit a formal response to an allegation of unauthorized use, reuse, or disclosure;
    d. submit a corrective action plan with steps designed to prevent any future unauthorized uses, reuses, or disclosures; and
    e. immediately cease any and all uses, reuses, or disclosures of the Initiative Data including any distribution under paragraph 8 of this Agreement and return or destroy all Data received under this Agreement.

    The Receiving Organization understands that as a result of the AID's determination or reasonable belief that unauthorized uses, reuses, or disclosures have occurred, AID may refuse to release further Initiative Data to the Receiving Organization for a period of time to be determined by AID.

12. **Indemnification**. Receiving Organization will indemnify, defend, and hold AID and Administrator acting on behalf of AID harmless from any and all claims, losses, liabilities, damages, judgments, fees, expenses, awards, penalties (including civil monetary penalties), and costs (including reasonable attorneys' and court fees and expenses) arising out of or related to any breach of this Agreement by Receiving Organization, or any breach or alleged breach of Initiative Data arising from Receiving Organization's breach, or failure to perform, pursuant to this Agreement. If AID, in its sole discretion, determines that the risk of harm created by such a breach or alleged breach of Data requires notification of affected individuals and/or other remedies, the Receiving Organization agrees to carry out such remedies under the direction of and without cost to AID or the Administrator.

13. **Antitrust Compliance and Indemnification**. Receiving Organization agrees to treat Initiative Data confidentially, as specified in this Agreement, and not to use, or enable any other parties to use, Initiative Data for anticompetitive or other unlawful purposes, including but not limited to price-fixing, market or customer allocation, service or output restriction, price stabilization, or any other agreement or coordination among parties that in any way restricts or limits competition. Receiving Organization also agrees to indemnify and hold AID and Administrator acting on behalf of AID harmless for any antitrust liability, damages, judgments, fees, expenses, awards, penalties (including civil monetary penalties), and costs (including reasonable attorneys' and court fees and expenses) arising from or relating in any way to Initiative Data, or that in any way involve use of Initiative Data. Such indemnification shall include without limitation payment by Receiving Organization of any fines, penalties, or damages of any sort, including without limitation compensatory, treble, punitive, or any other damages, fines, or penalties assessed against AID or Administrator for any antitrust violation arising from or relating in any way or any part to Initiative Data or use of Initiative Data, as well any and all of AID's or Administrator's related legal fees, costs, and/or other expenses incurred in or arising from the matter.

    Receiving Organization further agrees that it shall not attempt to identify parties that have been de-identified in reports, "reverse engineer," decompile, or in any other way attempt to discern the

identities of the specific parties charging or paying any prices contained in Initiative Data, nor shall Receiving Organization try to translate, convert, adopt, alter, modify, enhance, add to, delete, or tamper with any Initiative Data or in any other way attempt to calculate or determine specific parties' prices from Initiative Data.

14. **Project Workforce**. All of the Receiving Organization's employees, contractors, and clients must adhere to the requirements contained in the Request and this Agreement. Any person or entity that processes or receives the Data and its agents must be obligated, by written contract, to adhere to the terms of this DUA and agree to follow the Data privacy, security, and protection requirements, prior to being granted access to Initiative Data. The following named individuals, and only these individuals, will have access to Initiative Data. The Receiving Organization will notify AID when an individual leaves the project. The Receiving Organization will obtain written approval from AID for any additions to this list, prior to granting such individuals with access to Initiative Data.

Name	Role	Organization

15. **Data Retention and Destruction**. The Receiving Organization agrees to notify AID within 30 days of the completion of the Project Purpose (as specified in The Request) if the project is completed before the last day of the Data Retention Period (as specified in the Project Schedule of the Request). Upon such notice or the last day of the Data Retention Period, whichever occurs sooner, the Receiving Organization agrees to destroy all Initiative Data, in accordance with the methods established by the "Guidance to Render Unsecured Protected Health Information Unusable, Unreadable, or Indecipherable to Unauthorized Individuals," as established by the U.S. Department of Health and Human Services (HHS). The Receiving Organization may request an extension of the Data Retention Period by submitting a written request that includes justification to AID. When retention of the Data is no longer justified and/or required by law, the Receiving Organization agrees to destroy the Data and send a completed "Certification of Project Completion & Destruction or Retention of Data" form (Exhibit E) to AID within 30 days. The Receiving Organization agrees not to retain any Initiative Data, or any parts thereof, or any derivative files that can be used in concert with other information to identify an individual, either directly or indirectly, after the aforementioned file(s) and Data are destroyed unless AID grants written authorization. The Receiving Organization acknowledges that such date for retention of Data is not contingent upon action by AID.

16. **Term and Termination**. AID or the Receiving Organization may terminate this Agreement at any time for any reason upon 30 days written notice. Upon notice of termination by either party, the Administrator will cease releasing Data to the Receiving Organization under this Agreement and Receiving Organization will destroy all Data. This Agreement will remain effective in its entirety until the completed "Certification of Project Completion & Destruction or Retention of Data" has been received by AID. Sections 11, 12, 13, and 15 of this Agreement shall survive termination of the other provisions of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement effective upon the Effective Date set forth above.

Arkansas Insurance Department
Commissioner

Date

Receiving Organization

Date

Receiving Organization Information

Organization:_____

Signator Name:_____

Signator

Title:_____

Telephone:_____

Email:_____

DUA #____

DATA USE AGREEMENT

AGREEMENT FOR USE OF ARKANSAS HEALTHCARE TRANSPARENCY INITIATIVE DATA

[NOTE: This Data Use Agreement serves as a template that may be modified at the discretion of the Arkansas Insurance Department Commissioner with additional provisions including without limitation privacy, security or competitive use restrictions other than those outlined in this template.]

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5. **Inspections**. The Receiving Organization agrees to grant access to its personnel, facilities, and the Data to the authorized representatives of AID at the site indicated in the Receiving Organization's

Data Management Plan in Exhibit B for the purpose of inspecting to confirm compliance with the terms of this Agreement.

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    a. The Receiving Organization's compliance with minimum cell size and complimentary cell suppression rules;
    b. That the report or output has incorporated appropriate protections to prevent inferential identification; and
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    f. Other_____

11. **Reporting and Treatment of Unauthorized Uses or Disclosures of Data**. The Receiving Organization will report any unauthorized use or disclosure of the Data to AID and the Administrator within two days of discovery of such unauthorized use or disclosure. In the event that AID determines or has a reasonable belief that the Receiving Organization has made or may have made a use, reuse, or disclosure of the Initiative Data that is not authorized by this Agreement, or another written authorization from AID, AID may, at its sole discretion, require the Receiving Organization to perform one or more of the following, or such other actions as the AID, in its sole discretion, deems appropriate:
    a. promptly investigate and report to AID the Receiving Organization's determinations regarding any alleged or actual unauthorized use, reuse, or disclosure;
    b. promptly resolve any issues or problems identified by the investigation;
    c. submit a formal response to an allegation of unauthorized use, reuse, or disclosure;
    d. submit a corrective action plan with steps designed to prevent any future unauthorized uses, reuses, or disclosures; and
    e. immediately cease any and all uses, reuses, or disclosures of the Initiative Data including any distribution under paragraph 8 of this Agreement and return or destroy all Data received under this Agreement.

    The Receiving Organization understands that as a result of the AID's determination or reasonable belief that unauthorized uses, reuses, or disclosures have occurred, AID may refuse to release further Initiative Data to the Receiving Organization for a period of time to be determined by AID.

12. **Indemnification**. Receiving Organization will indemnify, defend, and hold AID and Administrator acting on behalf of AID harmless from any and all claims, losses, liabilities, damages, judgments, fees, expenses, awards, penalties (including civil monetary penalties), and costs (including reasonable attorneys' and court fees and expenses) arising out of or related to any breach of this Agreement by Receiving Organization, or any breach or alleged breach of Initiative Data arising from Receiving Organization's breach, or failure to perform, pursuant to this Agreement. If AID, in its sole discretion, determines that the risk of harm created by such a breach or alleged breach of Data requires notification of affected individuals and/or other remedies, the Receiving Organization agrees to carry out such remedies under the direction of and without cost to AID or the Administrator.

13. **Antitrust Compliance and Indemnification**. Receiving Organization agrees to treat Initiative Data confidentially, as specified in this Agreement, and not to use, or enable any other parties to use, Initiative Data for anticompetitive or other unlawful purposes, including but not limited to price-fixing, market or customer allocation, service or output restriction, price stabilization, or any other agreement or coordination among parties that in any way restricts or limits competition. Receiving Organization also agrees to indemnify and hold AID and Administrator acting on behalf of AID harmless for any antitrust liability, damages, judgments, fees, expenses, awards, penalties (including civil monetary penalties), and costs (including reasonable attorneys' and court fees and expenses) arising from or relating in any way to Initiative Data, or that in any way involve use of Initiative Data. Such indemnification shall include without limitation payment by Receiving Organization of any fines, penalties, or damages of any sort, including without limitation compensatory, treble, punitive, or any other damages, fines, or penalties assessed against AID or Administrator for any antitrust violation arising from or relating in any way or any part to Initiative Data or use of Initiative Data, as well any and all of AID's or Administrator's related legal fees, costs, and/or other expenses incurred in or arising from the matter.

    Receiving Organization further agrees that it shall not attempt to identify parties that have been de-identified in reports, "reverse engineer," decompile, or in any other way attempt to discern the

identities of the specific parties charging or paying any prices contained in Initiative Data, nor shall Receiving Organization try to translate, convert, adopt, alter, modify, enhance, add to, delete, or tamper with any Initiative Data or in any other way attempt to calculate or determine specific parties' prices from Initiative Data.

14. **Project Workforce**. All of the Receiving Organization's employees, contractors, and clients must adhere to the requirements contained in the Request and this Agreement. Any person or entity that processes or receives the Data and its agents must be obligated, by written contract, to adhere to the terms of this DUA and agree to follow the Data privacy, security, and protection requirements, prior to being granted access to Initiative Data. The following named individuals, and only these individuals, will have access to Initiative Data. The Receiving Organization will notify AID when an individual leaves the project. The Receiving Organization will obtain written approval from AID for any additions to this list, prior to granting such individuals with access to Initiative Data.

Name	Role	Organization

15. **Data Retention and Destruction**. The Receiving Organization agrees to notify AID within 30 days of the completion of the Project Purpose (as specified in The Request) if the project is completed before the last day of the Data Retention Period (as specified in the Project Schedule of the Request). Upon such notice or the last day of the Data Retention Period, whichever occurs sooner, the Receiving Organization agrees to destroy all Initiative Data, in accordance with the methods established by the "Guidance to Render Unsecured Protected Health Information Unusable, Unreadable, or Indecipherable to Unauthorized Individuals," as established by the U.S. Department of Health and Human Services (HHS). The Receiving Organization may request an extension of the Data Retention Period by submitting a written request that includes justification to AID. When retention of the Data is no longer justified and/or required by law, the Receiving Organization agrees to destroy the Data and send a completed "Certification of Project Completion & Destruction or Retention of Data" form (Exhibit E) to AID within 30 days. The Receiving Organization agrees not to retain any Initiative Data, or any parts thereof, or any derivative files that can be used in concert with other information to identify an individual, either directly or indirectly, after the aforementioned file(s) and Data are destroyed unless AID grants written authorization. The Receiving Organization acknowledges that such date for retention of Data is not contingent upon action by AID.

16. **Term and Termination**. AID or the Receiving Organization may terminate this Agreement at any time for any reason upon 30 days written notice. Upon notice of termination by either party, the Administrator will cease releasing Data to the Receiving Organization under this Agreement and Receiving Organization will destroy all Data. This Agreement will remain effective in its entirety until the completed "Certification of Project Completion & Destruction or Retention of Data" has been received by AID. Sections 11, 12, 13, and 15 of this Agreement shall survive termination of the other provisions of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement effective upon the Effective Date set forth above.

Arkansas Insurance Department Commissioner	Receiving Organization
Date	Date

Receiving Organization Information

Organization:_____

Signator Name:_____

Signator Title_____

Telephone:_____

Email:_____

Booth Rand

From: Thompson, Joseph W <ThompsonJosephW@uams.edu>
Sent: Monday, August 24, 2015 4:54 PM
To: Mark White (DHS); Renee Mallory; Shirley Tyson (HIT); 'jryan@centene.com'; 'billy@pulaskicountytitle.com'; Martin, Bradley; 'cekellogg@arkbluecross.com'; Sally.Welborn@walmart.com; 'jill.arnold@gmial.com'; doug.weeks_baptist-health.org; 'caduddell@stvincenthealth.com'; Greg Bledsoe (Greg.Bledsoe@governor.arkansas.gov)
Cc: Dan Honey; Lesia Carter; davidjamessanders@gmail.com; Booth Rand; Wilson, Craig; Thompson, Joseph W; Money, Kenley; Reid, Helen; Wessel, Jennifer; Whittington, Elizabeth F; Loeb, Milton
Subject: AR Healthcare Transparency Initiative Board Educational Forum
Attachments: Healthcare Transparency Fact Sheet .pdf

Dear Board Member,

Congratulations on your appointment to serve on the board of the Arkansas Healthcare Transparency Initiative ("Initiative") created by Act 1233 of 2015 ("Act") of the 90th Arkansas General Assembly. We are excited about the potential of the Initiative to be a springboard for enhanced healthcare price and quality transparency in Arkansas and a data access point for researchers, policymakers, businesses, and individual consumers. A fact sheet about the Initiative and the Act creating the Initiative are attached for your convenience.

The Act names the Arkansas Insurance Department ("AID") as the regulatory agency for the Initiative, enabling AID to promulgate rules to carry out the purposes of the Act. AID has issued a proposed rule (Rule 100) and data submission guide, a link to both has been provided below for your convenience. A public hearing on Rule 100 has been scheduled for Monday, September 14 at 10 a.m. at the Arkansas Insurance Department.

The Arkansas Center for Health Improvement ("ACHI") is designated as the administrator of the claims database that is the information platform for the Initiative. In that role we will be managing data submission and release in accordance with AID rules as well as providing staffing for the board.

We will host an educational forum for Initiative board members on Thursday, September 3 at 1 p.m. at ACHI. The forum will be available via webinar and will be recorded for those who are unavailable during the scheduled time. An electronic calendar invite from Craig Wilson with more details will follow this email. The forum will provide an introduction to the Initiative and the board's role, information about ACHI's progress to date in the development of the claims database with funding through AID, and a brief review of draft rule and data submission guide.

We welcome your feedback on Rule 100 and the data submission guide prior to or following the forum. We also invite you to visit www.arkansasapcd.net for additional information about the Initiative.

In the meantime, should you have questions please contact Craig Wilson, Director of Access to Quality Care at ACHI at 501-526-2244 or jcwilson@uams.edu.

jwt

Rule 100: http://insurance.arkansas.gov/Legal/PropRules/PropRule100.pdf
Arkansas APCD Data Submission Guide: http://test.arkansasapcd.net/Docs/51/

Joseph W. Thompson, MD, MPH

EXHIBIT 18

Director
Arkansas Center for Health Improvement
Professor, UAMS Colleges of Medicine and Public Health
1401 West Capitol Avenue | Suite 300 - Victory Building | Little Rock, AR 72201
501.526.2231 direct | 501.526.2244 office | 501.526.2252 fax
thompsonjosephw@uams.edu

A nonpartisan, independent, health policy center that serves as a catalyst to improve the health of Arkansans.
www.achi.net

Booth Rand

From: Wilson, Craig <JCWilson@uams.edu>
Sent: Wednesday, September 09, 2015 4:17 PM
To: jryan@centene.com; Greg Bledsoe (Greg.Bledsoe@governor.arkansas.gov); billy@pulaskicountytitle.com; jill.arnold@gmail.com; Renee Mallory; caduddell@stvincenthealth.com; Kellogg, Cal E (CEKELLOGG@arkbluecross.com); Mark White (DHS); Shirley Tyson (HIT); doug.weeks_baptist-health.org; Martin, Bradley; Sally Welborn <Sally.Welborn@walmart.com> (Sally.Welborn@walmart.com); Brenda Daulton; hblack@centene.com; Nicholas Bayles; cmasseny@stvincenthealth.com; Debbie Conway; MCSmith@arkbluecross.com; Patricia.oakley@baptist-health.org
Cc: Money, Kenley; Thompson, Joseph W; Hart, Lakesha D; Whittington, Elizabeth F; Wessel, Jennifer; Loeb, Milton; Dan Honey; Sen. David J. Sanders; Lesia Carter; Smedley, Lori L; Booth Rand
Subject: Healthcare Transparency Board Initiative Info and Meeting
Attachments: 150909 Initiative Board Contact Information.xlsx

Thank you for attending the Arkansas Healthcare Transparency Initiative Board educational forum last Thursday, September 3, 2015. Our next meeting has been scheduled for Friday, November 6, 2015, from 1-2 p.m. Please hold this time on your calendar. An Outlook invite will follow this email. At that meeting we anticipate that board members will elect a chair, and we will update you on rule promulgation and the data submitter registration process.

Attached is a list of board member contact information for your convenience. A draft of last week's minutes and a recording of the forum (including presentation) will be available at www.arkansasapcd.net by the end of this week.

As a reminder, the public hearing on Arkansas Insurance Department Proposed Rule 100 and the Data Submission Guide will be on Monday, September 14, 2015, at 10 a.m. at the Arkansas Insurance Department. We continue to welcome consultation from the board on both documents. The Data Submission Guide and Proposed Rule 100 may be found on the Arkansas APCD website homepage at www.arkansasapcd.net.

Also, if you have interest in serving on the Data Oversight Subcommittee, or have suggestions for a healthcare consumer nominee for that committee or researcher nominees for the Scientific Advisory Committee, please forward that information at your convenience.

Thank you for your willingness to serve. We look forward to future meetings.

Craig

J. Craig Wilson, JD, MPA
Director of Access to Quality Care
Arkansas Center for Health Improvement
1401 West Capitol Avenue | Suite 300 - Victory Building | Little Rock, AR 72201
501.526.2229 direct | 501.526.2244 office | 501.526.2252 fax
jcwilson@uams.edu

ACHI
Arkansas Center for Health Improvement

A nonpartisan, independent, health policy center that serves as a catalyst to improve the health of Arkansans.
www.achi.net

EXHIBIT
19

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