

Arkansas

Arkansas Department of Insurance
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Summary of Important Regulations

MEWA Regulations	Yes ¹
TPA Regulations	Yes ²
Stop-Loss Regulations	No
UR Regulations	Yes

NAIC Model Laws or Regulations

<u>Name of Model Law/Regulation</u>	<u>Model/Similar</u>	<u>Related</u>
Health Insurance Reserves Model Regulation	Ark. Ins. Rule & Reg. 22	None
Comprehensive Health Ins. Cost Containment Model Act	None	None
Standardized Health Claims Form Model Regulation	None	Ark. Stat. Ann. § 23-85-136; § 23-86-117
Small Employer Health Insurance Availability Model Law	None	Ark. Stat. Ann. §§ 23-86-201 to 23-86-209; §§ 23-86-301 to 23-86-314
Model Regulation To Eliminate Unfair Sex Discrimination	Ark. Ins. Rule & Reg. 19	None
Health Information Privacy Model Law	None	None
Preferred Provider Arrangements Model Law	None	Bulletins 9-85,9-85A
Utilization Review Model Law	None	None
Managed Care Plan Network Adequacy Model Law	None	None
Third Party Administrator Law	None	Ark. Stat. Ann. §§ 23-92-101 to 23-92-208
Stop-loss Insurance Model Law Arkansas	None	None

NAIC Model Laws or Regulations

<u>Name of Model Law/Regulation</u>	<u>Model/Similar</u>	<u>Related</u>
Jurisdiction of Health Care Providers Model Law	Ark. Stat. Ann. §§ 23-61-501 to 23-61-508	None
Standard Group Health Model Law	None	Ark. Stat. Ann. §§ 23-86-101 to 23-86-109
Group Health Insurance Mandatory Conversion Law	None	Ark. Stat. Ann. § 23-86-115
Group Coverage Discontinuance/ Replacement Model Regulation	None	Ark. Stat. Ann. § 23-86-116
Premium Rates and Renewability of Coverage-Small Groups	Ark. Stat. Ann. §§ 23-86-201 to 23-86-209	None
Group Coordination of Benefits Model Law	Ark. Ins. Rule & Reg. 21	None
Model Regulation for Certification of Health Plans	None	None
Off-Label Drug Use Model Law	None	Ark. Stat. Ann. § 23-79-147
Group Health Mandatory Drug/ Alcohol Dependency Law	None	Ark. Stat. Ann. § 23-79-139
Model Newborn Children's Law	Ark. Stat. Ann. § 23-79-129	Bulletin 3-75
Health Examination Benefits Availability Law	None	Ark. Stat. Ann. §23-79-141; Ark. Ins. Rule & Reg. 45

NAIC Model Laws or Regulations

<u>Name of Model Law/Regulation</u>	<u>Model/Similar</u>	<u>Related</u>
Accident and Sickness Insurance Minimum Standards Model Law	Model Reg. Adoplea, see p. 171-43	None
Agents and Brokers Licensing Model Law	None	Ark. Stat. Ann. §§ 23-64-101 to 23-64-229
MEWA Licensing Model Law	None	None
Managing General Agents Law	Ark. Stat. Ann. §§ 23-64-401 to 23-64-408	None
Health Maintenance Organization Model Law	Ark. Stat. Ann. §§ 23-76-101 to 23-76-130	None
Insurance Information and Privacy Protection Law	None	None
Unfair Trade Practices Law	Ark. Stat. Ann. §§ 23-66-201 to 23-66-316	None
Model Regulation on Unfair Discrimination in Life and Health Insurance on the Basics of Physical or Mental Impairment	Ark. Ins. Rule & Reg. 28	None
Model Regulation on Unfair Discrimination in Life and Health Insurance on the Basics of Total or Partial Blindness	Ark. Ins. Rule & Reg. 37	None

NAIC Model Laws or Regulations

<u>Name of Model Law/Regulation</u>	<u>Model/Similar</u>	<u>Related</u>
Unfair Discrimination against Subjects of Domestic Abuse in Health Benefit Plans Model Law	None	Ark. Stat. Ann. § 23-86-306
Unfair Claims Settlement Practices Law	Ark. Stat. Ann. § 23-66-206	None
Improper Termination Practices Law	None	None
Employee Leasing Registration Model Law	None	None
Private Employer Workers' Compensation Group Self- Insurance Model Law	None	None
Public Employee Workers' Compensation Group Self- Insurance Model Law	None	None
Twenty Four Hour Coverage Pilot Project Model Law	None	None

State-Mandates

Benefits That Must Be Covered

- Ambulatory surgery
- Breast reconstruction
- Diabetic supplies, education
- Emergency services
- Formula for PKU
- Infertility services and/or in vitro fertilization
- Mental health, parity
- Minimum mastectomy stays
- Minimum maternity stays
- Off-label drug use

Benefits That Must Be Offered

- Alcoholism treatment
- Drug abuse treatment
- Hospice care
- Mammography screening

Persons Who Must Be Allowed Coverage

- Adopted children
- Continuation/dependents
- Continuation/employees
- Conversion to non-group
- Handicapped dependents
- Newborns

Providers Who Must Be Covered

- Chiropractors
- Dentists
- Licensed Health Professionals
- Optometrists
- Podiatrists
- Professional Counselors
- Psychologists

Coordination of Benefits

- Birthday Rule? Yes
- Divorced/Separated Rule? Yes
- Joint Custody Rule? No

- Longer v. Shorter Rule? Yes
- Managed Care Rule? Yes
- COBRA Rule? No
- Preservation Rule? Yes

Continuation or Conversion

Yes

Patient's Bill of Rights Legislation

No

High Risk Health Pool

Yes - premium up to 1.5X

External Grievance System

No

Prompt Payment of Health Claim Requirement

No

Alcohol and Drug Treatment³

Alcohol or drug dependence; same treatment as for physical illness; biennial minimum benefit of \$6,000; \$12,000 minimum lifetime benefit; hospital or special facility, whichever most cost-effective treatment setting.

Mental Health Coverage⁴

Same deductible and limits as other illness, may have separate copayment, but not more than 20% annual maximum benefit \$7,500/year; services inpatient or outpatient, at a general hospital, psychiatric hospital or community mental health center, by a licensed physician or licensed psychologist. Mandatory.

Other Mandates

- Care and treatment of loss or impairment of speech or hearing, including communicative disorders generally treated by a licensed speech pathologist or audiologist.
- Outpatient laboratory and pathological tests, X-rays, chemotherapy, radiation treatment, and renal dialysis, if such services are offered on an inpatient basis.
- A baseline mammogram for a covered woman 35-40 years of age, a mammogram every one to two years based on a physician's recommendation for a covered woman from 40-49 years of age, one mammogram each for a covered woman at least 50 years of age, a mammogram - without regard to age - for a covered woman with a prior history of breast cancer or for a woman whose mother or sister has had a history of breast cancer, if performed in an accredited facility, all on an optional basis; at least \$50 for each screening mammogram, and in the case of hospital outpatient screening mammography and comparable situations, at least 40% of the total fee for professional services separate from the claim for technical services.
- In vitro fertilization.

- Preventive health care for all children 16 years of age or younger, on a periodic basis, including 18 visits at approximately the following age intervals: birth, 2,4,6,9,12,15, and 18 months; and 2,3,4,5,6,7,8,10,12,14, and 16 years, if the plan covers family members of insured persons. Routine periodic physical examinations are covered unless specifically rejected in writing by the contract counselors.
- Insurers are required to offer coverage for services rendered by licensed professional counselors.⁵
- No contract of insurance shall restrict or deny health coverage on the basis that the minor child does not reside with the non-custodial parent.⁶
- Plans must provide coverage for childhood diseases, minimum 20 visits, etc., including self-funded plans. The State Department of Insurance realizes that it does not apply to self-funded plans because of ERISA preemption, yet they expect to put enough pressure on employers for failing to provide the benefit, that self-funded plans will go along with the provision voluntarily.
- Health plans that provide vision care must permit any licensed ophthalmologist or optometrist who agrees to comply with plan terms to serve as a primary eye care provider.
- Insurers must pay for multi-day hospital stays for new mothers and their infants and provide 48 hours of hospitalization for normal delivery and 96 hours of hospitalization for cesarean section.

MEWA Regulation

Arkansas statute⁷ requires these entities to be annually registered with the Arkansas Insurance Department:

- MEWA
- Self-funded plans

The registration shall be done prior to a solicitation.

No bond is required.

The required information in the registration is as follows:

Certificate of Registration

1. Name of plan or trust (if applicable)
2. Name of plan administrator
3. Address of plan administrator
4. Name and phone number of contact person
5. Name of trustee(s)
6. Name of employer (if single employer plan or trust)
7. Date plan or trust first became operational in Arkansas
8. Number of Arkansas residents in plan or trust
9. Type of plan:
 - Multiple employer
 - Single employer
10. If a multiple employer trust, is trust the policyholder of a group insurance contract?
 - Yes
 - No

Date _____

Signature _____

In completing the registration, certain instructions should be followed:

- Application for registration must be completed and mailed to insurance department.
- Renewal of registration will be due annually on or before January 1 of each year. Renewal forms will be mailed to all registered self-funded plans and multiple employer trusts.
- Application should be signed by person completing the registration on behalf of the plan or trust.

TPA Regulations

Arkansas adopted an administration law in 1985.⁸ There appears to be no felony statute applicable to any TPA violation.

Arkansas, in addition to governing the TPA by registration, also requires all self-funded plans (including MEWAs), by name, to be registered with the commissioner.

- Taxes and fees -- \$25 initial and renewal filing fees.
- Forms -- TPA application for registration, state-favored TPA bond, plan registration form.
- Records -- five-year retention.
- Bond -- state-favored \$25,000 surety bond aggregated.
- Items filed -- list of self-funded plans.

The TPA's license may be revoked or suspended if there has been a violation of statutes by the TPA. Arkansas has indicated to the writer that as regards a nonlicensed TPA, not doing business in Arkansas, with no employer-sponsor domiciled in Arkansas but several participants as Arkansas residents (COBRAs, detached sales officer, etc.), that Arkansas will take a pragmatic approach, taking into account these considerations:

- *De minimis* rules of the NAIC TPA model registration statute.
- The ERISA nature of the plan involved, if any.
- License status of the TPA in its *home* state.

Stop-Loss Regulation

None. Stop-loss agreements must be filed with the state for approval.

Utilization Review Regulations

Agency Responsible ⁹	Dept. of Health
Requirements	Certification
Exemptions	Provider internal reviews
Waivers	None

Miscellaneous

State Premium Taxes

Commercial insurers are taxed at 2.5% of premiums; Blue Cross at 1%; HMOs at 2.5%, but with a credit for state home office and low salaries and wages.

Small Group Reform¹⁰

Allow issuance of limited benefit policies to individuals, groups, and trusts. Includes basic benefits to be covered. Rating formula shall be approved 65% loss ratio for individual, 75% for group.

Continuation of Coverage and Conversion Requirements

Arkansas law requires group disability insurance plans to allow continued coverage for up to 120 days for participants, spouses, and dependents if their group coverage ends due to termination of employment, termination of membership, or change in marital status. Those who elect continued coverage must have been covered by the group policy for at least three months on the date coverage terminates. Individuals who elect continued coverage must apply within ten days of the change that would end their eligibility for group coverage. They must pay the premium required by the policyholder monthly. Continuation is not required for individuals who are eligible for Medicare or other group policies that provide full insurance coverage, including coverage for all pre-existing conditions. Continued coverage is not required to include dental, vision, or prescription drug benefits. Coverage ends upon any of the following:

- The individual fails to pay the premium.
- The individual becomes eligible for Medicare.
- The plan terminates and is not replaced.

Conversion rights. Group disability policies in Arkansas must allow participants or covered dependents to convert to individual coverage upon termination of group coverage for any reason, including discontinuance of the group policy, unless coverage of the individuals terminated due to failure to pay premiums or because the whole group plan was terminated and was not replaced within 31 days. Those who convert must apply in writing within 30 days of termination coverage.¹¹

Managed Care

Arkansas has established comprehensive regulation of the utilization review industry, including certification requirements, minimum operational standards, appeals procedures, confidentiality requirements, and penalties for non-compliance. Arkansas allows any pharmacist willing to accept a PPO's terms and conditions of participation to participate. Pharmacists cannot waive, discount, or rebate copayments, and the same copayment must be charged to all beneficiaries.

TPA Client List

Arkansas requires a complete listing of all of a TPA's clients.

Endnotes

- ¹ Ark. Stat. Ann. § 23-92-101.
- ² Ark Stat. Ann. § 23-92-201 to 23-92-208.
- ³ Ark Stat. Ann. § 23-79-139.
- ⁴ Ark. Stat. §§ 17-96-201, 17-79-115 and 23-86-113.
- ⁵ Ark. Stat. Ann. § 23-85-138.
- ⁶ Ark Stat. Ann. § 23-79-144.
- ⁷ Ark. Stat. Ann. § 23-92-101.
- ⁸ Ark Stat. Ann. §§ 23-92-201 to 23-92-208.
- ⁹ Ark. Stat. Ann. §§ 20-9-901 *et seq.*; also Ark. Reg. tit. 43§ 112.
- ¹⁰ Ark. Stat. Ann. §§ 23-98-11 to 23-98-111.
- ¹¹ Ark Stat. Ann. § 23-86-115.