

Arkansas Insurance Department

Asa Hutchinson
Governor



Allen Kerr
Commissioner

BULLETIN NO.: 17-2015

TO: ALL LICENSED INSURERS, HEALTH MAINTENANCE ORGANIZATIONS, FRATERNAL BENEFIT SOCIETIES, FARMERS' MUTUAL AID ASSOCIATIONS OR COMPANIES, NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS, PRODUCER AND COMPANY TRADE ASSOCIATIONS, LICENSED THIRD PARTY ADMINISTRATORS, PHARMACY BENEFIT MANAGERS, AND OTHER INTERESTED PARTIES.

FROM: ARKANSAS INSURANCE DEPARTMENT

SUBJECT: COMPLIANCE WITH JANUARY 1, 2016 DATA SUBMISSION REQUIREMENTS UNDER ACT 1233 OF 2015, "THE ARKANSAS HEALTHCARE TRANSPARENCY INITIATIVE ACT OF 2015."

DATE: October 30, 2015

AID issues this Bulletin to provide the subject organizations with guidance, registration information, and forms necessary to ensure compliance with the January 1, 2016 data submission requirement established by Act 1233 of 2015 of the 90th Arkansas General Assembly, also known as the "Arkansas Healthcare Transparency Act of 2015" ("Transparency Initiative"). Under the Transparency Initiative, the Arkansas Insurance Department ("AID") is required to collect various types of data as defined in the Act from health insurers, third party administrators, and other entities. AID is charged with governing the collection, use, and reporting of such data for the purpose of providing consumers, policymakers, and others with more transparent claims information to support research and enable more informed decisions about healthcare costs, quality and access. AID will be assisted in these activities by a legislatively-established advisory board and the administrator of the Transparency Initiative's all-payer claims database ("APCD"), the Arkansas Center for Health Improvement ("ACHI").

Data submission requirements in Act 1233 of 2015 ("Act") apply to "submitting entities" as defined by the Act. AID has issued a rule ("Rule 100") with an effective date of November 2, 2015, as authorized by the Act to further detail the data submission requirements of the Act and

provide those entities with guidance about submission timelines, data variables and format requirements, and processes for entities to request submission exemptions. “Submitting entities” are defined by Rule 100 as the following:

- (1) 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;
- (2) A health benefit plan offered or administered by or on behalf of the state or an agency or instrumentality of the state;
- (3) A health benefit plan offered or administered by or on behalf of the federal government with the agreement of the federal government;
- (4) The Arkansas Workers' Compensation Commission;
- (5) 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;
- (6) 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; and
- (7) A health benefit plan subject to the Employee Retirement Income Security Act of 1974, Pub. L. No. 93-406 (“ERISA”).

“Submitting entity” excludes entities that provide health insurance or health benefit plans that are 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. Entities providing services only to self-funded health plans have been exempted from data submission requirements in Rule 100 until further notice. The basis for this specific exemption is due to the pending United States Supreme Court case, *Gobeille v. Liberty Mutual Insurance Company*. Entities should expect further guidance from AID related to this exemption following the decision in that case. Entities that provide services to self-funded plans may nonetheless be subject to Rule 100 if they otherwise provide services to a health plan “offered or administered by or on behalf of the state or an agency or instrumentality of the state.”

Although both the Act and Rule 100 apply to the Arkansas Workers Compensation Commission and to require submission of claims data (excluding provider files) it maintains, AID does not interpret the Act or Rule 100 to apply to worker's compensation insurers or self-funded worker's compensation plans.

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. 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. For purposes of determining whether an entity is subject to the requirements of this rule and for data submission timing, 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.

All entities to which this bulletin is addressed must register at www.arkansasapcd.net by November 15, 2015. Registration will provide AID and ACHI with contact information for entities that are currently considered submitting entities under Rule 100 or may be considered submitting entities in the future. The registration process will provide an opportunity for entities that do not believe that they are "submitting entities" as defined by Rule 100 to attest and provide a rationale for such belief. AID will review entity attestations provided during the registration process and will contact any entity for which the rationale provided in the attestation is in question.

All entities considered "submitting entities" under Rule 100 must submit test files by January 1, 2016, in the format required by the Data Submission Guide ("DSG") published with Rule 100. Entities may access the DSG at <http://www.insurance.arkansas.gov/> or www.arkansasapcd.net. Entities may be granted a waiver or extension of the data submission requirements including the requirement to submit test files by submitting an exemption request to the Commissioner. Rule 100 provides that the Commissioner may grant an exemption from the data submission requirements for good cause. An exemption request form for submitting entities is provided as Appendix A to this bulletin. Given the condensed timeframe within which submitting entities will have to comply with data submission requirements regarding test files, AID anticipates a number of exemption requests for compliance extensions, to which the Commissioner will

respond within 30 days of the receipt of the request. However, submitting entities should work with ACHI to meet the applicable timeframes for data submission as required by Rule 100.

For any questions regarding this Bulletin, please contact Booth Rand at 501-371-2820 or via email insurance.Legal@arkansas.gov.


Allen Kerr
Arkansas Insurance Commissioner

October 30, 2015
Date

ARKANSAS ALL-PAYER CLAIMS DATABASE (APCD) EXEMPTION REQUEST FORM

INTRODUCTION

Submitting entities must use this form to request an exemption from requirements in Arkansas Insurance Department Rule 100 titled "Arkansas Healthcare Transparency Initiative Standards." Pursuant to Section 5.C of Rule 100, submitting entities subject to Rule 100 may request an exemption for all or some parts of the Rule. The exemption form submission may include a request for an extension, variance, or waiver of data submission requirements in the Rule.

Be aware that the exemption form is not the proper avenue to request *exceptions* for specific fields to be submitted as required by the Data Submission Guide. Refer to the Data Submission Guide for details about the exception process for specific data fields. Please also be aware that exemption requests **will not be considered** by the Commissioner unless an entity has completed the registration process. Visit www.arkansasapcd.net to complete this process if you have not already done so.

Return this completed exemption request form to Deputy Commissioner Dan Honey via email to Dan.Honey@arkansas.gov entering "Exemption Request Form" in the subject line or deliver to:

Dan Honey
Arkansas Insurance Department
Health Insurance Rate Review Division
1200 West Third Street
Little Rock, AR 72201-1904

The Arkansas Insurance Department Commissioner will provide a response to your exemption request within thirty (30) days of receipt.

SUBMITTING ENTITY INFORMATION

1. NAIC Group Code		2. Group Name	
3. State of Domicile			
4. Mailing Address			
5. City		6. State	7. ZIP Code
8. Compliance/Government Relations Contact Person			
9. Contact Phone Number		10. Contact Email	

EXEMPTION REQUEST

Provide the specific provision(s) in Rule 100 for which you seek an exemption. In addition, provide an indication of whether you seek an extension, variance, or waiver related to each provision in Rule 100. If you need more space, feel free to attach additional pages to the exemption request form.

Provide a “good cause” basis for your exemption request and anticipated actions to be accomplished to remain in full compliance with Rule 100 requirements. If you need more space, feel free to attach additional pages to the exemption request form.