

# Arkansas

## I. Government Funded Indigent Care

Apart from Medicaid, Arkansas has no generally available system of government funded health care for its indigent residents. State public assistance grants are limited to small cash grants of emergency assistance.<sup>1</sup> While the state is authorized by statute to create a medical care program for the indigent sick, this statute has never been implemented.<sup>2</sup> Instead, Arkansas has adopted a handful of measures that extend very limited care to the uninsured poor.

### A. The Medical Quota Act

The University of Arkansas Medical Sciences (UAMS) provides services to the indigent. By statute, Arkansas counties are required to pay for indigent care at UAMS under a quota system. Arkansas's courts have upheld the state's general power to require counties to contribute to UAMS indigent care against state constitutional challenges.<sup>3</sup>

The Medical Quota Act plainly contemplates that UAMS facilities will be used for indigent health care. Nevertheless, Arkansas's courts have held that UAMS has no obligation to adopt standards for medical indigence, because the basic purpose of the law is to distribute the costs of indigent care among the counties.<sup>4</sup>

### B. Indigent Patients' Fund

Under state law, the Governor is authorized to enter into contracts with hospitals in Memphis, Tennessee for the care of state residents.<sup>5</sup> The state has set aside funds from taxes on Arkansas' dog tracks to defray the cost of providing this care.<sup>6</sup>

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<sup>1</sup>Ark. Stat. Ann. § 20-76-401; Arkansas General Relief Regulation § 3200.3. Under the terms of a consent decree entered in *Weldon v. Richardson*, J-C-83-59, (E.D. Ark.) on August 23, 1983, state officials agreed to raise state general assistance payments to \$150 per month.

<sup>2</sup>Ark. Stat. Ann. § 20-77-107.

<sup>3</sup>*Board of Trustees v. Pulaski County*, 315 S.W.2d 879 (Ark. 1958) (upholding general power of state to impose quota system, but invalidating use of quota to favor a particular county as unconstitutional).

<sup>4</sup>*Hubbard v. University of Arkansas Medical Sciences*, 616 SW2d 10 (Ark. 1981). (UAMS's failure to establish medical standards does not constitute a defense to a medical collection action in absence of a statutory duty to establish standards).

<sup>5</sup>Ark. Stat. Ann. § 20-17-103.

<sup>6</sup>Ark. Stat. Ann. § 19-6-421.

### C. The Arkansas Indigent Health Care Program

In 1985, state legislation established the Arkansas Indigent Health Care Program to increase access to health care for the state's indigent residents.<sup>7</sup> The program consisted of an Indigent Health Care Advisory Council, charged with making recommendations on indigent health issues, and an Indigent Health Investment Fund. The Council was authorized to use these fund to increase access to health care for the indigent through various means, including reimbursement to providers that established a minimum level of charity care.

In 1991, the legislature changed the name of this program to the Health Care Access Program and broadened its mission to include more ambitious, comprehensive objectives, including the creation of a medical home for all children under age one, increasing access to EPSDT services, and a plan of universal health care coverage for all residents of the state, to be implemented by the year 2000.<sup>8</sup>

In 1993, one year before the defeat of the Clinton Health Plan, Arkansas changed the focus of the Arkansas Health Access Commission. The Health Care Access Commission, now renamed the Health Resources Commission, was no longer charged with advancing the general goal of moving the state towards universal health access, but instead had responsibility for studying a myriad of specific problems of quality and access in health care, in order to "improve and rationalize the health care system."<sup>9</sup>

As comprehensive health care reform has faded as a political issue on the national scene, the momentum for expanded indigent health care in Arkansas also has waned. The Health Resources Commission has ceased operations due to lack of funding.

### D. Uninsured Children's Program

Arkansas statutes authorize the creation of a program to provide care to children not covered by Medicaid or health insurance living in families with incomes of up to 185% of the federal poverty level.<sup>10</sup> However, pursuant to statute, the program will only be established if funds are made available for its operation.<sup>11</sup> To date, funds have yet to be appropriated for this program.

### C. Mental Health Services

For many decades, Arkansas statutes have charged the counties with responsibility for the care of "insane paupers."<sup>12</sup> In addition, mentally ill individuals have a right to treatment at the Arkansas State

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<sup>7</sup>Former Ark. Stat. Ann. § 83-221.

<sup>8</sup>Former Ark. Rev. Stat. § 20-77-201.

<sup>9</sup>Ark. Stat. Ann. § 20-77-205(b).

<sup>10</sup>Ark. Stat. Ann. § 20-77-601.

<sup>11</sup>Ark. Stat. Ann. § 20-76-606(c).

<sup>12</sup>Ark. Rev. Stat. § 20-47-108.

Hospital (ASH).<sup>13</sup> ASH may not deny care to any individual based upon their inability to pay for services. ASH also is authorized to provide funds to assist community health centers in purchasing medications for indigent patients.<sup>14</sup>

#### E. Other Programs

State law established a program of long term care for uninsured, indigent individuals who are not eligible for Medicaid.<sup>15</sup> However, the cost of this program is limited by regulation. State law also permits the distribution of funds for the medical care of indigents suffering from tuberculosis, mental illness and mental retardation.<sup>16</sup> In addition, the state provides free eye exams for state residents.<sup>17</sup>

### II. State Efforts to Ensure Private Coverage or Treatment of the Uninsured

#### A. Insurance Reforms

As a condition of doing business in the state, all insurers are required to join the state's Comprehensive High Risk Pool.<sup>18</sup> A board of directors, whose membership includes insurance industry employees, providers and consumers, sets rates for coverage under the high risk pool, subject to approval by the State Insurance Commissioner.<sup>19</sup> Eligibility for enrollment in the high risk pool is restricted to individuals who (1) have resided in the state for twelve consecutive months, (2) have had no equivalent coverage under any other plan for the past twelve months, and (3) have been rejected for similar coverage at similar rates by at least two other plans.<sup>20</sup> Individuals in penal institutions and substance abuse facilities, and individuals who are receiving benefits under state or federal programs that provide financial assistance or preventive or rehabilitative social services, are not eligible for enrollment in the state's high risk pool.

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<sup>13</sup>Ark. Rev. Stat. § 20-47-108.

<sup>14</sup>Ark. Rev. Stat. §§ 20-46-302. ASH expenditures for medications are limited to five cents per capita in the geographic area served by each center.

<sup>15</sup>Ark. Stat. Ann. § 20-77-102(b)(1).

<sup>16</sup>Ark. Stat. Ann. § 20-47-406.

<sup>17</sup>Ark. Stat. Ann. § 20-77-506.

<sup>18</sup>Ark. Stat. Ann. § 23-79-503(a)(2).

<sup>19</sup>Ark. Stat. Ann. § 23-79-510.

<sup>20</sup>Ark Stat. Ann. § 23-79-509.