



# Four Paths to Removing Big Insurance Companies From Arkansas's ObamaCare Expansion

Jonathan Bain, *Visiting Fellow*

Nic Horton, *Visiting Fellow*

## The private option model has been an abject failure

Originally billed as a “conservative solution,” supporters of Arkansas’s “unique” ObamaCare expansion model claimed it would reduce Medicaid costs, save taxpayers money, and improve health outcomes.<sup>1</sup> Nearly a decade later, the outcomes have been the exact opposite. In fact, **it would be incredibly difficult to find a single promise of the private option that has been kept.**

Costs and enrollment have skyrocketed far beyond ever thought possible. The Arkansas Department of Human Services’ (DHS) own report showed that giving able-bodied adults private insurance plans is more than twice as expensive as conventional Medicaid expansion would be.<sup>2</sup>

This failed model has also prioritized able-bodied adults over truly needy Arkansans, like Skylar Overman. Skylar has a rare neurological condition that triggers daily seizures and requires her to have constant care.<sup>3</sup> Sadly, Skylar spent more than a decade of her life waiting for care on the state Medicaid waiting list.<sup>4</sup> While she and thousands of other waited, able-bodied adults were pushed to the front of the line.<sup>5</sup> **The result is able-bodied adults receiving better access to coverage and doctors than truly needy Arkansans.**

This trend is continuing, as there are still more than 3,000 individuals like Skylar languishing on the state’s waiting list.<sup>6</sup>

The failed private option model also makes ObamaCare’s disincentive to work *even worse* because able-bodied adults can receive “Cadillac” private plans—not just regular Medicaid coverage—for free.

It is clear and obvious that the private option has been disastrous. So now what?

## Step 1: Temporarily hold up the DHS appropriation

While SB410 or “AR HOMES,” the bill to extend the private option disaster for another five years, recently passed, the margins were very thin. The bill passed House committee by *one vote* and passed on the House floor by a relatively small margin as well.<sup>7-8</sup>

The fight is far from over. Appropriation bills in Arkansas must clear a 75 percent vote threshold in order to become law.<sup>9</sup> This is a very high threshold that gives fiscal conservatives a significant amount of leverage to temporarily hold up the DHS budget in order to get some meaningful concessions and start to finally fix this broken program.

This maneuver is far from unprecedented. As Arkansas legislators are likely well aware, there have been battles over the DHS budget virtually every year since ObamaCare expansion began in 2014, including in the most recent general session in 2019.<sup>10</sup>

There are also recent examples of similar battles playing out in neighboring states. In March 2021, the Missouri Budget Committee voted by a more than 2-to-1 margin to not fund ObamaCare expansion in their state after a razor-thin margin of voters opted to expand via ballot initiative last August.<sup>11</sup> For Arkansas legislators, this success should inspire courage.

The 75%-vote threshold is in place for situations just like this—to protect Arkansas taxpayers from well-funded, powerful special interest groups like Big Insurance. Arkansas legislators should use this lever as a means to achieve better policy for taxpayers and the truly needy.

## Step 2: Scrap the failed “private option” model that is crippling taxpayers

During past fights over the DHS appropriation, opponents of expansion struggled to unify around a plan of what should happen next or what concessions they should seek from ObamaCare supporters. This time, the end goal is clear: scrapping the private option model and transitioning to conventional expansion to cut costs in half. However, there are several different paths to get there.

### Path 1: File a clean appropriation bill to fund all of DHS except for Big Insurance companies.

Fiscal conservatives should block the full DHS budget and file a clean appropriation bill that does not include funding for the private option/private insurance model. This clean appropriation bill would fund all of DHS but would reduce the appropriation for *expansion* by half, effectively removing any funding for the private insurance model (since it is twice as expensive as regular expansion). The bill should articulate that no funding shall be used to fund the private option model (qualified health plans or QHPs). This would retain funding for all of DHS and the expansion program but *defund* Big Insurance.

### Path 2: Pass HB1428, the Medicaid Expansion Efficiency Act of 2021.

HB1428 by Rep. Josh Miller would ban DHS from utilizing the private option model in any future Medicaid waivers.<sup>12</sup> Arkansas would transition to conventional, fee-for-service Medicaid expansion for eligible populations but would stop funding Big Insurance. The passage of this bill would result in nearly \$100 million in taxpayer savings annually and would start to level the playing field in our Medicaid program.<sup>13</sup> Fiscal conservatives should demand this bill be let out of committee and refuse to fund DHS until it is allowed to become law.

### Path 3: Demand real, cost-reducing Medicaid reforms from the Biden administration and trigger out of the private option model if any requests are rejected.

Under SB410 or “AR HOMES,” expansion enrollees have no skin in the game.<sup>14</sup> The sponsor, Rep. Michelle Gray, admitted in her committee testimony that the bill includes no work requirement because, she said, the state cannot get approval for one under the Biden administration.<sup>15</sup> While obtaining approval for these reforms is uncertain, the legislature should still try. Total Medicaid spending in Arkansas has *nearly doubled* since expansion began and the path the state is on is clearly unsustainable.<sup>16</sup> Real reforms like work requirements, eliminating retroactive eligibility, asset tests, real premiums (with sanctions for those who do not pay), and fraud penalties are essential cost-saving mechanisms. If they are not approved, the legislation should require the state to transition to regular expansion. But the important point is that, under either scenario, Arkansas would finally achieve some real cost savings.

### Path 4: Demand real Medicaid reform and freeze enrollment in expansion if all reforms are not approved.

Another option—similar to Path 3 but perhaps stronger in terms of leverage the state would have over the Biden administration—would be legislation that requires DHS to ask the Biden administration for work requirements, asset tests, and all of the reforms in Path 3. If every single one of these reforms is not approved, the state would automatically stop enrolling new enrollees and start to wind the program down. This scenario would cause the Biden administration think twice about rejecting Arkansas’s requests, knowing they would risk Arkansas shutting down the program if they say no.

## Bottom line: Arkansas cannot continue the charade

The private option model has been a failure, and it is time to admit it. Two other states have tried, and two other states have failed.<sup>17</sup> Arkansas stands alone as the last bastion of hope for this Obama-Biden approved method of expansion. Costs are unsustainable, the truly needy are shoved to the back of the line, and other priorities are suffering. Lawmakers can choose to grab their blindfolds, or act in a way that promotes the best interests of all Arkansans.

<sup>1</sup> Foundation for Government Accountability, "The empty promises of Arkansas' Medicaid private option," Foundation for Government Accountability (2014), <https://thefga.org/research/the-empty-promises-of-arkansas-medicaid-private-option/>.

<sup>2</sup> Jonathan Bain and Hayden Dublois, "Arkansas's private option model is costing more than twice as much as conventional Medicaid expansion," Foundation for Government Accountability (2021), <https://thefga.org/research/arkansas-private-option-cost/>.

<sup>3</sup> Foundation for Government Accountability, "ObamaCare's unsustainable Medicaid expansion," Foundation for Government Accountability, <https://thefga.org/research/medicaid-expansion/>.

<sup>4</sup> Ibid.

<sup>5</sup> Victoria Eardley and Nic Horton, "ObamaCare's not working: How Medicaid expansion is fostering dependency," Foundation for Government Accountability (2018), <https://thefga.org/research/obamacares-not-working-how-medicaid-expansion-is-fostering-dependency/>.

<sup>6</sup> Kaiser Family Foundation, "Waiting list enrollment for Medicaid section 1915(c) home and community-based services waivers," Kaiser Family Foundation (2018), <https://www.kff.org/health-reform/state-indicator/waiting-lists-for-hcbs-waivers/?currentTimeframe=0&sortModel=%7B%22colld%22:%22Location%22,%22sort%22:%22asc%22%7D>.

<sup>7</sup> Arkansas House of Representatives, "SB410 House Vote," Arkansas State Legislature (2021), <https://www.arkleg.state.ar.us/Bills/Votes?id=SB410&rscs=2574&chamber=House&ddBienniumSession=2021%2F2021R>.

<sup>8</sup> Arkansas House Committee on Public Health, Welfare, and Labor, "Tuesday March 23 - SB410," Arkansas State Legislature (2021), <http://sg001-harmony.sliq.net/00284/Harmony/en/PowerBrowser/PowerBrowserV2/20210323/-1/21417?viewMode=1>.

<sup>9</sup> AR Bureau of Legislative Research, Code of Arkansas Public Access, <https://advance.lexis.com/container?config=00JAA3ZTU0NTlzYy0zZDEyLTRhYmQtYmRmMS1iMWIxNDgxYWMxZTQKAFBvZENhdGFsb2cubRW4ifTiwi5vLw6cl1uX&crd=5feef972-b30c-4fd7-888f-73c9cd2a67fb&prid=665a5a65-f116-4ebf-8988-6417a59d733a>.

<sup>10</sup> Benjamin Hardy, "House approves Medicaid budget on second try," Arkansas Times (2019), <https://arktimes.com/news/arkansas-reporter/2019/04/03/house-approves-medicaid-budget-on-second-try>.

<sup>11</sup> Kurt Erickson, "Republicans vote down funding for Medicaid expansion in Missouri," St. Louis Post Dispatch (2021), [https://www.stltoday.com/news/local/govt-and-politics/republicans-vote-down-funding-for-medicaid-expansion-in-missouri/article\\_7faaa5f8-8357-52aa-bc68-ed2b29a3301b.html](https://www.stltoday.com/news/local/govt-and-politics/republicans-vote-down-funding-for-medicaid-expansion-in-missouri/article_7faaa5f8-8357-52aa-bc68-ed2b29a3301b.html).

<sup>12</sup> Arkansas State Legislature, "HB1428 - To Create the Medicaid Expansion Efficiency Act of 2021; And to Declare An Emergency," <https://www.arkleg.state.ar.us/Bills/Detail?id=HB1428&ddBienniumSession=2021%2F2021R&Search=>.

<sup>13</sup> Jonathan Bain and Hayden Dublois, "Arkansas's private option model is costing more than twice as much as conventional Medicaid expansion," Foundation for Government Accountability (2021), <https://thefga.org/research/arkansas-private-option-cost/>.

<sup>14</sup> Arkansas State Legislature, "SB410 - To Amend Title 23 of The Arkansas Code to Ensure the Stability of the Insurance Market in Arkansas; And to Create the Arkansas Health and Opportunity For Me Act of 2021 and the Arkansas Health and Opportunity For Me Program," <https://www.arkleg.state.ar.us/Bills/Detail?id=SB410&ddBienniumSession=2021%2F2021R&Search=>.

<sup>15</sup> Arkansas Rep. Michelle Gray when testifying before House committee on SB410.

<sup>16</sup> Foundation for Government Accountability, "The Arkansas private option: Then vs. now," Foundation for Government Accountability (2021), <https://thefga.org/research/arkansas-private-option-then-vs-now/>.

<sup>17</sup> Jonathan Ingram, "Arkansas's so-called conservative approach to ObamaCare expansion has failed," Foundation for Government Accountability (2020), <https://thefga.org/research/arkansas-conservative-obamacare-expansion-has-failed/>.