

State of Arkansas
90th General Assembly
Fiscal Session, 2016

A Bill

SENATE BILL 121

By: Joint Budget Committee

For An Act To Be Entitled

AN ACT TO MAKE AN APPROPRIATION FOR PERSONAL SERVICES
AND OPERATING EXPENSES FOR THE DEPARTMENT OF HUMAN
SERVICES - DIVISION OF MEDICAL SERVICES FOR THE
FISCAL YEAR ENDING JUNE 30, 2017; AND FOR OTHER
PURPOSES.

Subtitle

AN ACT FOR THE DEPARTMENT OF HUMAN
SERVICES - DIVISION OF MEDICAL SERVICES
APPROPRIATION FOR THE 2016-2017 FISCAL
YEAR.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. REGULAR SALARIES - OPERATIONS. There is hereby established
for the Department of Human Services - Division of Medical Services for the
2016-2017 fiscal year, the following maximum number of regular employees.

				Maximum Annual
				Salary Rate
Item	Class		Maximum	Fiscal Year
No.	Code	Title	No. of	
			Employees	2016-2017
(1)	N181N	DIRECTOR OF MEDICAL SERVICES	1	GRADE N915
(2)	L016N	REGISTERED PHARMACIST	6	GRADE N911
(3)	N040N	DHS CHIEF INFORMATION OFFICER	1	GRADE N909
(4)	N189N	DHS DMS DEPUTY DIRECTOR	1	GRADE N908
(5)	N080N	DHS/DMS ASSISTANT DIRECTOR - FISCAL	3	GRADE N907



1	(6)	N099N	DHS/DMS ADD - LONG TERM CARE	1	GRADE N906
2	(7)	N100N	DHS/DMS ADD - MEDICAL SERVICES	3	GRADE N906
3	(8)	N111N	DHS ASST DEP DIR FOR MGR ACCOUNTING	1	GRADE N905
4	(9)	N167N	DHS POLICY & RESEARCH DIRECTOR	1	GRADE N901
5	(10)	A010C	AGENCY CONTROLLER II	1	GRADE C128
6	(11)	D007C	INFORMATION SYSTEMS MANAGER	2	GRADE C128
7	(12)	A016C	DHS DMS BUSINESS OPERATIONS MANAGER	12	GRADE C127
8	(13)	L010C	DHS DMS MEDICAL ASSISTANCE MANAGER	8	GRADE C125
9	(14)	L009C	NURSE MANAGER	4	GRADE C125
10	(15)	G076C	ADMINISTRATIVE SERVICES MANAGER	1	GRADE C124
11	(16)	A031C	ASSISTANT CONTROLLER	1	GRADE C124
12	(17)	B023C	ENGINEER, P.E.	1	GRADE C124
13	(18)	D030C	INFORMATION SYSTEMS COORDINATOR	1	GRADE C124
14	(19)	L020C	NURSING SERVICES UNIT MANAGER	2	GRADE C123
15	(20)	P004C	PUBLIC INFORMATION MANAGER	1	GRADE C123
16	(21)	L019C	REGISTERED NURSE COORDINATOR	5	GRADE C123
17	(22)	D038C	SENIOR SOFTWARE SUPPORT ANALYST	1	GRADE C123
18	(23)	A044C	AUDIT COORDINATOR	3	GRADE C122
19	(24)	G099C	DHS PROGRAM ADMINISTRATOR	19	GRADE C122
20	(25)	L027C	REGISTERED NURSE SUPERVISOR	10	GRADE C122
21	(26)	A052C	ACCOUNTING COORDINATOR	1	GRADE C121
22	(27)	A047C	FINANCIAL ANALYST II	1	GRADE C121
23	(28)	D058C	COMPUTER OPERATIONS COORDINATOR	1	GRADE C120
24	(29)	A056C	DHS FINANCIAL SECTION MANAGER	1	GRADE C120
25	(30)	L040C	DIETARY SERVICES DIRECTOR	1	GRADE C120
26	(31)	P013C	PUBLIC INFORMATION COORDINATOR	1	GRADE C120
27	(32)	L038C	REGISTERED NURSE	68	GRADE C120
28	(33)	E023C	TRAINING PROJECT MANAGER	1	GRADE C120
29	(34)	D063C	COMPUTER SUPPORT SPECIALIST	2	GRADE C119
30	(35)	G152C	DHS PROGRAM MANAGER	17	GRADE C119
31	(36)	G147C	GRANTS COORDINATOR	1	GRADE C119
32	(37)	X067C	HEALTH FACILITIES SURVEYOR	21	GRADE C119
33	(38)	D061C	INFORMATION SYSTEMS COORD SPECIALIST	1	GRADE C119
34	(39)	V007C	PROCUREMENT COORDINATOR	1	GRADE C119
35	(40)	X062C	QUALITY ASSURANCE COORDINATOR	2	GRADE C119
36	(41)	A060C	SENIOR AUDITOR	8	GRADE C119

1	(42)	A075C	FINANCIAL ANALYST I	1	GRADE C118
2	(43)	A081C	AUDITOR	3	GRADE C117
3	(44)	R027C	BUDGET SPECIALIST	3	GRADE C117
4	(45)	G183C	DHS PROGRAM COORDINATOR	12	GRADE C117
5	(46)	D068C	INFORMATION SYSTEMS ANALYST	2	GRADE C117
6	(47)	D067C	INFORMATION SYSTEMS SECURITY ANALYST	2	GRADE C117
7	(48)	G179C	LEGAL SERVICES SPECIALIST	1	GRADE C117
8	(49)	M039C	MEDICAID SERVICES SUPERVISOR	2	GRADE C117
9	(50)	G178C	POLICY DEVELOPMENT COORDINATOR	2	GRADE C117
10	(51)	B076C	RESEARCH PROJECT ANALYST	1	GRADE C117
11	(52)	C013C	MEDICAL SERVICE REPRESENTATIVE	1	GRADE C117
12	(53)	A089C	ACCOUNTANT I	1	GRADE C116
13	(54)	A088C	ASSETS COORDINATOR	1	GRADE C116
14	(55)	X124C	HEALTH FACILITY REVIEWER	1	GRADE C116
15	(56)	G198C	DHS/DAAS PROGRAM SPECIALIST	1	GRADE C116
16	(57)	C037C	ADMINISTRATIVE ANALYST	8	GRADE C115
17	(58)	A091C	FISCAL SUPPORT ANALYST	3	GRADE C115
18	(59)	C050C	ADMINISTRATIVE SUPPORT SUPERVISOR	1	GRADE C113
19	(60)	L070C	HEALTH CARE ANALYST	18	GRADE C113
20	(61)	C056C	ADMINISTRATIVE SPECIALIST III	28	GRADE C112
21	(62)	A098C	FISCAL SUPPORT SPECIALIST	2	GRADE C112
22	(63)	C073C	ADMINISTRATIVE SPECIALIST II	9	GRADE C109
23	(64)	C087C	ADMINISTRATIVE SPECIALIST I	<u>8</u>	GRADE C106
24			MAX. NO. OF EMPLOYEES	329	

25

26 SECTION 2. EXTRA HELP - OPERATIONS. There is hereby authorized, for
 27 the Department of Human Services - Division of Medical Services for the 2016-
 28 2017 fiscal year, the following maximum number of part-time or temporary
 29 employees, to be known as "Extra Help", payable from funds appropriated
 30 herein for such purposes: eight (8) temporary or part-time employees, when
 31 needed, at rates of pay not to exceed those provided in the Uniform
 32 Classification and Compensation Act, or its successor, or this act for the
 33 appropriate classification.

34

35 SECTION 3. APPROPRIATION - OPERATIONS. There is hereby appropriated,
 36 to the Department of Human Services - Division of Medical Services, to be

payable from the paying account as determined by the Chief Fiscal Officer of the State, for personal services and operating expenses of the Department of Human Services - Division of Medical Services - Operations for the fiscal year ending June 30, 2017, the following:

ITEM	FISCAL YEAR
<u>NO.</u>	<u>2016-2017</u>
(01) REGULAR SALARIES	\$16,603,442
(02) EXTRA HELP	201,892
(03) PERSONAL SERVICES MATCHING	5,555,974
(04) OVERTIME	5,000
(05) MAINT. & GEN. OPERATION	
(A) OPER. EXPENSE	8,270,120
(B) CONF. & TRAVEL	233,728
(C) PROF. FEES	755,132
(D) CAP. OUTLAY	0
(E) DATA PROC.	0
(06) DATA PROCESSING SERVICES	<u>2,499,600</u>
TOTAL AMOUNT APPROPRIATED	<u>\$34,124,888</u>

SECTION 4. APPROPRIATION - GRANTS. There is hereby appropriated, to the Department of Human Services - Division of Medical Services, to be payable from the paying account as determined by the Chief Fiscal Officer of the State, for grant payments of the Department of Human Services - Division of Medical Services - Grants for the fiscal year ending June 30, 2017, the following:

ITEM	FISCAL YEAR
<u>NO.</u>	<u>2016-2017</u>
(01) ARKIDS B PROGRAM	\$147,323,782
(02) HOSPITAL AND MEDICAL SERVICES	6,689,382,816
(03) PRESCRIPTION DRUGS	517,370,558
(04) PRIVATE NURSING HOME CARE	724,218,533
(05) CHILD AND FAMILY LIFE INSTITUTE	2,100,000
(06) INFANT INFIRMARY	32,098,423
(07) PUBLIC NURSING HOME CARE	<u>264,136,947</u>

1 TOTAL AMOUNT APPROPRIATED \$8,376,631,059

2
3 SECTION 5. APPROPRIATION - NURSING HOME CLOSURE COSTS. There is hereby
4 appropriated, to the Department of Human Services - Division of Medical
5 Services, to be payable from the Long-Term Care Trust Fund, for the payment
6 of relocation costs of residents in long-term care facilities, maintenance
7 and operation of a facility pending correction of deficiencies or closure,
8 and reimbursement of residents for personal funds lost for the fiscal year
9 ending June 30, 2017, the following:

10
11 ITEM FISCAL YEAR
12 NO. 2016-2017
13 (01) EXPENSES \$50,000
14

15 SECTION 6. APPROPRIATION - LONG-TERM CARE FACILITY RECEIVERSHIP. There
16 is hereby appropriated, to the Department of Human Services - Division of
17 Medical Services, to be payable from the Long Term Care Facility Receivership
18 Fund Account, for the payment of expenses of long-term care facility
19 receivers as authorized by law of the Department of Human Services - Division
20 of Medical Services - Long-Term Care Facility Receivership for the fiscal
21 year ending June 30, 2017, the following:

22
23 ITEM FISCAL YEAR
24 NO. 2016-2017
25 (01) EXPENSES \$100,000
26

27 SECTION 7. APPROPRIATION - NURSING HOME QUALITY GRANTS. There is
28 hereby appropriated, to the Department of Human Services - Division of
29 Medical Services, to be payable from the Long-Term Care Trust Fund, for
30 Nursing Home Quality Care Grants of the Department of Human Services -
31 Division of Medical Services - Nursing Home Quality Grants for the fiscal
32 year ending June 30, 2017, the following:

33
34 ITEM FISCAL YEAR
35 NO. 2016-2017
36 (01) NURSING HOME QUALITY GRANTS AND AID \$1,500,000

1
2 SECTION 8. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
3 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW.

4 DEPARTMENT OF HUMAN SERVICES GRANTS FUND ACCOUNT. The Department of Human
5 Services Grants Fund Account shall be used for the following grant programs
6 to consist of general revenues and any other nonfederal funds, as may be
7 appropriated by the General Assembly:

- 8 (i) Children's Medical Services;
9 (ii) Food Stamp Employment and Training Program;
10 (iii) Aid to the Aged, Blind, and Disabled;
11 (iv) Transitional Employment Assistance Program;
12 (v) Private nursing home care;
13 (vi) Infant Infirmary - nursing home care;
14 (vii) Public Nursing Home Care;
15 (viii) Prescription Drugs;
16 (ix) Hospital and Medical Services;
17 (x) Child and Family Life Institute;
18 (xi) Community Services Block Grant;
19 (xii) ARKIDSFIRST;
20 (xiii) Child Health Management Services; and
21 (xiv) Child Care Grant.

22 The provisions of this section shall be in effect only from July 1, ~~2015~~
23 2016 through June 30, ~~2016~~ 2017.
24

25 SECTION 9. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
26 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL
27 SERVICES - CHILD AND FAMILY LIFE INSTITUTE. The Child Health and Family Life
28 Institute shall be administered under the direction of Arkansas Children's
29 Hospital. Arkansas Children's Hospital shall enter into a cooperative
30 agreement and/or contract with the University of Arkansas for Medical
31 Sciences - Department of Pediatrics for services required in delivering the
32 programs of the Child Health and Family Life Institute. Utilizing a
33 multidisciplinary collaboration of professionals, the Child Health and Family
34 Life Institute shall provide a statewide effort to explore, develop and
35 evaluate new and better ways to address medically, socially and economically
36 interrelated health and developmental needs of children with special health

1 care needs and their families. The Child Health and Family Life Institute's
2 priorities shall include, but are not limited to, wellness and prevention,
3 screening and diagnosis, treatment and intervention, training and education
4 and research and evaluation.

5 Arkansas Children's Hospital and the University of Arkansas for Medical
6 Sciences - Department of Pediatrics shall make annual reports to the Arkansas
7 Legislative Council on all matters of funding, existing programs and services
8 offered through the Child Health and Family Life Institute.

9 The provisions of this section shall be in effect only from July 1, ~~2015~~
10 2016 through June 30, ~~2016~~ 2017.

11
12 SECTION 10. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
13 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL
14 SERVICES - PHARMACEUTICAL DISPENSING FEE SURVEY. No more than two years prior
15 to making any changes to the current pharmaceutical dispensing fee, the State
16 shall conduct an independent survey utilizing generally accepted accounting
17 principles, to determine the cost of dispensing a prescription by pharmacists
18 in Arkansas. Only factors relative to the cost of dispensing shall be
19 surveyed. These factors shall not include actual acquisition costs or average
20 profit or any combination of actual acquisition costs or average profit. The
21 survey results shall be the basis for establishing the dispensing fee paid to
22 participating pharmacies in the Medicaid prescription drug program in
23 accordance with Federal requirements. The dispensing fee shall be no lower
24 than the cost of dispensing as determined by the survey. Nothing in this
25 section shall be construed to prohibit the State from increasing the
26 dispensing fee at any time.

27 The provisions of this section shall be in effect only from July 1, ~~2015~~
28 2016 through June 30, ~~2016~~ 2017.

29
30 SECTION 11. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
31 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL
32 SERVICES - GENERAL MEDICAID RATE METHODOLOGY PROVISIONS.

33 (a) Rates established by the Division of Medical Services for the services
34 or programs covered by this Act shall be calculated by the methodologies
35 approved by the Centers for Medicare and Medicaid Services (CMS). The
36 Division of Medical Services shall have the authority to reduce or increase

1 rates based on the approved methodology. Further, the Division of Medical
2 Services shall have the authority to increase or decrease rates for good
3 cause including, but not limited to: (1) Identification of provider(s) who
4 can render needed services of equal quality at rates less than traditionally
5 charged and who meet the applicable federal and state laws, rules and
6 regulations pertaining to the provision of a particular service;
7 (2) Identification that a provider or group of providers has consistently
8 charged rates to the Arkansas Medicaid Program greater than to other
9 purchasers of medical services of similar size;
10 (3) The Division determines that there has been significant changes in the
11 technology or process by which services are provided by a provider or group
12 of providers which has affected the costs of providing services, or;
13 (4) A severe economic downturn in the Arkansas economy which has affected the
14 overall state budget of the Division of Medical Services.

15 The Division of Medical Services shall make available to requesting
16 providers, the CMS's inflationary forecasts (CMS Market Basket Index). Rates
17 established with cost of living increases based on the CMS Market Basket
18 Index or other indices will be adjusted annually except when the state budget
19 does not provide sufficient appropriation and funding to affect the change or
20 portion thereof.

21 (b) Any rate methodology changes proposed by the Division of Medical
22 Services both of a general and specific nature, shall be subject to prior
23 approval by the Legislative Council or Joint Budget Committee.

24 Determining the maximum number of employees and the maximum amount of
25 appropriation and general revenue funding for a state agency each fiscal year
26 is the prerogative of the General Assembly. This is usually accomplished by
27 delineating such maximums in the appropriation act(s) for a state agency and
28 the general revenue allocations authorized for each fund and fund account by
29 amendment to the Revenue Stabilization law. Further, the General Assembly has
30 determined that the Department of Human Services – Division of Medical
31 Services may operate more efficiently if some flexibility is provided to the
32 Department of Human Services – Division of Medical Services authorizing broad
33 powers under this section. Therefore, it is both necessary and appropriate
34 that the General Assembly maintain oversight by requiring prior approval of
35 the Legislative Council or Joint Budget Committee as provided by this
36 section. The requirement of approval by the Legislative Council or Joint

Budget Committee is not a severable part of this section. If the requirement of approval by the Legislative Council or Joint Budget Committee is ruled unconstitutional by a court of competent jurisdiction, this entire section is void.

The provisions of this section shall be in effect only from July 1, ~~2015~~ 2016 through June 30, ~~2016~~ 2017.

SECTION 12. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. FUND USAGE AUTHORIZED. The Arkansas Children's Hospital may request the Department of Human Services - Division of Medical Services to retain in the Department of Human Services Grant Fund account an amount not to exceed \$2,100,000 from funds made available by this Act for the Child and Family Life Institute, Section 4, item number 05 to be used to match federal funds used for supplemental Medicaid payments to Arkansas Children's Hospital. These retained funds shall not be recovered to transfer to the General Revenue Allotment Reserve Fund.

The provisions of this section shall be in effect only from July 1, ~~2015~~ 2016 through June 30, ~~2016~~ 2017.

SECTION 13. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. STATE PLAN. The State Plan must include the provision of EPSDT services as those services are defined in 42 U.S.C. §1396d(r). See 42 U.S.C. §§ 1396a(a)(10)(A), 1396d(a)(4)(B); see also 1396a(a)(43). Section 1396d(r) lists in detail the screening services, vision services, dental services, and hearing services that the State Plan must expressly include, but with regard to treatment services, it states that EPSDT means "[s]uch other necessary health care, diagnostic services, treatment, and other measures described in subsection (a) of this section to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services, whether or not such services are covered under the State Plan." 42 U.S.C. § 1396d(r)(5) (emphasis added). Reading 42 U.S.C. § 1396a, 42 U.S.C. § 1396d(a), and 42 U.S.C. § 1396d(r) together, we believe that the State Plan need not specifically list every treatment service conceivably available under the EPSDT mandate.

1 The State Plan, however, must pay part or all of the cost of treatments to
2 ameliorate conditions discovered by the screening process when those
3 treatments meet the definitions set forth in 42 U.S.C. § 1396a. See 42 U.S.C.
4 § 1396d(r)(5); see also 42 U.S.C. §§ 1396a(a)(10), 1396a(a)(43), and
5 1396d(a)(4)(B). The Arkansas State Plan states that the "State will provide
6 other health care described in [42 U.S.C. 1396d(a)] that is found to be
7 medically necessary to correct or ameliorate defects and physical and mental
8 illnesses and conditions discovered by the screening services, even when such
9 health care is not otherwise covered under the State Plan." See State Plan
10 Under Title XIX of the Social Security Act, State Of Arkansas at §4.b. This
11 provision meets the EPSDT mandate of the Medicaid Act.

12 We affirm the district court's decision to the extent that it holds that a
13 Medicaid-Eligible individual has a federal right to early intervention day
14 treatment when a physician recommends such treatment. Section 1396d(r)(5)
15 states that EPSDT includes any treatments or measures outlined in 42 U.S.C.
16 §1396d(a). There are twenty-seven sub-parts to 42 U.S.C. §1396d(a), and we
17 find that sub-part (a)(13), in particular, when read with the other sections
18 of the Medicaid Act listed above, mandates that early intervention day
19 treatment be provided when it is prescribed by a physician. See 42 U.S.C.
20 §1396d(a)(13) (defining medical assistance reimbursable by Medicaid as "other
21 diagnostic, screening, preventive, and rehabilitative services, including any
22 medical or remedial services recommended by a physician...for the maximum
23 reduction of physical and mental disability and restoration of an individual
24 to the best possible functional level"). Therefore, after CHMS clinic staff
25 perform a diagnostic evaluation of an eligible child, if the CHMS physician
26 prescribes early intervention day treatment as a service that would lead to
27 the maximum reduction of medical and physical disabilities and restoration of
28 the child to his or her best possible functional level, the Arkansas State
29 Plan must reimburse the treatment. Because CHMS clinics are the only
30 providers of early intervention day treatment, Arkansas must reimburse those
31 clinics.

32 The provisions of this section shall be in effect only from July 1, ~~2015~~
33 2016 through June 30, ~~2016~~ 2017.

34
35 SECTION 14. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
36 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL

1 SERVICES - STATE MEDICAID PROGRAM/PERSONAL CARE PROGRAM.

2 (a) It is the legislative intent that the Department of Human Services in
3 its administration of the Arkansas Medicaid Program set forth Medicaid
4 provider participation requirements for "personal care providers" that will
5 insure sufficient available providers to meet the required needs of all
6 eligible recipients, to include insuring available in home services twenty-
7 four (24) hours a day and seven (7) days a week for personal care.

8 (b) For the purposes of this section, "private care agencies" are defined
9 as those providers licensed by the Department of Labor, certified as
10 ElderChoices Providers and who furnish in home staffing services for respite,
11 chore services, and homemaker services, and are covered by liability
12 insurance of not less than one million dollars (\$1,000,000) covering their
13 employees and independent contractors while they are engaged in providing
14 services, such as personal care, respite, chore services, and homemaker
15 services.

16 (c) The purpose of this section is to allow the private care agencies
17 defined herein to be eligible to provide Medicaid reimbursed personal care
18 services seven (7) days a week, and does not supercede Department of Human
19 Services rules establishing monthly benefit limits and prior authorization
20 requirements.

21 (d) The availability of providers shall not require the Department of
22 Human Services to reimburse for twenty-four (24) hours per day of personal
23 care services.

24 (e) The Arkansas Department of Human Services, Medical Services Division
25 shall take such action as required by the Centers for Medicare and Medicaid
26 Services to amend the Arkansas Medicaid manual to include private care
27 agencies as qualified entities to provide Medicaid reimbursed personal care
28 services.

29 (f) The private care agencies shall comply with rules and regulations
30 promulgated by the Arkansas Department of Health which shall establish a
31 separate licensure category for the private care agencies for the provision
32 of Medicaid reimbursable personal care services seven (7) days a week.

33 (g) The Arkansas Department of Health shall supervise the conduct of the
34 personal care agencies defined herein.

35 (h) The purpose of this section is to insure the care provided by the
36 private care agencies is consistent with the rules and regulations of the

1 Arkansas Department of Health.

2 The provisions of this section shall be in effect only from July 1, 2015
3 2016 through June 30, ~~2016~~ 2017.

4
5 SECTION 15. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
6 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. REVIEW OF
7 RULES IMPACTING STATE MEDICAID COSTS. (a) In light of the rapidly rising
8 potential costs to the State attributable to the Medicaid program and the
9 importance of Medicaid expenditures to the health and welfare of the citizens
10 of this State, the General Assembly finds it desirable to exercise more
11 thorough review of future proposed changes to rules that might impact those
12 costs or expenditures.

13 (b) As used in this section, "rule impacting state Medicaid costs" means
14 a proposed rule, as defined by § 25-15-202(9) or a proposed amendment to an
15 existing rule, as defined by § 25-15-202(9) that would, if adopted, adjust
16 Medicaid reimbursement rates, Medicaid eligibility criteria, or Medicaid
17 benefits, including without limitation a proposed rule or a proposed
18 amendment to an existing rule seeking to accomplish the following:

19 (1) Reduce the number of individuals covered by Arkansas Medicaid;
20 (2) Limit the types of services covered by Arkansas Medicaid;
21 (3) Reduce the utilization of services covered by Arkansas Medicaid;
22 (4) Reduce provider reimbursement;
23 (5) Increase consumer cost-sharing;
24 (6) Reduce the cost of administering Arkansas Medicaid;
25 (7) Increase Arkansas Medicaid revenues;
26 (8) Reduce fraud and abuse in the Arkansas Medicaid program;
27 (9) Change any of the methodologies used for reimbursement of
28 providers;

29 (10) Seek a new waiver or modification of an existing waiver of any
30 provision under Title XIX of the Social Security Act, 42 U.S.C. § 1396-1 et.
31 seq., including a waiver that would allow a demonstration project;

32 (11) Participate or seek to participate in the waiver authority of
33 Section 1115(a)(1) of the Social Security Act, 42 U.S.C. § 1396-1(a)(1) that
34 would allow operation of a demonstration project or program;

35 (12) Participate or seek to participate in a request under Section
36 1115(a)(2) of the Social Security Act, 42 U.S.C. § 1396-1(a)(2) for the

1 Secretary of the Department of Health and Human Services to provide federal
2 financial participation for costs associated with a demonstration project or
3 program;

4 (13) Implement managed care provisions under Section 1932 of the Social
5 Security Act, 42 U.S.C. § 1396 u-2; or

6 (14) Participate or seek to participate in the Centers for Medicare and
7 Medicaid Services Innovation projects or programs.

8 (c)(1) In addition to filing requirements under the Arkansas
9 Administrative Procedure Act, § 25-15-201 et seq., and § 10-3-309, the
10 Department of Human Services shall, at least thirty (30) days before the
11 expiration of the period for public comment, file a proposed rule impacting
12 state Medicaid costs or a proposed amendment to an existing rule impacting
13 state Medicaid costs with the Senate Interim Committee on Public Health,
14 Welfare, and Labor and the House Interim Committee on Public Health, Welfare,
15 and Labor, or, when the General Assembly is in session, with the Senate
16 Committee on Public Health, Welfare, and Labor and the House Committee on
17 Public Health, Welfare and Labor.

18 (2) Any review of the proposed rule or proposed amendment to an
19 existing rule by the Senate and House Interim Committees on Public Health,
20 Welfare and Labor or the Senate and House Committees on Public Health,
21 Welfare, and Labor shall occur within forty-five (45) days of the date the
22 proposed rule or proposed amendment to an existing rule is filed with the
23 committees.

24 (d)(1) If adopting an emergency rule impacting state Medicaid costs,
25 in addition to the filing requirements under the Arkansas Administrative
26 Procedure Act, § 25-15-201 et seq. and § 10-3-309, the Department of Human
27 Services shall notify the Speaker of the House of Representatives, the
28 President Pro Tempore of the Senate, the chair of the Senate Committee on
29 Public Health, Welfare, and Labor, and the chair of the House Committee on
30 Public Health, Welfare and Labor of the emergency rule and provide each of
31 them a copy of the rule ~~within five (5) business days of adopting the rule,~~
32 on the first day the emergency rule is effective.

33 (2) Any review of the emergency rule by the Senate and House
34 Interim Committees on Public Health, Welfare and Labor or the Senate and
35 House Committees on Public Health, Welfare, and Labor shall occur within
36 forty-five (45) days of the date the emergency rule is provided to the

1 chairs.

2 ~~(e)(1) The Joint Budget Committee may review a rule impacting state~~
 3 ~~Medicaid costs during a regular, fiscal, or special session of the General~~
 4 ~~Assembly.~~

5 ~~(2) Actions taken by the Joint Budget Committee when reviewing a~~
 6 ~~rule impacting state Medicaid costs shall have the same effect as actions~~
 7 ~~taken by the Legislative Council under § 10-3-309.~~

8 ~~(3) If the Joint Budget Committee reviews a rule impacting state~~
 9 ~~Medicaid costs, it shall file a report of its actions with the Legislative~~
 10 ~~Council as soon as practicable.~~

11 ~~(f)~~ (e) This section expires on June 30, 2016 2017.

12
 13 SECTION 16. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
 14 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. HEALTH
 15 CARE INDEPENDENCE PROGRAM AND ARKANSAS HEALTH INSURANCE MARKETPLACE
 16 RESTRICTIONS. (a) As used in this section, "Health Care Independence

17 Program" means the Health Care Independence Program established under the
 18 Health Care Independence Act of 2013, Arkansas Code § 20-77-2401 et seq.

19 (b)(1) Determining the maximum number of employees, the maximum amount
 20 of appropriation, for what purposes an appropriation is authorized, and
 21 general revenue funding for a state agency each fiscal year is the
 22 prerogative of the General Assembly.

23 (2) The purposes of subdivision (b)(1) of this section are
 24 typically accomplished by:

25 (A) Identifying the purpose in the appropriation act;

26 (B) Delineating such maximums in the appropriation act for
 27 a state agency; and

28 (C) Delineating the general revenue allocations authorized
 29 for each fund and fund account by amendment to the Revenue Stabilization Law,
 30 Arkansas Code § 19-5-101 et seq.

31 (3) It is both necessary and appropriate that the General
 32 Assembly restrict the use of appropriations authorized in this act.

33 (c)(1) Except as provided in this subsection, the Department of Human
 34 Services shall not allocate, budget, expend, or utilize any appropriation
 35 authorized by the General Assembly for the purpose of advertisement,
 36 promotion, or other activities designed to promote or encourage enrollment in

1 the Arkansas Health Insurance Marketplace or the Health Care Independence
2 Program, including without limitation:

3 (A) Unsolicited communications mailed to potential
4 recipients;

5 (B) Television, radio, or online commercials;

6 (C) Billboard or mobile billboard advertising;

7 (D) Advertisements printed in newspapers, magazines, or
8 other print media; and

9 (E) Internet websites and electronic media.

10 (2) This subsection does not prohibit the department from:

11 (A) Direct communications with:

12 (i) Licensed insurance agents; and

13 (ii) Persons licensed by the department;

14 (B) Solicited communications with potential recipients;

15 (C)(i) Responding to an inquiry regarding the coverage for
16 which a potential recipient might be eligible, including without limitation
17 providing educational materials or information regarding any coverage for
18 which the individual might qualify.

19 (ii) Educational materials and information
20 distributed under subdivision (c)(2)(C)(i) of this section shall contain only
21 factual information and shall not contain subjective statements regarding the
22 coverage for which the potential recipient might be eligible; and

23 (D) Using an Internet website for the exclusive purpose of
24 enrolling individuals in the Arkansas Health Insurance Marketplace or the
25 Health Care Independence Program.

26 (d) The Department of Human Services shall not apply for or accept any
27 funds, including without limitation federal funds, for the purpose of
28 advertisement, promotion, or other activities designed to promote or
29 encourage enrollment in the Arkansas Health Insurance Marketplace or the
30 Health Care Independence Program.

31 (e)(1) Except as provided in subdivision (e)(2) of this section, the
32 Department of Human Services shall not:

33 (A)(i) Except as provided in subdivision (e)(1)(A)(ii) of
34 this section, allocate, budget, expend, or utilize an appropriation
35 authorized by the General Assembly for the purpose of funding activities of
36 navigators, guides, certified application counselors, and certified licensed

1 producers under the Arkansas Health Insurance Marketplace Navigator, Guide,
2 and Certified Application Counselors Act, Arkansas Code § 23-64-601 et seq.

3 (ii) Subdivision (e)(1)(A)(i) of this section does
4 not apply to regulatory and training responsibilities related to navigators,
5 guides, certified application counselors, and certified licensed producers;
6 and

7 (B) Apply for or accept any funds, including without
8 limitation federal funds, for the purpose of funding activities of
9 navigators, guides, certified application counselors, and certified licensed
10 producers under the Arkansas Health Insurance Marketplace Navigator, Guide,
11 and Certified Application Counselors Act, Arkansas Code § 23-64-601 et seq.

12 (2) Subdivision (e)(1) of this section does not apply to
13 certified application counselors at health related institutions, including
14 without limitation the University of Arkansas for Medical Sciences.

15 (f) An appropriation authorized by the General Assembly shall not be
16 subject to the provisions allowed through reallocation of resources or
17 transfer of appropriation authority for the purpose of transferring an
18 appropriation to any other appropriation authorized for the Department of
19 Human Services to be allocated, budgeted, expended, or utilized in a manner
20 prohibited by this section.

21 (g) The provisions of this section are severable, and the invalidity
22 of any subsection or subdivision of this section shall not affect other
23 provisions of the section that can be given effect without the invalid
24 provision.

25 (h) This section expires on June 30, ~~2016~~ 2017.

26
27 SECTION 17. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
28 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. HEALTH
29 CARE INDEPENDENCE PROGRAM AMENDMENTS AND WAIVERS. (a) As used in this
30 section, "Health Care Independence Program" means the Health Care
31 Independence Program established under the Health Care Independence Act of
32 2013, Arkansas Code § 20-77-2401 et seq.

33 (b)(1) Determining the maximum number of employees, the maximum amount
34 of appropriation, for what purposes an appropriation is authorized, and
35 general revenue funding for a state agency each fiscal year is the
36 prerogative of the General Assembly.

1 (2) The purposes of subdivision (b)(1) of this section are
2 typically accomplished by:

3 (A) Identifying the purpose in the appropriation act;

4 (B) Delineating such maximums in the appropriation act for
5 a state agency; and

6 (C) Delineating the general revenue allocations authorized
7 for each fund and fund account by amendment to the Revenue Stabilization Law,
8 Arkansas Code § 19-5-101 et seq.

9 (3) It is both necessary and appropriate that the General
10 Assembly restrict the use of appropriations authorized in this act.

11 (c)(1) The Department of Human Services shall submit and seek approval
12 of a state plan amendment or waiver, or both, for the following revisions to
13 the Health Care Independence Program to be effective no later than February
14 1, 2015:

15 (A) Approval of a limited state-designed nonemergency
16 transportation benefit for persons covered under the Health Care Independence
17 Program;

18 (B) Approval of a model to allow non-aged, nondisabled
19 persons eligible to participate in the Health Care Independence Program to
20 enroll in a program that will create and utilize independence accounts that
21 operate similarly to a health savings account or medical savings account; and

22 (C) That cost sharing under the Health Care Independence
23 Program shall apply to beneficiaries with incomes above fifty percent (50%)
24 of the federal poverty level.

25 (2) The Department of Human Services shall:

26 (A) Submit drafts of state plan amendments or waivers
27 required under subdivision (c)(1) of this section for public comment by
28 August 1, 2014; and

29 (B) File the required state plan amendments or waivers
30 with the United States Department of Health and Human Services by September
31 15, 2014.

32 (d)(1) Except as provided in subdivision (d)(2) of this section, if
33 the Department of Human Services is unable to secure the approvals requested
34 under subsection (c) of this section, then effective for dates of service on
35 and after February 1, 2015, the Department of Human Services shall not
36 allocate, budget, expend, or utilize appropriations under this act for the

1 participation of persons in the Health Care Independence Program.

2 (2) Subdivision (d)(1) of this section does not prohibit the
3 payment of expenses incurred before February 1, 2015, by persons
4 participating in the Health Care Independence Program who were determined to
5 be more effectively covered through the standard Medicaid program.

6 (e) This section expires on June 30, ~~2016~~ 2017.

7
8 SECTION 18. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
9 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAID
10 PRIMARY CARE CASE MANAGEMENT PROGRAM.

11 (a) The General Assembly finds that:

12 (1) The Arkansas Delta is an area that is medically underserved
13 and has some of the worst health outcomes in our state, with a large number
14 of recipients who are in the top quartile of costs;

15 (2)(A) There has been much success in other states, particularly
16 in the Louisiana Delta with improvements in health outcomes and saving money
17 through the use of an intensive care-coordination, shared-savings model of
18 care.

19 (B) This success has come through contracting with private
20 companies that specialize in working with those individuals who meet certain
21 criteria and are at a minimum in the top quartile of costs to the Medicaid
22 program;

23 (3) Medicaid is one of the largest percentage expenditures of
24 Arkansas tax dollars, and there is a need for reforming approaches to the use
25 of these dollars; and

26 (4) The approach created in this section to dealing with this
27 population has never been implemented in Arkansas.

28 (b)(1)(A) The Department of Human Services shall contract with an
29 experienced vendor to implement a two-year Medicaid Primary Care Case
30 Management shared-savings pilot program in the Arkansas Delta region to begin
31 January 1, 2014.

32 (B) The department shall give preference to a vendor that:

33 (i) Demonstrates experience with the type of model
34 established under this section in the type of geographic area specified in
35 subsection (e) of this section;

36 (ii) Has demonstrated customer satisfaction as

1 documented through independent Consumer Assessment of Healthcare Providers
2 and Systems survey; and

3 (iii) Maintains a Utilization Review Accreditation
4 Commission accreditation for its Health Utilization Management and Case
5 Management programs.

6 (2) The pilot program shall encompass a minimum of five thousand
7 (5,000) recipients who:

8 (A) Are not currently in the Arkansas Patient-Centered
9 Medical Home Program, the federal Comprehensive Primary Care Initiative, or a
10 similar home health program;

11 (B)(i) Have catastrophic or chronic conditions as defined
12 by the Johns Hopkins Adjusted Clinical Groups System; or

13 (ii) Are women with a history of past high-risk
14 pregnancies, poor birth outcomes or preterm deliveries; and

15 (C) Whose estimated costs are in the top quartile for
16 their defined population.

17 (c) The vendor shall recruit an adequate number of primary care
18 clinics to initiate the program.

19 (d) The Medicaid Primary Care Case Management shared savings pilot
20 program shall exclude the Alternatives for Persons with Disabilities, the
21 Division of Developmental Disabilities Services Alternative Community
22 Services, ElderChoices, Living Choices Assisted Living waivers, and members
23 of the Program of All-Inclusive Care for the Elderly.

24 (e) The Medicaid Primary Care Case Management program shared savings
25 pilot program shall include without limitation the following Arkansas delta
26 counties:

- 27 (1) Arkansas;
- 28 (2) Ashley;
- 29 (3) Baxter;
- 30 (4) Bradley;
- 31 (5) Calhoun;
- 32 (6) Chicot;
- 33 (7) Clay;
- 34 (8) Cleveland;
- 35 (9) Crittenden;
- 36 (10) Cross;

(11) Dallas;
(12) Desha;
(13) Drew;
(14) Fulton;
(15) Grant;
(16) Greene;
(17) Independence;
(18) Iizard;
(19) Jackson;
(20) Jefferson;
(21) Lawrence;
(22) Lee;
(23) Lincoln;
(24) Lonoke;
(25) Marion;
(26) Mississippi;
(27) Monroe;
(28) Ouachita;
(29) Phillips;
(30) Poinsett;
(31) Prairie;
(32) Randolph;
(33) Searcy;
(34) Sharp;
(35) St. Francis;
(36) Stone;
(37) Union;
(38) Van Buren; and
(39) Woodruff.

(f) The department shall require that a contracting vendor generate savings in comparison to a risk-adjusted Arkansas Fee-For-Service benchmark.

(g) The per-member monthly fee paid to the vendor shall not decrease the current primary care case management fee paid to the primary care providers.

(h)(1) Savings realized under the Medicaid Primary Care Case Management program shall be shared:

1 (A) Thirty-four percent (34%) with the department; and

2 (B)(i) Sixty-six percent (66%) with the Medicaid Primary
3 Care Case Management shared-savings pilot program vendor up to a maximum
4 sharing cap of five percent (5%) of the total cost of administrative and
5 health service expenditures as defined by the Centers for Medicare and
6 Medicaid Service.

7 (ii) Further, fifty percent (50%) of savings
8 received by the vendor shall be shared with eligible contracted network
9 primary care providers based upon meeting agreed upon performance standards.

10 (2) Twenty five percent (25%) of the Medicaid Primary Care Case
11 Management shared-savings pilot program vendor's administrative per member
12 per month fee shall be at risk and shall be paid back to the state if savings
13 are not realized.

14 (i)(1) After the Medicaid Primary Care Case Management shared-savings
15 pilot program has operated for fifteen (15) months, the department shall
16 utilize an agreed upon savings algorithm to calculate savings based on the
17 first twelve (12) months of operations, allowing three (3) months of run-out.

18 (2)(A) Savings shall be disbursed within thirty (30) calendar
19 days of final calculation.

20 (B) After the initial year of operation, savings shall be
21 calculated on a quarterly basis.

22 (j) This section does not conflict with or reduce the Medicaid
23 hospital access payments under section § 20-77-1901 et seq.

24 (k)(1) This section does not require a physician to participate in the
25 pilot program created under this section.

26 (2) A physician has the right to refuse to contract under the
27 pilot program created under this section or to terminate the contract at any
28 time without penalty.

29 (1) If requested, the vendor shall agree to support any contracted
30 physician in meeting the requirements of the Arkansas Patient-Centered
31 Medical Home model.

32 The provisions of this section shall be in effect only from July 1, ~~2015~~
33 2016 through June 30, ~~2016~~ 2017.

34
35 SECTION 19. COMPLIANCE WITH OTHER LAWS. Disbursement of funds
36 authorized by this act shall be limited to the appropriation for such agency

1 and funds made available by law for the support of such appropriations; and
2 the restrictions of the State Procurement Law, the General Accounting and
3 Budgetary Procedures Law, the Revenue Stabilization Law, the Regular Salary
4 Procedures and Restrictions Act, or their successors, and other fiscal
5 control laws of this State, where applicable, and regulations promulgated by
6 the Department of Finance and Administration, as authorized by law, shall be
7 strictly complied with in disbursement of said funds.

8
9 SECTION 20. LEGISLATIVE INTENT. It is the intent of the General
10 Assembly that any funds disbursed under the authority of the appropriations
11 contained in this act shall be in compliance with the stated reasons for
12 which this act was adopted, as evidenced by the Agency Requests, Executive
13 Recommendations and Legislative Recommendations contained in the budget
14 manuals prepared by the Department of Finance and Administration, letters, or
15 summarized oral testimony in the official minutes of the Arkansas Legislative
16 Council or Joint Budget Committee which relate to its passage and adoption.

17
18 SECTION 21. EMERGENCY CLAUSE. It is found and determined by the
19 General Assembly, that the Constitution of the State of Arkansas prohibits
20 the appropriation of funds for more than a one (1) year period; that the
21 effectiveness of this Act on July 1, 2016 is essential to the operation of
22 the agency for which the appropriations in this Act are provided, and that in
23 the event of an extension of the legislative session, the delay in the
24 effective date of this Act beyond July 1, 2016 could work irreparable harm
25 upon the proper administration and provision of essential governmental
26 programs. Therefore, an emergency is hereby declared to exist and this Act
27 being necessary for the immediate preservation of the public peace, health
28 and safety shall be in full force and effect from and after July 1, 2016.