

1 State of Arkansas  
2 91st General Assembly  
3 Regular Session, 2017  
4

# A Bill

HOUSE BILL 1501

5 By: Representative McCollum  
6

## For An Act To Be Entitled

8 AN ACT TO MODIFY AND REPEAL LANGUAGE REFERENCING THE  
9 SUPERSEDED ELDERCHOICES PROGRAM; AND FOR OTHER  
10 PURPOSES.  
11

## Subtitle

12  
13  
14 TO MODIFY AND REPEAL LANGUAGE REFERENCING  
15 THE SUPERSEDED ELDERCHOICES PROGRAM.  
16  
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
19

20 SECTION 1. Arkansas Code § 11-10-210(f)(21)(A), concerning exclusions  
21 to the definition of "employment" within the Department of Workforce Services  
22 Law, is amended to read as follows:

23 (21)(A) Services performed as personal care services for a  
24 certified ~~ElderChoices Provider~~ home- and community-based health services  
25 provider licensed under § 20-10-2301 et seq., unless the provider is a state  
26 or local government entity or federally recognized Indian tribe as described  
27 in 26 U.S.C § 3306(c)(7) or a nonprofit organization as described in 26 U.S.C  
28 § 3309(a)(1).  
29

30 SECTION 2. Arkansas Code § 20-10-2302 is amended to read as follows:  
31 20-10-2302. Definitions.

32 As used in this subchapter, "private care agency" means a provider that  
33 is ~~licensed by the Department of Labor and~~ certified by the Division of Aging  
34 and Adult Services of the Department of Human Services as ~~an ElderChoices a~~  
35 provider of home- and community-based health services and that:

36 (1) Furnishes in-home staffing services for personal and



1 ~~attendant care services that include without limitation respite services,~~  
 2 ~~chore services, and homemaker services; and~~

3 (2) Retains liability insurance of not less than one million  
 4 dollars (\$1,000,000) to cover its employees and independent contractors while  
 5 its employees and independent contractors are engaged in providing personal  
 6 ~~and attendant care services that include without limitation respite services,~~  
 7 ~~chore services, and homemaker services.~~

8  
 9 SECTION 3. Arkansas Code § 20-33-213(a)(2)(A), concerning the  
 10 definition of "service provider" for elder care criminal history and registry  
 11 records checks, is amended to read as follows:

12 (A) ~~An ElderChoices~~ A home- and community-based health  
 13 services provider certified by the Division of Aging and Adult Services of  
 14 the Department of Human Services;

15  
 16 SECTION 4. Arkansas Code § 20-38-101(9)(E), concerning the definition  
 17 of "service provider" for criminal backgrounds checks, is amended to read as  
 18 follows:

19 (E) ~~An ElderChoices~~ A home- and community-based health  
 20 services provider certified by the Division of Aging and Adult Services of  
 21 the Department of Human Services;

22  
 23 SECTION 5. Arkansas Code § 20-77-102(e), concerning the program for  
 24 long-term care facility care, is repealed.

25 ~~(e) To the extent not prohibited by federal law or regulation, the~~  
 26 ~~department shall promulgate rules concerning prior authorization for Medicaid~~  
 27 ~~ElderChoices, a community-based service, that are identical to those in~~  
 28 ~~effect for nursing homes on July 16, 2003.~~

29  
 30 SECTION 6. Arkansas Code § 20-77-120 is repealed.

31 ~~20-77-120. Medicaid waiver for home and community based care.~~

32 ~~(a) In determining Medicaid eligibility for and providing Medicaid~~  
 33 ~~benefits to persons eligible for services through the ElderChoices care~~  
 34 ~~program, a home and community based care waiver pursuant to section 1915(e)~~  
 35 ~~of the Social Security Act, 42 U.S.C. § 651 et seq., as in effect January 1,~~  
 36 ~~2003, the Department of Human Services, subject to the availability of funds~~

1 ~~for the purpose and to the extent not prohibited by federal law or~~  
2 ~~regulation, shall use the same division of assets and income allowances for~~  
3 ~~Level 1 and Level 2 ElderChoices applications that are used in determining~~  
4 ~~Medicaid eligibility for and providing Medicaid benefits to persons requiring~~  
5 ~~institutional care.~~

6 ~~(b)(1) The department shall apply to the Centers for Medicare and~~  
7 ~~Medicaid Services for an amendment to the ElderChoices Medicaid waiver for~~  
8 ~~home and community based care waivers if an amendment is necessary to~~  
9 ~~implement the provisions of this section.~~

10 ~~(2)(A)(i) The amended waiver shall be funded by savings to the~~  
11 ~~Medicaid program as a result of § 20-77-102(e).~~

12 ~~(ii) The department may set aside sufficient funds~~  
13 ~~to pay administrative costs of implementing the program created by § 20-77-~~  
14 ~~102(e) and provide services according to funding availability. If the~~  
15 ~~provisions of § 20-77-102(e) are approved by the Centers for Medicare and~~  
16 ~~Medicaid Services, the department shall project the savings to the Medicaid~~  
17 ~~program that will result from § 20-77-102(e).~~

18 ~~(B) The department shall implement the amended waiver~~  
19 ~~using the savings projected in subdivision (b)(2)(A)(ii) of this section to~~  
20 ~~the extent allowed under this subdivision (b)(2).~~

21 ~~(c) The department shall promulgate rules to:~~

22 ~~(1) Establish a mechanism to track separately from existing~~  
23 ~~services those clients served and costs incurred by the waiver program~~  
24 ~~established by this section; and~~

25 ~~(2) Report the progress of the program at least quarterly to the~~  
26 ~~House Committee on Public Health, Welfare, and Labor and the Senate Committee~~  
27 ~~on Public Health, Welfare, and Labor.~~

28  
29  
30  
31  
32  
33  
34  
35  
36