

1 State of Arkansas
2 89th General Assembly
3 Fiscal Session, 2014
4

As Engrossed: S2/18/14

A Bill

SENATE BILL 111

5 By: Joint Budget Committee
6

For An Act To Be Entitled

8 AN ACT TO MAKE AN APPROPRIATION FOR PERSONAL SERVICES
9 AND OPERATING EXPENSES FOR THE DEPARTMENT OF HUMAN
10 SERVICES - DIVISION OF MEDICAL SERVICES FOR THE
11 FISCAL YEAR ENDING JUNE 30, 2015; AND FOR OTHER
12 PURPOSES.
13
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Subtitle

15 AN ACT FOR THE DEPARTMENT OF HUMAN
16 SERVICES - DIVISION OF MEDICAL SERVICES
17 APPROPRIATION FOR THE 2014-2015 FISCAL
18 YEAR.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. REGULAR SALARIES - OPERATIONS. There is hereby established
25 for the Department of Human Services - Division of Medical Services for the
26 2014-2015 fiscal year, the following maximum number of regular employees.
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Item No.	Class Code	Title	Maximum No. of Employees	Maximum Annual Salary Rate Fiscal Year 2014-2015
32	(1) L008N	PHYSICIAN SPECIALIST	2	GRADE N917
33	(2) N181N	DIRECTOR OF MEDICAL SERVICES	1	GRADE N915
34	(3) L016N	REGISTERED PHARMACIST	6	GRADE N911
35	(4) N080N	DHS/DMS ASSISTANT DIRECTOR - FISCAL	2	GRADE N907
36	(5) N099N	DHS/DMS ADD - LONG TERM CARE	1	GRADE N906



1	(6)	N100N	DHS/DMS ADD - MEDICAL SERVICES	2	GRADE N906
2	(7)	N110N	DHS ASST DIR CONTRACT MONITORING UNIT	1	GRADE N905
3	(8)	N111N	DHS ASST DEP DIR FOR MGR ACCOUNTING	1	GRADE N905
4	(9)	A010C	AGENCY CONTROLLER II	1	GRADE C128
5	(10)	D007C	INFORMATION SYSTEMS MANAGER	2	GRADE C128
6	(11)	A016C	DHS DMS BUSINESS OPERATIONS MANAGER	8	GRADE C127
7	(12)	L003C	PSYCHOLOGIST	5	GRADE C127
8	(13)	L010C	DHS DMS MEDICAL ASSISTANCE MANAGER	8	GRADE C125
9	(14)	L009C	NURSE MANAGER	4	GRADE C125
10	(15)	A031C	ASSISTANT CONTROLLER	1	GRADE C124
11	(16)	L015C	CLINICAL SPEECH PATHOLOGIST	2	GRADE C124
12	(17)	B023C	ENGINEER, P.E.	1	GRADE C124
13	(18)	D030C	INFORMATION SYSTEMS COORDINATOR	1	GRADE C124
14	(19)	L021C	NURSING HOME ASSISTANT ADMINISTRATOR	1	GRADE C123
15	(20)	L020C	NURSING SERVICES UNIT MANAGER	2	GRADE C123
16	(21)	L019C	REGISTERED NURSE COORDINATOR	5	GRADE C123
17	(22)	A044C	AUDIT COORDINATOR	3	GRADE C122
18	(23)	G099C	DHS PROGRAM ADMINISTRATOR	14	GRADE C122
19	(24)	L027C	REGISTERED NURSE SUPERVISOR	11	GRADE C122
20	(25)	A052C	ACCOUNTING COORDINATOR	1	GRADE C121
21	(26)	M011C	FAMILY SERVICE WORKER COUNTY SUP	1	GRADE C121
22	(27)	A047C	FINANCIAL ANALYST II	1	GRADE C121
23	(28)	A056C	DHS FINANCIAL SECTION MANAGER	2	GRADE C120
24	(29)	L040C	DIETARY SERVICES DIRECTOR	1	GRADE C120
25	(30)	L038C	REGISTERED NURSE	68	GRADE C120
26	(31)	E023C	TRAINING PROJECT MANAGER	1	GRADE C120
27	(32)	D063C	COMPUTER SUPPORT SPECIALIST	2	GRADE C119
28	(33)	D062C	DATABASE ANALYST	1	GRADE C119
29	(34)	G152C	DHS PROGRAM MANAGER	14	GRADE C119
30	(35)	G147C	GRANTS COORDINATOR	2	GRADE C119
31	(36)	X067C	HEALTH FACILITIES SURVEYOR	21	GRADE C119
32	(37)	D061C	INFORMATION SYSTEMS COORD SPECIALIST	1	GRADE C119
33	(38)	X062C	QUALITY ASSURANCE COORDINATOR	2	GRADE C119
34	(39)	A060C	SENIOR AUDITOR	10	GRADE C119
35	(40)	A075C	FINANCIAL ANALYST I	1	GRADE C118
36	(41)	A081C	AUDITOR	2	GRADE C117

1	(42)	R027C	BUDGET SPECIALIST	2	GRADE C117
2	(43)	G183C	DHS PROGRAM COORDINATOR	10	GRADE C117
3	(44)	L055C	DIETICIAN	1	GRADE C117
4	(45)	D068C	INFORMATION SYSTEMS ANALYST	2	GRADE C117
5	(46)	D067C	INFORMATION SYSTEMS SECURITY ANALYST	2	GRADE C117
6	(47)	G179C	LEGAL SERVICES SPECIALIST	1	GRADE C117
7	(48)	M039C	MEDICAID SERVICES SUPERVISOR	2	GRADE C117
8	(49)	G178C	POLICY DEVELOPMENT COORDINATOR	3	GRADE C117
9	(50)	B076C	RESEARCH PROJECT ANALYST	2	GRADE C117
10	(51)	E044C	CERTIFIED BACHELORS TEACHER	1	GRADE C117
11	(52)	A089C	ACCOUNTANT I	1	GRADE C116
12	(53)	A088C	ASSETS COORDINATOR	1	GRADE C116
13	(54)	X124C	HEALTH FACILITY REVIEWER	1	GRADE C116
14	(55)	C037C	ADMINISTRATIVE ANALYST	7	GRADE C115
15	(56)	A091C	FISCAL SUPPORT ANALYST	3	GRADE C115
16	(57)	C050C	ADMINISTRATIVE SUPPORT SUPERVISOR	1	GRADE C113
17	(58)	L070C	HEALTH CARE ANALYST	18	GRADE C113
18	(59)	C056C	ADMINISTRATIVE SPECIALIST III	28	GRADE C112
19	(60)	A098C	FISCAL SUPPORT SPECIALIST	2	GRADE C112
20	(61)	A101C	ACCOUNTING TECHNICIAN	1	GRADE C109
21	(62)	C073C	ADMINISTRATIVE SPECIALIST II	12	GRADE C109
22	(63)	C087C	ADMINISTRATIVE SPECIALIST I	<u>10</u>	GRADE C106
23			MAX. NO. OF EMPLOYEES	327	

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25 SECTION 2. EXTRA HELP - OPERATIONS. There is hereby authorized, for
 26 the Department of Human Services - Division of Medical Services for the 2014-
 27 2015 fiscal year, the following maximum number of part-time or temporary
 28 employees, to be known as "Extra Help", payable from funds appropriated
 29 herein for such purposes: seven (7) temporary or part-time employees, when
 30 needed, at rates of pay not to exceed those provided in the Uniform
 31 Classification and Compensation Act, or its successor, or this act for the
 32 appropriate classification.

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34 SECTION 3. APPROPRIATION - OPERATIONS. There is hereby appropriated,
 35 to the Department of Human Services - Division of Medical Services, to be
 36 payable from the paying account as determined by the Chief Fiscal Officer of

1 the State, for personal services and operating expenses of the Department of
 2 Human Services - Division of Medical Services - Operations for the fiscal
 3 year ending June 30, 2015, the following:

4	5 ITEM	FISCAL YEAR
6	<u>NO.</u>	<u>2014-2015</u>
7	(01) REGULAR SALARIES	\$16,445,333
8	(02) EXTRA HELP	201,892
9	(03) PERSONAL SERVICES MATCHING	5,528,850
10	(04) OVERTIME	5,000
11	(05) MAINT. & GEN. OPERATION	
12	(A) OPER. EXPENSE	3,541,565
13	(B) CONF. & TRAVEL	233,728
14	(C) PROF. FEES	555,132
15	(D) CAP. OUTLAY	144,388
16	(E) DATA PROC.	0
17	(06) DATA PROCESSING SERVICES	<u>299,600</u>
18	TOTAL AMOUNT APPROPRIATED	<u><u>\$26,955,488</u></u>

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 20 SECTION 4. APPROPRIATION - GRANTS. There is hereby appropriated, to
 21 the Department of Human Services - Division of Medical Services, to be
 22 payable from the paying account as determined by the Chief Fiscal Officer of
 23 the State, for grant payments of the Department of Human Services - Division
 24 of Medical Services - Grants for the fiscal year ending June 30, 2015, the
 25 following:

26	27 ITEM	FISCAL YEAR
28	<u>NO.</u>	<u>2014-2015</u>
29	(01) PRIVATE NURSING HOME CARE	\$716,865,047
30	(02) INFANT INFIRMARY	27,555,873
31	(03) PUBLIC NURSING HOME CARE	223,528,121
32	(04) PRESCRIPTION DRUGS	385,783,553
33	(05) HOSPITAL AND MEDICAL SERVICES	5,066,397,953
34	(06) CHILD AND FAMILY LIFE INSTITUTE	2,100,000
35	(07) ARKIDS B PROGRAM	<u>148,436,682</u>
36	TOTAL AMOUNT APPROPRIATED	<u><u>\$6,570,667,229</u></u>

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SECTION 5. APPROPRIATION - NURSING HOME CLOSURE COSTS. There is hereby appropriated, to the Department of Human Services - Division of Medical Services, to be payable from the Long-Term Care Trust Fund, for the payment of relocation costs of residents in long-term care facilities, maintenance and operation of a facility pending correction of deficiencies or closure, and reimbursement of residents for personal funds lost for the fiscal year ending June 30, 2015, the following:

ITEM	FISCAL YEAR
<u>NO.</u>	<u>2014-2015</u>
(01) EXPENSES	<u>\$50,000</u>

SECTION 6. APPROPRIATION - LONG-TERM CARE FACILITY RECEIVERSHIP. There is hereby appropriated, to the Department of Human Services - Division of Medical Services, to be payable from the Long Term Care Facility Receivership Fund Account, for the payment of expenses of long-term care facility receivers as authorized by law of the Department of Human Services - Division of Medical Services - Long-Term Care Facility Receivership for the fiscal year ending June 30, 2015, the following:

ITEM	FISCAL YEAR
<u>NO.</u>	<u>2014-2015</u>
(01) EXPENSES	<u>\$100,000</u>

SECTION 7. APPROPRIATION - NURSING HOME QUALITY GRANTS. There is hereby appropriated, to the Department of Human Services - Division of Medical Services, to be payable from the Long-Term Care Trust Fund, for Nursing Home Quality Grants of the Department of Human Services - Division of Medical Services - Nursing Home Quality Grants for the fiscal year ending June 30, 2015, the following:

ITEM	FISCAL YEAR
<u>NO.</u>	<u>2014-2015</u>
(01) NURSING HOME QUALITY GRANTS AND AID	<u>\$1,500,000</u>

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

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

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

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

1 research and evaluation.

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

6 The provisions of this section shall be in effect only from July 1, ~~2013~~
7 2014 through June 30, ~~2014~~ 2015.

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

24 The provisions of this section shall be in effect only from July 1, ~~2013~~
25 2014 through June 30, ~~2014~~ 2015.

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

30 (a) Rates established by the Division of Medical Services for the services
31 or programs covered by this Act shall be calculated by the methodologies
32 approved by the Centers for Medicare and Medicaid Services (CMS). The
33 Division of Medical Services shall have the authority to reduce or increase
34 rates based on the approved methodology. Further, the Division of Medical
35 Services shall have the authority to increase or decrease rates for good
36 cause including, but not limited to: (1) Identification of provider(s) who

1 can render needed services of equal quality at rates less than traditionally
2 charged and who meet the applicable federal and state laws, rules and
3 regulations pertaining to the provision of a particular service;

4 (2) Identification that a provider or group of providers has consistently
5 charged rates to the Arkansas Medicaid Program greater than to other
6 purchasers of medical services of similar size;

7 (3) The Division determines that there has been significant changes in the
8 technology or process by which services are provided by a provider or group
9 of providers which has affected the costs of providing services, or;

10 (4) A severe economic downturn in the Arkansas economy which has affected the
11 overall state budget of the Division of Medical Services.

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

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

21 Determining the maximum number of employees and the maximum amount of
22 appropriation and general revenue funding for a state agency each fiscal year
23 is the prerogative of the General Assembly. This is usually accomplished by
24 delineating such maximums in the appropriation act(s) for a state agency and
25 the general revenue allocations authorized for each fund and fund account by
26 amendment to the Revenue Stabilization law. Further, the General Assembly has
27 determined that the Department of Human Services – Division of Medical
28 Services may operate more efficiently if some flexibility is provided to the
29 Department of Human Services – Division of Medical Services authorizing broad
30 powers under this section. Therefore, it is both necessary and appropriate
31 that the General Assembly maintain oversight by requiring prior approval of
32 the Legislative Council or Joint Budget Committee as provided by this
33 section. The requirement of approval by the Legislative Council or Joint
34 Budget Committee is not a severable part of this section. If the requirement
35 of approval by the Legislative Council or Joint Budget Committee is ruled
36 unconstitutional by a court of competent jurisdiction, this entire section is

1 void.

2 The provisions of this section shall be in effect only from July 1, ~~2013~~
3 2014 through June 30, ~~2014~~ 2015.

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5 SECTION 12. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
6 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. FUND
7 USAGE AUTHORIZED. The Arkansas Children's Hospital may request the Department
8 of Human Services - Division of Medical Services to retain in the Department
9 of Human Services Grant Fund account an amount not to exceed \$2,100,000 from
10 funds made available by this Act for the Child and Family Life Institute,
11 Section 4, item number 06 to be used to match federal funds used for
12 supplemental Medicaid payments to Arkansas Children's Hospital. These
13 retained funds shall not be recovered to transfer to the General Revenue
14 Allotment Reserve Fund.

15
16 SECTION 13. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
17 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. STATE
18 PLAN. The State Plan must include the provision of EPSDT services as those
19 services are defined in §1396d(r). See §§ 1396a(a)(10)(A), 1396d(a)(4)(B);
20 see also 1396a(a)(43). Section 1396d(r) lists in detail the screening
21 services, vision services, dental services, and hearing services that the
22 State Plan must expressly include, but with regard to treatment services, it
23 states that EPSDT means "[s]uch other necessary health care, diagnostic
24 services, treatment, and other measures described in subsection (a) of this
25 section to correct or ameliorate defects and physical and mental illnesses
26 and conditions discovered by the screening services, whether or not such
27 services are covered under the State plan." 42 U.S.C. § 1396d(r)(5) (emphasis
28 added). Reading §1396a, § 1396d(a), and § 1396d(r) together, we believe that
29 the State Plan need not specifically list every treatment service conceivably
30 available under the EPSDT mandate.

31 The State Plan, however, must pay part or all of the cost of treatments to
32 ameliorate conditions discovered by the screening process when those
33 treatments meet the definitions set forth in § 1396a. See §1396d(r)(5); see
34 also §§1396a(a)(10), 1396a (a)(43), and 1396d(a)(4)(B). The Arkansas State
35 Plan states that the "State will provide other health care described in [42
36 U.S.C. 1396d(a)] that is found to be medically necessary to correct or

1 ameliorate defects and physical and mental illnesses and conditions
2 discovered by the screening services, even when such health care is not
3 otherwise covered under the State Plan." See State Plan Under Title XIX of
4 the Social Security Act Medical Assistance Program, State Of Arkansas at
5 §4.b. This provision Meets the EPSDT mandate of the Medicaid Act.

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

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26 SECTION 14. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
27 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL
28 SERVICES - STATE MEDICAID PROGRAM/PERSONAL CARE PROGRAM.

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

35 (b) For the purposes of this section, "private care agencies" are defined
36 as those providers licensed by the Department of Labor, certified as

1 ElderChoices Providers and who furnish in home staffing services for respite,
2 chore services, and homemaker services, and are covered by liability
3 insurance of not less than one million dollars (\$1,000,000) covering their
4 employees and independent contractors while they are engaged in providing
5 services, such as personal care, respite, chore services, and homemaker
6 services.

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

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

15 (e) The Arkansas Department of Human Services, Medical Services Division
16 shall take such action as required by the Centers for Medicare and Medicaid
17 Services to amend the Arkansas Medicaid manual to include, private care
18 agencies, as qualified entities to provide Medicaid reimbursed personal care
19 services.

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

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

26 (h) The purpose of this section is to insure the care provided by the
27 private care agencies, is consistent with the rules and regulations of the
28 Arkansas Department of Health.

29 The provisions of this section shall be in effect only from July 1, ~~2013~~
30 2014 through June 30, ~~2014~~ 2015.

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32 SECTION 15. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
33 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. REVIEW OF
34 RULES IMPACTING STATE MEDICAID COSTS. (a) In light of the rapidly rising
35 potential costs to the State attributable to the Medicaid program and the
36 importance of Medicaid expenditures to the health and welfare of the citizens

1 of this State, the General Assembly finds it desirable to exercise more
2 thorough review of future proposed changes to rules that might impact those
3 costs or expenditures.

4 (b) As used in this section, "rule impacting state Medicaid costs" means
5 a proposed rule, as defined by § 25-15-202(8), or a proposed amendment to an
6 existing rule, as defined by § 25-15-202(8), that would, if adopted, adjust
7 Medicaid reimbursement rates, Medicaid eligibility criteria, or Medicaid
8 benefits, including without limitation a proposed rule or a proposed
9 amendment to an existing rule seeking to accomplish the following:

10 (1) Reduce the number of individuals covered by Arkansas Medicaid;

11 (2) Limit the types of services covered by Arkansas Medicaid;

12 (3) Reduce the utilization of services covered by Arkansas Medicaid;

13 (4) Reduce provider reimbursement;

14 (5) Increase consumer cost-sharing;

15 (6) Reduce the cost of administering Arkansas Medicaid;

16 (7) Increase Arkansas Medicaid revenues;

17 (8) Reduce fraud and abuse in the Arkansas Medicaid program;

18 (9) Change any of the methodologies used for reimbursement of
19 providers;

20 (10) Seek a new waiver or modification of an existing waiver of any
21 provision under Medicaid, Title XIX, of the Social Security Act, including a
22 waiver that would allow a demonstration project;

23 (11) Participate or seek to participate in Social Security Act Section
24 1115(a)(1) waiver authority that would allow operation of a demonstration
25 project or program;

26 (12) Participate or seek to participate in a Social Security Act
27 Section 1115(a)(2) request for the Secretary of the Department of Health and
28 Human Services to provide federal financial participation for costs
29 associated with a demonstration project or program;

30 (13) Implement managed care provisions under Section 1932 of Medicaid,
31 Title XIX of the Social Security Act; or

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

34 (c)(1) In addition to filing requirements under the Arkansas
35 Administrative Procedure Act, § 25-15-201 et seq., and § 10-3-309, the
36 Department of Human Services shall, at least thirty (30) days before the

1 expiration of the period for public comment, file a proposed rule impacting
2 state Medicaid costs or a proposed amendment to an existing rule impacting
3 state Medicaid costs with the Senate Interim Committee on Public Health,
4 Welfare, and Labor and the House Interim Committee on Public Health, Welfare,
5 and Labor, or, when the General Assembly is in session, with the Senate
6 Committee on Public Health, Welfare, and Labor and the House Committee on
7 Public Health, Welfare and Labor.

8 (2) Any review of the proposed rule or proposed amendment to an
9 existing rule by the Senate and House Interim Committees on Public Health,
10 Welfare and Labor or the Senate and House Committees on Public Health,
11 Welfare, and Labor shall occur within forty-five (45) days of the date the
12 proposed rule or proposed amendment to an existing rule is filed with the
13 committees.

14 (d)(1) If adopting an emergency rule impacting state Medicaid costs,
15 in addition to the filing requirements under the Arkansas Administrative
16 Procedure Act, § 25-15-201 et seq. and § 10-3-309, the Department of Human
17 Services shall notify the Speaker of the House of Representatives, the
18 President Pro Tempore of the Senate, the chair of the Senate Committee on
19 Public Health, Welfare, and Labor, and the chair of the House Committee on
20 Public Health, Welfare and Labor of the emergency rule and provide each of
21 them a copy of the rule within five (5) business days of adopting the rule.

22 (2) Any review of the emergency rule by the Senate and House
23 Interim Committees on Public Health, Welfare and Labor or the Senate and
24 House Committees on Public Health, Welfare, and Labor shall occur within
25 forty-five (45) days of the date the emergency rule is provided to the
26 chairs.

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

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

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

36 (f) This section expires on June 30, ~~2014~~ 2015.

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2 SECTION 16. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
3 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL, AND TEMPORARY LAW.

4 (a) As used in this section, "Health Care Independence Program" means
5 the Health Care Independence Program established under the Health Care
6 Independence Act of 2013, Arkansas Code § 20-77-2401 et seq.

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

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

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

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

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

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

21 (c)(1) Except as provided in this subsection, the Department of Human
22 Services shall not allocate, budget, expend, or utilize any appropriation
23 authorized by the General Assembly for the purpose of advertisement,
24 promotion, or other activities designed to promote or encourage enrollment in
25 the Arkansas Health Insurance Marketplace or the Health Care Independence
26 Program, including without limitation:

27 (A) Unsolicited communications mailed to potential
28 recipients;

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

30 (C) Billboard or mobile billboard advertising;

31 (D) Advertisements printed in newspapers, magazines, or
32 other print media; and

33 (E) Internet websites and electronic media.

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

35 (A) Direct communications with:

36 (i) Licensed insurance agents; and

1 (ii) Persons licensed by the department;
2 (B) Solicited communications with potential recipients;
3 (C)(i) Responding to an inquiry regarding the coverage for
4 which a potential recipient might be eligible, including without limitation
5 providing educational materials or information regarding any coverage for
6 which the individual might qualify.

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

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

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

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

21 (A)(i) Except as provided in subdivision (e)(1)(A)(ii) of
22 this section, allocate, budget, expend, or utilize an appropriation
23 authorized by the General Assembly for the purpose of funding activities of
24 navigators, guides, certified application counselors, and certified licensed
25 producers under the Arkansas Health Insurance Marketplace Navigator, Guide,
26 and Certified Application Counselors Act, Arkansas Code § 23-64-601 et seq.

27 (ii) Subdivision (e)(1)(A)(i) of this section does
28 not apply to regulatory and training responsibilities related to navigators,
29 guides, certified application counselors, and certified licensed producers;
30 and

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

36 (2) Subdivision (e)(1) of this section does not apply to

1 certified application counselors at health related institutions, including
2 without limitation the University of Arkansas for Medical Sciences.

3 (f) An appropriation authorized by the General Assembly shall not be
4 subject to the provisions allowed through reallocation of resources or
5 transfer of appropriation authority for the purpose of transferring an
6 appropriation to any other appropriation authorized for the Department of
7 Human Services to be allocated, budgeted, expended, or utilized in a manner
8 prohibited by this section.

9 (g) The provisions of this section are severable, and the invalidity
10 of any subsection or subdivision of this section shall not affect other
11 provisions of the section that can be given effect without the invalid
12 provision.

13 (h) This section expires on June 30, 2015.
14

15 SECTION 17. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
16 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL, AND TEMPORARY LAW.

17 (a) As used in this section, "Health Care Independence Program" means
18 the Health Care Independence Program established under the Health Care
19 Independence Act of 2013, Arkansas Code § 20-77-2401 et seq.

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

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

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

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

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

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

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

1 1, 2015:

2 (A) Approval of a limited state-designed nonemergency
3 transportation benefit for persons covered under the Health Care Independence
4 Program;

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

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

12 (2) The Department of Human Services shall:

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

16 (B) File the required state plan amendments or waivers
17 with the United States Department of Health and Human Services by September
18 15, 2014.

19 (d)(1) Except as provided in subdivision (d)(2) of this section, if
20 the Department of Human Services is unable to secure the approvals requested
21 under subsection (c) of this section, then effective for dates of service on
22 and after February 1, 2015, the Department of Human Services shall not
23 allocate, budget, expend, or utilize appropriations under this act for the
24 participation of persons in the Health Care Independence Program.

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

29 (e) This section expires on June 30, 2015.

30
31 SECTION 18. COMPLIANCE WITH OTHER LAWS. Disbursement of funds
32 authorized by this act shall be limited to the appropriation for such agency
33 and funds made available by law for the support of such appropriations; and
34 the restrictions of the State Procurement Law, the General Accounting and
35 Budgetary Procedures Law, the Revenue Stabilization Law, the Regular Salary
36 Procedures and Restrictions Act, or their successors, and other fiscal

1 control laws of this State, where applicable, and regulations promulgated by
2 the Department of Finance and Administration, as authorized by law, shall be
3 strictly complied with in disbursement of said funds.

4
5 SECTION 19. LEGISLATIVE INTENT. It is the intent of the General
6 Assembly that any funds disbursed under the authority of the appropriations
7 contained in this act shall be in compliance with the stated reasons for
8 which this act was adopted, as evidenced by the Agency Requests, Executive
9 Recommendations and Legislative Recommendations contained in the budget
10 manuals prepared by the Department of Finance and Administration, letters, or
11 summarized oral testimony in the official minutes of the Arkansas Legislative
12 Council or Joint Budget Committee which relate to its passage and adoption.

13
14 SECTION 20. EMERGENCY CLAUSE. It is found and determined by the
15 General Assembly, that the Constitution of the State of Arkansas prohibits
16 the appropriation of funds for more than a one (1) year period; that the
17 effectiveness of this Act on July 1, 2014 is essential to the operation of
18 the agency for which the appropriations in this Act are provided, and that in
19 the event of an extension of the legislative session, the delay in the
20 effective date of this Act beyond July 1, 2014 could work irreparable harm
21 upon the proper administration and provision of essential governmental
22 programs. Therefore, an emergency is hereby declared to exist and this Act
23 being necessary for the immediate preservation of the public peace, health
24 and safety shall be in full force and effect from and after July 1, 2014.

25
26 */s/ Joint Budget Committee*
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