

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 First Extraordinary Session, 2003
4

As Engrossed: S5/6/03
A Bill

Call Item 6
Act 17 of 2003
SENATE BILL 23

5 By: Joint Budget Committee
6
7

For An Act To Be Entitled

9 AN ACT TO MAKE AN APPROPRIATION FOR PERSONAL
10 SERVICES AND OPERATING EXPENSES FOR THE
11 DEPARTMENT OF HUMAN SERVICES - DIVISION OF
12 MEDICAL SERVICES FOR THE BIENNIAL PERIOD ENDING
13 JUNE 30, 2005; AND FOR OTHER PURPOSES.
14

Subtitle

15
16 AN ACT FOR THE DEPARTMENT OF HUMAN
17 SERVICES - DIVISION OF MEDICAL SERVICES
18 APPROPRIATION FOR THE 2003-2005
19 BIENNIUM.
20
21
22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

25 SECTION 1. REGULAR SALARIES. There is hereby established for the
26 Department of Human Services - Division of Medical Services for the 2003-2005
27 biennium, the following maximum number of regular employees whose salaries
28 shall be governed by the provisions of the Uniform Classification and
29 Compensation Act (Arkansas Code §§21-5-201 et seq.), or its successor, and
30 all laws amendatory thereto. Provided, however, that any position to which a
31 specific maximum annual salary is set out herein in dollars, shall be exempt
32 from the provisions of said Uniform Classification and Compensation Act. All
33 persons occupying positions authorized herein are hereby governed by the
34 provisions of the Regular Salaries Procedures and Restrictions Act (Arkansas
35 Code §21-5-101), or its successor.
36



05052003JKG0800.JKG265

Item	Class	No. of	Maximum Annual		
			Maximum	Salary Rate	
No.	Code	Title	Employees	2003-2004	2004-2005
(1)	9985	DHS DEP DIR MEDICAL SERVICES	1	\$93,803	\$95,966
(2)	8965	DHS/DMS ADD - MEDICAL SERVICES	1	\$77,912	\$79,792
(3)	8936	DHS/DMS ADD PROG & ADMIN SUPPORT	1	\$77,912	\$79,792
(4)	8938	DHS/DMS ASST DEP DIR LONG TRM CARE	1	\$76,397	\$78,249
(5)	022Z	DHS/DCO CHIEF PROGRAM ADMR	4	GRADE 26	
(6)	L014	DIRECTOR OF PHARMACY SERVICES	1	GRADE 26	
(7)	023Z	DHS/DCO ASST CHIEF PROGRAM ADMR	4	GRADE 25	
(8)	118Z	DHS NURSING SERVICES ADMINISTRATOR	1	GRADE 25	
(9)	L012	PHARMACIST II	4	GRADE 25	
(10)	L096	SR PHARMACIST	1	GRADE 24	
(11)	923Z	DHS PRGM ADMINISTRATOR	9	GRADE 23	
(12)	D124	LEAD PROGRAMMER/ANALYST	1	GRADE 22	
(13)	L078	NURSE SUPERVISOR	1	GRADE 22	
(14)	X338	ENGINEER, PE	2	GRADE 22	
(15)	697Z	DHS PRGM MANAGER	11	GRADE 21	
(16)	A251	SR AUDITOR	7	GRADE 21	
(17)	D036	SR PROGRAMMER/ANALYST	1	GRADE 21	
(18)	L030	DIETARY SERVICES DIRECTOR	1	GRADE 21	
(19)	L082	NURSING SERVICES SPECIALIST	12	GRADE 21	
(20)	A250	JR AUDITOR	1	GRADE 20	
(21)	L070	NURSE II	10	GRADE 20	
(22)	M027	DHS/DCO COUNTY SUPV II	1	GRADE 20	
(23)	M088	SOCIAL WORKER II	3	GRADE 20	
(24)	M116	UTILIZATION REVIEW NURSE	59	GRADE 20	
(25)	Q046	MEDICARE/MEDICAID SURVEY SPECIALIST	20	GRADE 20	
(26)	R145	DHS PROGRAM COORDINATOR	5	GRADE 20	
(27)	R266	MANAGEMENT PROJECT ANALYST II	10	GRADE 20	
(28)	L028	DIETICIAN	3	GRADE 19	
(29)	M154	DHS FIELD REPRESENTATIVE	8	GRADE 19	
(30)	R084	DHS STAFF SUPERVISOR	4	GRADE 19	
(31)	R332	DHS POLICY DEVELOPMENT COORD	5	GRADE 19	
(32)	X358	HLTH FACILITY SURVEYOR	2	GRADE 19	

1	(33)	D129	DP COORDINATOR	1	GRADE 18
2	(34)	M078	DHS/DEMS SUPERVISOR	2	GRADE 18
3	(35)	R010	ADMINISTRATIVE ASSISTANT II	16	GRADE 17
4	(36)	R110	MEDICAL PROGRAM REPRESENTATIVE	4	GRADE 17
5	(37)	R162	STATISTICIAN/STATISTICIAN II	1	GRADE 17
6	(38)	X352	HLTH CARE ANALYST II	22	GRADE 17
7	(39)	A108	ACCOUNTING TECHNICIAN II	3	GRADE 15
8	(40)	D005	COMPUTER OPERATOR II	1	GRADE 15
9	(41)	K041	EXECUTIVE SECY/ADMINISTRATIVE SECY	7	GRADE 14
10	(42)	K117	MEDICAL OR LEGAL SECRETARY	6	GRADE 14
11	(43)	K153	SECRETARY II	10	GRADE 13
12	(44)	M067	SOCIAL SERVICE AIDE II	1	GRADE 13
13	(45)	K039	DOCUMENT EXAMINER II	21	GRADE 12
14	(46)	K155	SECRETARY I	<u>1</u>	GRADE 11
15			MAX. NO. OF EMPLOYEES	291	

16

17 SECTION 2. EXTRA HELP. There is hereby authorized, for the Department of
 18 Human Services - Division of Medical Services for the 2003-2005 biennium, the
 19 following maximum number of part-time or temporary employees, to be known as
 20 "Extra Help", payable from funds appropriated herein for such purposes:
 21 seven (7) temporary or part-time employees, when needed, at rates of pay not
 22 to exceed those provided in the Uniform Classification and Compensation Act,
 23 or its successor, or this act for the appropriate classification.

24

25 SECTION 3. APPROPRIATION - OPERATIONS. There is hereby appropriated, to
 26 the Department of Human Services - Division of Medical Services, to be
 27 payable from the paying account as determined by the Chief Fiscal Officer of
 28 the State, for personal services and operating expenses of the Department of
 29 Human Services - Division of Medical Services for the biennial period ending
 30 June 30, 2005, the following:

31

32	ITEM	FISCAL YEARS	
33	<u>NO.</u>	<u>2003-2004</u>	<u>2004-2005</u>
34	(01) REGULAR SALARIES	\$ 10,968,871	\$ 11,265,030
35	(02) EXTRA HELP	126,892	126,892
36	(03) PERSONAL SERV MATCH	2,999,797	3,054,159

1	(04) OVERTIME	5,000	5,000
2	(05) MAINT. & GEN. OPERATION		
3	(A) OPER. EXPENSE	3,129,077	3,129,077
4	(B) CONF. & TRAVEL	235,840	235,840
5	(C) PROF. FEES	355,132	355,132
6	(D) CAP. OUTLAY	0	0
7	(E) DATA PROC.	0	0
8	(06) DATA PROCESSING SERVICES	<u>89,800</u>	<u>89,800</u>
9	TOTAL AMOUNT APPROPRIATED	<u>\$ 17,910,409</u>	<u>\$ 18,260,930</u>

10

11 SECTION 4. APPROPRIATION - GRANTS. There is hereby appropriated, to the
 12 Department of Human Services - Division of Medical Services, to be payable
 13 from the paying account as determined by the Chief Fiscal Officer of the
 14 State, for grant payments of the Department of Human Services - Division of
 15 Medical Services for the biennial period ending June 30, 2005, the following:

16

17	ITEM	FISCAL YEARS	
18	<u>NO.</u>	<u>2003-2004</u>	<u>2004-2005</u>
19	(01) PRIVATE NURSING HOME CARE	\$ 488,866,748	\$ 528,536,619
20	(02) INFANT INFIRMARY	19,058,505	19,600,261
21	(03) PUBLIC NURSING HOME CARE	136,481,442	140,455,885
22	(04) PRESCRIPTION DRUGS	348,826,208	399,753,505
23	(05) HOSPITAL AND MEDICAL SERVICES	1,858,004,148	2,009,113,071
24	(06) CHILD AND FAMILY LIFE INSTITUTE	2,100,000	2,100,000
25	(07) PRESCRIPTION DRUG WAIVER FOR THE		
26	ELDERLY	<u>19,280,065</u>	<u>19,280,065</u>
27	TOTAL AMOUNT APPROPRIATED	<u>\$2,872,617,116</u>	<u>\$3,118,839,406</u>

28

29 SECTION 5. APPROPRIATION - ARKIDS B PROGRAM. There is hereby appropriated,
 30 to the Department of Human Services - Division of Medical Services, to be
 31 payable from the paying account as determined by the Chief Fiscal Officer of
 32 the State, for grant payments of the Department of Human Services - Division
 33 of Medical Services for the biennial period ending June 30, 2005, the
 34 following:

35

36	ITEM	FISCAL YEARS	
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NO.	2003-2004	2004-2005
(01) ARKIDS B PROGRAM	\$ 47,368,431	\$ 52,230,965

SECTION 6. 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 biennial period ending June 30, 2005, the following:

ITEM NO.	FISCAL YEARS	
	2003-2004	2004-2005
(01) EXPENSES	\$ 50,000	\$ 50,000

SECTION 7. 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 for the biennial period ending June 30, 2005, the following:

ITEM NO.	FISCAL YEARS	
	2003-2004	2004-2005
(01) EXPENSES	\$ 100,000	\$ 100,000

SECTION 8. APPROPRIATION - EMPLOYER SPONSORED INSURANCE. 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 for the biennial period ending June 30, 2005, the following:

ITEM NO.	FISCAL YEARS	
	2003-2004	2004-2005

1 (01) EMPLOYER SPONSORED INSURANCE \$ 22,000,000 \$ 30,000,000

2

3 SECTION 9. APPROPRIATION - SUPPLEMENTAL - HOSPITAL AND MEDICAL SERVICES.

4 There is hereby appropriated, to the Department of Human Services - Division
5 of Medical Services, to be payable from the paying account as determined by
6 the Chief Fiscal Officer of the State, for grant payments of the Department
7 of Human Services - Division of Medical Services for the fiscal year ending
8 June 30, 2003, the sum of.....\$80,000,000.

9

10 SECTION 10. SPECIAL LANGUAGE. ~~NOT TO BE INCORPORATED INTO THE ARKANSAS~~
11 ~~CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW.~~

12 "(10)(A) Department of Human Services Grants Fund Account. The Department
13 of Human Services Grants Fund Account shall be used for the following grant
14 programs to consist of general revenues and any other nonfederal funds, as
15 may be appropriated by the General Assembly:

- 16 (i) Children's Medical Services;
- 17 (ii) Food Stamp Employment and Training Program;
- 18 (iii) Aid to the Aged, Blind, and Disabled;
- 19 (iv) Transitional Employment Assistance Program;
- 20 (v) Private nursing home care;
- 21 (vi) Infant Infirmary - nursing home care;
- 22 (vii) Public Nursing Home Care;
- 23 (viii) Prescription Drugs;
- 24 (ix) Hospital and Medical Services;
- 25 (x) Child and Family Life Institute;
- 26 (xi) Community Services Block Grant;
- 27 (xii) ARKIDSFIRST;
- 28 (xiii) Child Health Management Services;
- 29 (xiv) Child Care Grant; and
- 30 (xv) Prescription Drug Elderly"

31 ~~The provisions of this section shall be in effect only from July 1, 2001~~
32 ~~July 1, 2003 through June 30, 2003 June 30, 2005.~~

33

34 SECTION 11. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
35 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL
36 SERVICES AND COUNTY OPERATIONS-- CARRY FORWARD. The unexpended balances in

1 appropriations made from federal funds, for Medical Services ~~and County~~
2 ~~Operations~~, as provided for in this Act on ~~June 30, 2002~~ June 30, 2004 shall
3 be carried forward and made available for expenditures for the same purpose
4 for the fiscal year ending ~~June 30, 2003~~ June 30, 2005.

5 The provisions of this section shall be in effect only from ~~July 1, 2001~~
6 July 1, 2003 through ~~June 30, 2003~~ June 30, 2005.

7
8 SECTION 12. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
9 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL
10 SERVICES - CHILD AND FAMILY LIFE INSTITUTE. The Child Health and Family Life
11 Institute shall be administered under the direction of Arkansas Children's
12 Hospital. Arkansas Children's Hospital shall enter into a cooperative
13 agreement and/or contract with the University of Arkansas for Medical
14 Sciences - Department of Pediatrics for services required in delivering the
15 programs of the Child Health and Family Life Institute. ~~The KIDS FIRST~~
16 ~~Program, a component of the Child Health and Family Life Institute, shall~~
17 ~~receive priority consideration above all other programs of the Institute when~~
18 ~~funding decisions are made by Arkansas Children's Hospital. Arkansas~~
19 ~~Children's Hospital shall make quarterly reports to the Arkansas Legislative~~
20 ~~Council on matters of funding, existing programs and any new programs and/or~~
21 ~~services offered through the Child Health and Family Life Institute.~~
22 ~~—The Chancellor of the University of Arkansas for Medical Sciences shall~~
23 ~~designate an individual from the Department of Pediatrics who shall provide~~
24 ~~administrative oversight of the cooperative agreements and/or contracts with~~
25 ~~Arkansas Children's Hospital in delivering the programs of the Child Health~~
26 ~~and Family Life Institute. The designated administrator from the University~~
27 ~~of Arkansas for Medical Sciences Department of Pediatrics shall make~~
28 ~~quarterly reports to the Chancellor of the University of Arkansas for Medical~~
29 ~~Sciences and the Arkansas Legislative Council on all matters of funding,~~
30 ~~existing programs and services offered through the Child Health and Family~~
31 ~~Life Institute. Further, the Department of Pediatrics shall make every~~
32 ~~effort to advance the KIDS FIRST Program statewide. 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 screen and diagnosis, treatment and intervention, training and education and
4 research and evaluation.

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

9 The provisions of this section shall be in effect only from ~~July 1, 2001~~
10 July 1, 2003 through ~~June 30, 2003~~ June 30, 2005.

11
12 SECTION 13. 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
20 average profit or any combination of actual acquisition costs or average
21 profit. The survey results shall be the basis for establishing the
22 dispensing fee paid to participating pharmacies in the Medicaid prescription
23 drug program in accordance with Federal requirements. The dispensing fee
24 shall be no lower than the cost of dispensing as determined by the survey.
25 Nothing in this section shall be construed to prohibit the State from
26 increasing the dispensing fee at any time.

27 The provisions of this section shall be in effect only from ~~July 1, 2001~~
28 July 1, 2003 through ~~June 30, 2003~~ June 30, 2005.

29
30 SECTION 14. 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. (a) Rates established
33 by the Division of Medical Services for the services or programs covered by
34 this Act shall be calculated by the methodologies approved by the ~~Health Care~~
35 Financing Administration Centers for Medicare and Medicaid Services (CMS).
36 The Division of Medical Services shall have the authority to reduce or

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

15 The Division of Medical Services shall make available to requesting
 16 providers, the ~~Health Care Financing Administration's~~ CMS's inflationary
 17 forecasts (~~HCFA-CMS~~ CMS Market Basket Index). Rates established with cost of
 18 living increases based on the ~~HCFA-CMS~~ CMS Market Basket Index or other indices
 19 will be adjusted annually except when the state budget does not provide
 20 sufficient appropriation and funding to affect the change or portion thereof.
 21 (b) Any rate methodology changes proposed by the Division of Medical Services
 22 both of a general and specific nature, shall be subject to prior review by
 23 the Legislative Council or Joint Budget Committee.

24 The provisions of this section shall be in effect only from ~~July 1, 2001~~
 25 July 1, 2003 through ~~June 30, 2003~~ June 30, 2005.

26

27 SECTION 15. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
 28 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL
 29 SERVICES - STATE MEDICAID PROGRAM/PERSONAL CARE PROGRAM.

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

36 (b) For the purposes of this section, "private care agencies" are defined as

1 those providers licensed by the Department of Labor ~~as of January 1, 1999,~~
 2 certified as ElderChoices Providers ~~as of January 1, 1999~~ and who furnish in-
 3 home staffing services for respite, chore services, and homemaker services,
 4 and carrying are covered by liability insurance of not less than one million
 5 dollars (\$1,000,000.00) covering their employees and independent contractors
 6 while they are engaged in providing services, such as personal care, respite,
 7 chore services, and homemaker services.

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

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

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

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

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

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

30 The provisions of this section shall be in effect only from ~~July 1, 2001~~
 31 July 1, 2003 through ~~June 30, 2003~~ June 30, 2005.

32
 33 SECTION 16. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
 34 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL
 35 SERVICES - BORDER CITY DDTCS AND ELDERCHOICES PROVIDERS. Approved Arkansas
 36 Medicaid providers of Developmental Day Treatment Clinic Services (DDTCS) and

1 ElderChoices Services, or ~~its~~ their successor programs, who have out-of-state
 2 border city facilities may be licensed by the State of Arkansas and/or
 3 contract with the State to be reimbursed for Medicaid eligible services
 4 delivered to Arkansas residents who are Medicaid eligible.

5 The provisions of this section shall be in effect only from ~~July 1, 2001~~
 6 July 1, 2003 through ~~June 30, 2003~~ June 30, 2005.

7
 8 SECTION 17. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
 9 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. CRITICAL
 10 ACCESS HOSPITAL PROGRAM. Subject to the ~~Health Care Financing Administration~~
 11 Centers for Medicare and Medicaid Services approval, the Arkansas Department
 12 of Human Services shall fund the optional "Critical Access Hospital" Program
 13 as defined at 42 U.S.C. §1395i - 4(e) as it existed January 1, 2001 effective
 14 ~~July 1, 2001~~ July 1, 2003 or at the earliest date thereafter.

15
 16 SECTION 18. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
 17 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL
 18 SERVICES - PERSONAL CARE AND ELDERCHOICES REIMBURSEMENT. The Medicaid
 19 reimbursement rate for personal care and Elderchoices homemaker, respite, and
 20 chore services shall be increased from the current rate of \$12.35 per hour to
 21 \$13.86 per hour if funds are available, or increased for such portion thereof
 22 as funds are available.

23
 24 SECTION 19. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
 25 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. FUND
 26 USAGE AUTHORIZED. The Arkansas Children's Hospital may request the
 27 Department of Human Services - Division of Medical Services to retain in the
 28 Department of Human Services Grant Fund account an amount not to exceed
 29 \$2,100,000 each fiscal year from funds made available by this Act for the
 30 Child and Family Life Institute, Section-~~5~~ 4, item number 06 to be used to
 31 match federal funds used for supplemental Medicaid payments to Arkansas
 32 Children's Hospital. These retained funds shall not be recovered for transfer
 33 to the General Revenue Allotment Reserve Fund.

34
 35 SECTION 20. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
 36 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. The State

1 Plan must include the provision of EPSDT services as those services are
2 defined in §1396d(r). See §§ 1396a(a)(10)(A), 1396d(a)(4)(B); see also
3 1396a(a)(43). Section 1396d(r) lists in detail the screening services,
4 vision services, dental services, and hearing services that the State Plan
5 must expressly include, but with regard to treatment services, it states that
6 EPSDT means "[s]uch other necessary health care, diagnostic services,
7 treatment, and other measures described in subsection (a) of this section to
8 correct or ameliorate defects and physical and mental illnesses and
9 conditions discovered by the screening services, whether or not such services
10 are covered under the State plan." 42 U.S.C. § 1396d(r)(5) (emphasis added).
11 Reading §1396a, § 1396d(a), and § 1396d(r) together, we believe that the State
12 Plan need not specifically list every treatment service conceivably available
13 under the EPSDT mandate.

14
15 The State Plan, however, must pay part or all of the cost of treatments to
16 ameliorate conditions discovered by the screening process when those
17 treatments meet. The definitions set forth in § 1396a. See § 1396d(r)(5);
18 see also §§ 1396a(a)(10), 1396a (a)(43), and 1396d(a)(4)(B). The Arkansas
19 State Plan states that the "State will provide other health care described in
20 [42 U.S.C. 1396d(a)] that is found to be medically necessary to correct or
21 ameliorate defects and physical and mental illnesses and conditions
22 discovered by the screening services, even when such health care is not
23 otherwise covered under the State Plan." See State Plan Under Title XIX of
24 the Social Security Act Medical Assistance Program, State Of Arkansas at §
25 4.b. This provision Meets the EPSDT mandate of the Medicaid Act.

26
27 We affirm the district court's decision to the extent that it holds that a
28 Medicaid-Eligible individual has a federal right to early intervention day
29 treatment when a physician recommends such treatment. Section 1396d(r)(5)
30 states that EPSDT includes any treatments or measures outlined in § 1396d(a).
31 There are twenty-seven sub-parts to § 1396d(a), and we find that sub-part
32 (a)(13), in particular, when read with the other sections of the Medicaid Act
33 listed above, mandates that early intervention day treatment be provided when
34 it is prescribed by a physician. See 42 U.S.C. § 1396d(a)(13) (defining
35 medical assistance reimbursable by Medicaid as "other diagnostic, screening,
36 preventive, and rehabilitative services, including any medical or remedial

1 services recommended by a physician...for the maximum reduction of physical and
2 mental disability and restoration of an individual to the best possible
3 functional level"). Therefore, after CHMS clinic staff perform a diagnostic
4 evaluation of an eligible child, if the CHMS physician prescribes early
5 intervention day treatment as a service that would lead to the maximum
6 reduction of medical and physical disabilities and restoration of the child
7 to his or her best possible functional level, the Arkansas State Plan must
8 reimburse the treatment. Because CHMS clinics are the only providers of
9 early intervention day treatment, Arkansas must reimburse those clinics.

10
11 SECTION 21. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
12 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. ARKANSAS
13 HEALTH CENTER. (A) The Department of Human Services shall not close the
14 Arkansas Health Center that provides skilled nursing through specialized
15 services and programs.

16 (B) The Department of Human Services shall continue to accept clients for
17 whom it has determined that skilled nursing and specialized services are
18 needed at the Arkansas Health Center.

19 (C) No funds shall be transferred or reduced from the Arkansas Health
20 Center, except for use as federal matching funds, below the approved funding
21 level on March 1, 2003 without the prior approval of the Arkansas Legislative
22 Council or the Joint Budget Committee.

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

1 unconstitutional by a court of competent jurisdiction, this entire section is
2 void.

3 The provisions of this section shall be in effect only from July 1, 2003
4 through June 30, 2005.

5

6 SECTION 22. COMPLIANCE WITH OTHER LAWS. Disbursement of funds authorized
7 by this act shall be limited to the appropriation for such agency and funds
8 made available by law for the support of such appropriations; and the
9 restrictions of the State Purchasing Law, the General Accounting and
10 Budgetary Procedures Law, the Revenue Stabilization Law, the Regular Salary
11 Procedures and Restrictions Act, or their successors, and other fiscal
12 control laws of this State, where applicable, and regulations promulgated by
13 the Department of Finance and Administration, as authorized by law, shall be
14 strictly complied with in disbursement of said funds.

15

16 SECTION 23. LEGISLATIVE INTENT. It is the intent of the General Assembly
17 that any funds disbursed under the authority of the appropriations contained
18 in this act shall be in compliance with the stated reasons for which this act
19 was adopted, as evidenced by the Agency Requests, Executive Recommendations
20 and Legislative Recommendations contained in the budget manuals prepared by
21 the Department of Finance and Administration, letters, or summarized oral
22 testimony in the official minutes of the Arkansas Legislative Council or
23 Joint Budget Committee which relate to its passage and adoption.

24

25 SECTION 24. EMERGENCY CLAUSE. It is found and determined by the General
26 Assembly, that the Constitution of the State of Arkansas prohibits the
27 appropriation of funds for more than a two (2) year period; that the
28 effectiveness of this Act on July 1, 2003 is essential to the operation of
29 the agency for which the appropriations in this Act are provided, and that in
30 the event of an extension of the Regular Session, the delay in the effective
31 date of this Act beyond July 1, 2003 could work irreparable harm upon the
32 proper administration and provision of essential governmental programs.
33 Therefore, an emergency is hereby declared to exist and this Act being
34 necessary for the immediate preservation of the public peace, health and
35 safety shall be in full force and effect from and after July 1, 2003, except
36 for Section 9 which shall be in full force and effect from and after the date

1 of passage and approval of this Act.

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/s/ Joint Budget Committee

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APPROVED: 5-8-2003

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