

**DEPARTMENT OF HUMAN SERVICES, DIVISION OF MEDICAL SERVICES**

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**SUBJECT:** SPA 20-0022 Medicaid Personal Care Rate

**DESCRIPTION:**

Statement of Necessity

A revision to the Arkansas Medicaid State Plan is necessary to increase rates for personal care services in the Medicaid program based upon a rate review survey recommendation.

Rule Summary

Effective January 1, 2021, the Medicaid State Plan is being amended as follows:

Rates in the Personal Care program will increase by 13.72% based upon rate review of the service. The rate increase was recommended due to a rate review survey process.

**PUBLIC COMMENT:** A public hearing was held on this rule on October 29, 2020. The public comment period expired on November 9, 2020. The agency provided the following summary of the comments it received and its responses to those comments:

Commenter's Name: Kathy Tynes, MPA | Executive Director, Area Agency on Aging of Southeast Arkansas

**COMMENT:** We are 110% in support of the Personal Care rate increase. As costs continue to increase, this rate is necessary for our Agency to continue to provide home care services for the those in the 10 counties are we serve in Southeast Arkansas. Those counties include Jefferson, Arkansas, Ashley, Drew, Chicot, Grant, Lincoln, Cleveland, Bradley, and Desha. Thank you. **RESPONSE:** Thank you for your comment and support of the rate increase.

Commenter's Name: Lillian Arnold, BSN, RN, Home Health Care Coordinator, Area Agency on Aging of Southeast Arkansas

**COMMENT:** All personal care and ARChoices services for In Home Medicaid should have the same rates because regardless of the program, our agency is committed to providing quality care and we do not adjust an employee pay based on the differences in reimbursement. Our agency continued to provide services for clients when minimum wages were increased and there were no Medicaid increase for services.

**RESPONSE:** Thank you for your comment. We will consider your comment when we do the rate review for ARChoices services.

Commenter's Name: Luke Mattingly, on behalf of CareLink

**COMMENT:** CareLink is in favor of the proposed increase.

Rapid increases in the minimum wage, \$ 2.50 per hour in wages and the accompanying increased payroll tax and fringe benefit costs - all in a 3-year period, have made providing this service unsustainable without a rate increase. A much-needed adjustment to ensure older Arkansans have access to this crucial service to remain independent in their own home environment.

The Attendant Care and Respite Care rates are in the same dire situation and need to be adjusted as well to match the Medicaid Personal Care Rate. ARChoices services will be unsustainable without a similar increase.

**RESPONSE:** Thank you for your comment and support of the rate increase. We will consider your comment when we do the rate review for ARChoices services.

Commenter's Name: Luke Mattingly, on behalf of the Arkansas Area Agency on Aging Associates

**COMMENT:** The Association is in favor of the proposed increase.

Rapid increases in the minimum wage, \$ 2.50 per hour in wages and the accompanying increased payroll tax and fringe benefit costs - all in a 3-year period, have made providing this service unsustainable without a rate increase. A much-needed adjustment to ensure older Arkansans have access to this crucial service to remain independent in their own home environment.

The Attendant Care and Respite Care rates are in the same dire situation and need to be adjusted to match the Medicaid Personal Care Rate. ARChoices services will be unsustainable without a similar increase.

**RESPONSE:** Thank you for your comment and support of the rate increase. We will consider your comment when we do the rate review for ARChoices services.

Commenter's Name: Tena M. Matthews, Home Care Financial Supervisor

**COMMENT:** The rate increase will be positive for all agencies who provide such important services such as personal care.

**RESPONSE:** Thank you for your comment and support of the rate increase.

Commenter's Name: Kay Newton, RN, Home Care Administrator, Area 2, Area Agency on Aging of Southeast Arkansas

**COMMENT:** To Whom It May Concern,

I have worked in the Home Health industry for 30 years and during this time, I have watched the Aides work hard to maintain the elderly population in their home setting. Allowing the elderly to remain in their homes is one of the most important factors in promoting well-being and longevity of life. In order to allow clients to age gracefully in the home setting, we must provide them with the services they desperately need including Medicaid Personal Care.

The COVID-19 pandemic is only one example of why the elderly population benefit from receiving services in their homes. Their home is a much safer environment than a facility setting. They deserve the many Home and Community Based services that are available and allow them to remain in the safety and comfort of their homes.

The rapid increase in minimum wage, without a rate increase for this program, threaten in-home services. The proposed rate increase is a step in the right direction and will be beneficial in obtaining this objective. The elderly population deserves to remain at home if they are able.

**RESPONSE:** Thank you for your comment and support of the rate increase.

Commenter's Name: Donna Plumlee, Executive Assistant, Area Agency on Aging of Northwest Arkansas, Inc

**COMMENT:** The rate increase for Medicaid Personal Care is needed to sustain personal care services. Rapid increase of minimum wage rates are causing the providers of personal care services to suffer by not being able to afford to hire enough staff to cover the demand of clients needing these services. **RESPONSE:** Thank you for your comment and support of the rate increase.

Commenter's Name: Katie Bell, Director of Housing, Area Agency on Aging of Northwest Arkansas

**COMMENT:** No brainer: The rapid escalation of minimum wage rates have created a dire situation threatening services without this increase. The rate is needed to sustain Medicaid Personal Care Services. Quality of life should be a priority. **RESPONSE:** Thank you for your comment and support of the rate increase.

Commenter's Name: Kimmela Steed, on behalf of Kindred at Home, submitted by Scott Pace

**COMMENT:** On behalf of Kindred at Home, one of the largest personal care providers in Arkansas, we would like to thank you and the Department for your commitment to re-conducting a rate review for personal care rates in Arkansas Medicaid. Kindred at Home is very grateful and supportive of the proposed rate of \$20.47 per hour for personal care services.

We feel that the proposed rate more accurately takes into consideration the overall operating expense reality that has impacted our industry as a result of the changes to the Arkansas minimum wage over the last couple of years, which has dramatically impacted not only wages, but the cost and ability to recruit and retain employees. The proposed rule will provide a rate for personal care services that will ensure access to these important services, which is more important than ever during our pandemic.

Kindred at Home does believe that the same proposed rate should also be applied to attendant and respite care services as well. These services provide a much-needed service to family members and they have been equally impacted by the increase in Arkansas's minimum wage. Additionally, the cost basis on these services is virtually identical to the cost basis for personal care services.

We are in support of this current rule for personal care being approved as is, and we respectfully request that a new proposed rule be promulgated before the end of the fiscal year that brings respite care and attendant care services into line with the new \$20.47 per hour rate that will soon be applied to personal care services.

Again, we are very appreciative of the Department's work on this new rate review and we are in support of the proposed rule. Warm regards,

**RESPONSE:** Thank you for your comment and support of the rate increase. We will consider your comment when we do the rate review for ARChoices services.

Commenter's Name: Brad Bailey, Executive Director, Area Agency on Aging of Northwest Arkansas

**COMMENT:** I am very much in support of SPA 20-0022. This increased rate will help in meeting recent minimum wage increases in the State of Arkansas that was voted upon by the citizens of the state. I very much hope that other in-home services will also received consideration for the same rate increase as these are the same employees that provide personal care. **RESPONSE:** Thank you for your comment and support of the rate increase. We will consider your comment when we do the rate review for ARChoices services.

Commenter's Name: Barbara Flowers, Executive Director , Area Agency on Aging of West Central Arkansas, Inc.

**COMMENT:** I believe an increased rate for Medicaid Personal Care Services is needed to sustain Medicaid Personal Care Services. Due to the increased minimum wage rates, home care services have been threatened without an increase in the Personal Care rate. These services are essential for clients to remain in their homes with the care they require. Thank you,

**RESPONSE:** Thank you for your comment and support of the rate increase.

Commenter's Name: Bill Dearmore, Director of Client Services, Area Agency on Aging of Northwest Arkansas, Inc.

**COMMENT:** To whom it may concern:

The Medicaid Personal Care Rate increase is much needed to sustain Medicaid Personal Care services. Among other things, an escalation of minimum wage rate has created a dire situation threatening services without this increase. Thank you for your consideration in this matter.

**RESPONSE:** Thank you for your comment and support of the rate increase.

Commenter's Name: Jacque McDaniel, Executive Director, East Arkansas Area Agency on Aging

**COMMENT:** Home and community-based services are a critical link in the care continuum for Arkansans. When surveyed, eighty percent (80%) of older adults want to remain in their homes as they age. With increases in Arkansas' minimum wage in six out of seven years, the sustainability of quality personal care services was in imminent danger of broad provider network collapse.

The increase in the personal care rate from \$18.00 per hour to \$20.48 per hour will provide the relief needed to secure much desired home and community-based services for the near future.

This was an important step in the right direction of caring for our ever-increasing senior population!

**RESPONSE:** Thank you for your comment and support of the rate increase.

Commenter's Name: Charles D. Martin Executive Director, HomeCare Association of Arkansas

**COMMENT:** Overall, HCAA is in favor of the proposed increase of 13.72% for Personal Care rates. This is a much-needed adjustment and it allows older Arkansans to have access to crucial services and be able to remain in their home.

Our concern is that the proposed rate increase does not include a corresponding rate increase for Attendant Care and Respite Care. There is a serious need to adjust these rates to match the increase to the Arkansas Personal Care Rate. It will be difficult to provide these crucial services without an increase to these program areas. HCAA requests a similar rate increase for these program areas before this rule is made Final.

Thank you for the opportunity for us to present our comments on behalf of Arkansas Home Health Agencies. Please let us know if you have any questions on our request.

Sincerely,

**RESPONSE:** Thank you for your comment and support of the rate increase. We will consider your comment when we do the rate review for ARChoices services.

Lacey Johnson, an attorney with the Bureau of Legislative Research, asked the following question and received the following response:

**Q.** What is the status on CMS approval? **RESPONSE:** CMS approval is currently pending. We have responded to CMS's Informal Request for Additional Information and CMS has indicated it is being processed for approval. [The agency later clarified that CMS approval was received on November 16, 2020.]

The proposed effective date is January 1, 2021.

**FINANCIAL IMPACT:** The agency indicated that this rule has a financial impact.

Per the agency, the total estimate cost to implement this rule is \$12,176,842 for the current fiscal year (\$3,488,665 in general revenue and \$8,688,177 in federal funds) and \$24,353,684 for the next fiscal year (\$6,943,235 in general revenue and \$17,410,449 in federal funds). The total estimated cost by fiscal year to state, county, and municipal government to implement this rule is \$3,488,665 for the current fiscal year and \$6,943,235 for the next fiscal year.

The agency indicated that there is a new or increased cost or obligation of at least \$100,000 per year to a private individual, private entity, private business, state government, county government, municipal government, or to two or more of those entities combined. Accordingly, the agency provided the following written findings:

*(1) a statement of the rule's basis and purpose;*

A revision of the Arkansas Medicaid State Plan is necessary to increase rates for personal care services.

*(2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;*

Personal Care rates have not been increased in over six years; additionally the new minimum wage increases have caused expenses for providers to increase.

*(3) a description of the factual evidence that:*

*(a) justifies the agency's need for the proposed rule; and*

*(b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;*

The rate increase is based on a rate review conducted by DHS and its actuaries with input from the providers. The rate increase helps ensure access to care.

*(4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;*

There are no less costly alternatives.

*(5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;*

None at this time.

*(6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and*

None.

*(7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:*

*(a) the rule is achieving the statutory objectives;*

*(b) the benefits of the rule continue to justify its costs; and*

*(c) the rule can be amended.*

Rates for personal care services will be reviewed periodically.

**LEGAL AUTHORIZATION:** The Department of Human Services has the authority to administer assigned forms of public assistance and to make rules as necessary to carry out its duties. Ark. Code Ann. § 20-76-201(1), (12). The Department is specifically tasked with establishing and maintaining an indigent medical care program. Ark. Code Ann. § 20-77-107(a)(1). This includes promulgating rules to ensure compliance with federal law in order to receive federal funding. Ark. Code Ann. § 25-10-129(b).