

1 State of Arkansas
2 87th General Assembly
3 Fiscal Session, 2010
4

A Bill

SENATE BILL 28

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 FISCAL YEAR ENDING JUNE
13 30, 2011; 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 2010-2011 FISCAL
19 YEAR.
20
21
22

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

25 SECTION 1. REGULAR SALARIES - OPERATIONS. There is hereby established for
26 the Department of Human Services - Division of Medical Services for the 2010-
27 2011 fiscal year, the following maximum number of regular employees whose
28 salaries shall be governed by the provisions of the Uniform Classification
29 and Compensation Act (Arkansas Code §§21-5-201 et seq.), or its successor,
30 and all laws amendatory thereto. Provided, however, that any position to
31 which a specific maximum annual salary is set out herein in dollars, shall be
32 exempt from the provisions of said Uniform Classification and Compensation
33 Act. All persons occupying positions authorized herein are hereby governed
34 by the provisions of the Regular Salaries Procedures and Restrictions Act
35 (Arkansas Code §21-5-101), or its successor.
36



1				Maximum Annual
2				Salary Rate
3	Item	Class	No. of	Fiscal Year
4	No.	Code	Title	Employees
5	(1)	L016N	REGISTERED PHARMACIST	6
6	(2)	N022N	DHS DEP DIR MEDICAL SERVICES	1
7	(3)	N080N	DHS/DMS ASSISTANT DIRECTOR - FISCAL	1
8	(4)	N099N	DHS/DMS ADD - LONG TERM CARE	1
9	(5)	N100N	DHS/DMS ADD - MEDICAL SERVICES	2
10	(6)	D007C	INFORMATION SYSTEMS MANAGER	1
11	(7)	A016C	DHS DMS BUSINESS OPERATIONS MANAGER	9
12	(8)	L010C	DHS DMS MEDICAL ASSISTANCE MANAGER	9
13	(9)	L009C	NURSE MANAGER	5
14	(10)	B023C	ENGINEER, P.E.	1
15	(11)	L020C	NURSING SERVICES UNIT MANAGER	2
16	(12)	L019C	REGISTERED NURSE COORDINATOR	5
17	(13)	A044C	AUDIT COORDINATOR	1
18	(14)	G099C	DHS PROGRAM ADMINISTRATOR	15
19	(15)	L027C	REGISTERED NURSE SUPERVISOR	13
20	(16)	A056C	DHS FINANCIAL SECTION MANAGER	1
21	(17)	L040C	DIETARY SERVICES DIRECTOR	1
22	(18)	L038C	REGISTERED NURSE	74
23	(19)	E023C	TRAINING PROJECT MANAGER	1
24	(20)	D063C	COMPUTER SUPPORT SPECIALIST	3
25	(21)	D062C	DATABASE ANALYST	1
26	(22)	G152C	DHS PROGRAM MANAGER	11
27	(23)	G147C	GRANTS COORDINATOR	2
28	(24)	X067C	HEALTH FACILITIES SURVEYOR	21
29	(25)	X062C	QUALITY ASSURANCE COORDINATOR	2
30	(26)	A060C	SENIOR AUDITOR	11
31	(27)	R024C	ASST PERSONNEL MANAGER	1
32	(28)	A081C	AUDITOR	2
33	(29)	R027C	BUDGET SPECIALIST	2
34	(30)	G183C	DHS PROGRAM COORDINATOR	8
35	(31)	L055C	DIETICIAN	3
36	(32)	D068C	INFORMATION SYSTEMS ANALYST	3

1	(33)	M039C	MEDICAID SERVICES SUPERVISOR	3	GRADE C117
2	(34)	C013C	MEDICAL SERVICES REPRESENTATIVE	4	GRADE C117
3	(35)	G178C	POLICY DEVELOPMENT COORDINATOR	5	GRADE C117
4	(36)	A089C	ACCOUNTANT I	1	GRADE C116
5	(37)	X124C	HEALTH FACILITY REVIEWER	1	GRADE C116
6	(38)	A084C	PROGRAM/FIELD AUDIT SPECIALIST	3	GRADE C116
7	(39)	C037C	ADMINISTRATIVE ANALYST	6	GRADE C115
8	(40)	G210C	DHS PROGRAM SPECIALIST	1	GRADE C115
9	(41)	A091C	FISCAL SUPPORT ANALYST	3	GRADE C115
10	(42)	C050C	ADMINISTRATIVE SUPPORT SUPERVISOR	1	GRADE C113
11	(43)	L070C	HEALTH CARE ANALYST	19	GRADE C113
12	(44)	C056C	ADMINISTRATIVE SPECIALIST III	25	GRADE C112
13	(45)	A098C	FISCAL SUPPORT SPECIALIST	2	GRADE C112
14	(46)	C073C	ADMINISTRATIVE SPECIALIST II	18	GRADE C109
15	(47)	C087C	ADMINISTRATIVE SPECIALIST I	<u>15</u>	GRADE C106
16			MAX. NO. OF EMPLOYEES	326	

17

18 SECTION 2. EXTRA HELP - OPERATIONS. There is hereby authorized, for the

19 Department of Human Services - Division of Medical Services for the 2010-2011

20 fiscal year, the following maximum number of part-time or temporary

21 employees, to be known as "Extra Help", payable from funds appropriated

22 herein for such purposes: seven (7) temporary or part-time employees, when

23 needed, at rates of pay not to exceed those provided in the Uniform

24 Classification and Compensation Act, or its successor, or this act for the

25 appropriate classification.

26

27 SECTION 3. APPROPRIATION - OPERATIONS. There is hereby appropriated, to

28 the Department of Human Services - Division of Medical Services, to be

29 payable from the paying account as determined by the Chief Fiscal Officer of

30 the State, for personal services and operating expenses of the Department of

31 Human Services - Division of Medical Services - Operations for the fiscal

32 year ending June 30, 2011, the following:

34	ITEM	FISCAL YEAR
35	<u>NO.</u>	<u>2010-2011</u>
36	(01) REGULAR SALARIES	\$ 15,696,747

1	(02) EXTRA HELP	126,892
2	(03) PERSONAL SERVICES MATCHING	4,712,682
3	(04) OVERTIME	5,000
4	(05) MAINT. & GEN. OPERATION	
5	(A) OPER. EXPENSE	3,446,243
6	(B) CONF. & TRAVEL	246,340
7	(C) PROF. FEES	355,132
8	(D) CAP. OUTLAY	195,000
9	(E) DATA PROC.	0
10	(06) DATA PROCESSING SERVICES	299,600
11	(07) AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009	<u>458,025</u>
12	TOTAL AMOUNT APPROPRIATED	<u>\$ 25,541,661</u>

13

14 SECTION 4. APPROPRIATION - GRANTS. There is hereby appropriated, to the
 15 Department of Human Services - Division of Medical Services, to be payable
 16 from the paying account as determined by the Chief Fiscal Officer of the
 17 State, for grant payments of the Department of Human Services - Division of
 18 Medical Services - Grants for the fiscal year ending June 30, 2011, the
 19 following:

20

21	ITEM	FISCAL YEAR
22	<u>NO.</u>	<u>2010-2011</u>
23	(01) PRIVATE NURSING HOME CARE	\$ 618,038,129
24	(02) INFANT INFIRMARY	28,251,589
25	(03) PUBLIC NURSING HOME CARE	229,940,266
26	(04) PRESCRIPTION DRUGS	480,599,452
27	(05) HOSPITAL AND MEDICAL SERVICES	3,545,563,906
28	(06) CHILD AND FAMILY LIFE INSTITUTE	2,100,000
29	(07) ARKIDS B PROGRAM	176,646,045
30	(08) PRIVATE NURSING HOME CARE - ARRA OF 2009	134,694,759
31	(09) INFANT INFIRMARY - ARRA OF 2009	4,901,102
32	(10) PUBLIC NURSING HOME CARE - ARRA OF 2009	40,875,288
33	(11) PRESCRIPTION DRUGS - ARRA OF 2009	94,544,574
34	(12) HOSPITAL AND MEDICAL SERVICES - ARRA OF 2009	646,455,077
35	(13) ARKIDS B PROGRAM - ARRA OF 2009	<u>27,377,439</u>
36	TOTAL AMOUNT APPROPRIATED	<u>\$6,029,987,626</u>

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

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, 2011, the following:

ITEM	FISCAL YEAR
<u>NO.</u>	<u>2010-2011</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, 2011, the following:

ITEM	FISCAL YEAR
<u>NO.</u>	<u>2010-2011</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, 2011, the following:

ITEM	FISCAL YEAR
<u>NO.</u>	<u>2010-2011</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

21
 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, ~~2007~~
7 2010 through June 30, ~~2009~~ 2011.

8

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, ~~2007~~
25 2010 through June 30, ~~2009~~ 2011.

26

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 review by the Legislative Council or Joint Budget Committee.

21 The provisions of this section shall be in effect only from July 1, ~~2007~~
 22 2010 through June 30, ~~2009~~ 2011.

23
 24 SECTION 12. 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 Department
 27 of Human Services - Division of Medical Services to retain in the Department
 28 of Human Services Grant Fund account an amount not to exceed \$2,100,000 from
 29 funds made available by this Act for the Child and Family Life Institute,
 30 Section 4, item number 06 to be used to match federal funds used for
 31 supplemental Medicaid payments to Arkansas Children's Hospital. These
 32 retained funds shall not be recovered to transfer to the General Revenue
 33 Allotment Reserve Fund.

34
 35 SECTION 13. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
 36 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. STATE

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

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

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

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

8
 9 SECTION 14. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
 10 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL
 11 SERVICES - STATE MEDICAID PROGRAM/PERSONAL CARE PROGRAM.

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

18 (b) For the purposes of this section, "private care agencies" are defined
 19 as those providers licensed by the Department of Labor, certified as
 20 ElderChoices Providers and who furnish in home staffing services for respite,
 21 chore services, and homemaker services, and are covered by liability
 22 insurance of not less than one million dollars (\$1,000,000) covering their
 23 employees and independent contractors while they are engaged in providing
 24 services, such as personal care, respite, chore services, and homemaker
 25 services.

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

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

34 (e) The Arkansas Department of Human Services, Medical Services Division
 35 shall take such action as required by the Centers for Medicare and Medicaid
 36 Services to amend the Arkansas Medicaid manual to include, private care

1 agencies, as qualified entities to provide Medicaid reimbursed personal care
2 services.

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

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

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

12 The provisions of this section shall be in effect only from July 1, ~~2009~~
13 2010 through June 30, ~~2010~~ 2011.

14

15 SECTION 15. COMPLIANCE WITH OTHER LAWS. Disbursement of funds authorized
16 by this act shall be limited to the appropriation for such agency and funds
17 made available by law for the support of such appropriations; and the
18 restrictions of the State Procurement Law, the General Accounting and
19 Budgetary Procedures Law, the Revenue Stabilization Law, the Regular Salary
20 Procedures and Restrictions Act, or their successors, and other fiscal
21 control laws of this State, where applicable, and regulations promulgated by
22 the Department of Finance and Administration, as authorized by law, shall be
23 strictly complied with in disbursement of said funds.

24

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

33

34 SECTION 17. EMERGENCY CLAUSE. It is found and determined by the General
35 Assembly, that the Constitution of the State of Arkansas prohibits the
36 appropriation of funds for more than a one (1) year period; that the

effectiveness of this Act on July 1, 2010 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the legislative session, the delay in the effective date of this Act beyond July 1, 2010 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2010.

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36