

## DEPARTMENT OF HUMAN SERVICES, DIVISION OF DEVELOPMENTAL DISABILITIES SERVICES

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**SUBJECT:** ADDT and EIDT Transportation Services

**DESCRIPTION:**

Statement of Necessity

The Early Intervention Day Treatment Medicaid Provider Manual (EIDT Manual), Adult Developmental Day Treatment Medicaid Provider Manual (ADDT Manual), Transportation Medicaid Provider Manual (Transportation Manual), Rules for the Division of Developmental Disabilities Early Intervention Day Treatment (EIDT Rules), and Rules for the Division of Developmental Disabilities Adult Developmental Day Treatment (ADDT Rules) are being updated to remove EIDT and ADDT transportation services from the Transportation Medicaid Provider Manual and include EIDT and ADDT transportation services as an optional service within the EIDT Manual and ADDT Manual, respectively, and, to update the reimbursement methodology and rate for EIDT and ADDT transportation services. The EIDT Rules and ADDT Rules are being updated to establish the operational requirements relating to ADDT and EIDT transportation services, which would bring those rules into alignment with operational requirements applicable to other Department of Human Services funded transportation services. The Arkansas Medicaid State Plan is being updated to align with current ADDT and EIDT transportation reimbursement and operational requirements.

Rule Summary

Effective August 1, 2022, the Transportation Medicaid Provider Manual is being revised to remove Sections 260.000 “Early Intervention Day Treatment (EIDT) and Adult Developmental Day Treatment (ADDT) Transportation” and 270.000 “Program Coverage” from the manual in its entirety.

Effective August 1, 2022, the Early Intervention Day Treatment Medicaid Provider Manual is being revised as follows:

- Add Section 214.230 “EIDT Transportation Services” establishing transportation services to and from an EIDT facility as an optional EIDT service under the manual.
- Adding and clarifying required documentation related to EIDT services.
- Add other clarifying language and formatting changes.

Effective August 1, 2022, the Adult Developmental Day Treatment Medicaid Provider Manual is being revised as follows:

- Add Section 214.230 “ADDT Transportation Services” establishing transportation services to and from an ADDT facility as an optional ADDT service under the manual.
- Clarifying the requirements related to Occupational Therapy, Physical Therapy, and Speech-language Pathology services provided by an ADDT.

- Adding and clarifying required documentation related to ADDT services.
- Add other clarifying language and formatting changes.

Effective August 1, 2022, the Rules for the Division of Developmental Disabilities Early Intervention Day Treatment is being revised as follows:

- Add Section 604 “Transportation,” which outlines the operational requirements relating to transportation services provided by an EIDT, which would bring those rules into alignment with operational requirements applicable to other Department of Human Services transportation services.
- Clarify the criminal background, adult and child maltreatment, and other central registry checks that must be completed for individuals that have direct contact with EIDT clients.

Effective August 1, 2022, the Rules for the Division of Developmental Disabilities Adult Developmental Day Treatment is being revised as follows:

- Add Section 605 “Transportation,” which outlines the operational requirements relating to transportation services provided by an ADDT, which would bring those rules into alignment with operational requirements applicable to other Department of Human Services transportation services.
- Clarify the criminal background, adult and child maltreatment, and other central registry checks that must be completed for individuals that have direct contact with ADDT clients.

Effective August 1, 2022, the Arkansas Medicaid State Plan is being revised as follows:

- Attachment 3.1-B pg. 8b – changed “a DDTCS” facility to “their” facility.
- Attachment 4.19 B pg. 8aa-2 – changed “2018” to “2022.”
- Stated that mileage will be paid on a per person, per mile basis.
- Removed the condition that Medicaid can only be billed for one recipient when multiple recipients are being transported.
- Removed the statement that the State agency will review cost and mileage information biennially and adjust as necessary.

**PUBLIC COMMENT:** A public hearing was held on this rule on May 24, 2022. The public comment period expired on June 6, 2022. The agency provided a summary of the public comments it received and its responses to those comments. Due to its length, the summary is provided separately.

The proposed effective date is August 1, 2022.

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

Per the agency, the total cost to implement this rule is estimated at \$0 for the current fiscal year and \$10,169,888 for the next fiscal year (\$2,886,214 in general revenue and \$7,283,674 in federal funds). The total estimated cost to state, county, and municipal government to implement this rule is \$2,886,214 for the current fiscal year and \$2,886,214 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;*

The purpose of this rule is to implement the terms of the settlement agreement in Case No. 4:18-cv-00908-KGB, CHMS Provider's Association et al. v. Gillespie et al.

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

The changes included in this Rule implement and carry out the terms of the settlement agreement in Case No. 4:18-cv-00908-KGB, CHMS Provider's Association et al. v. Gillespie et al.

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

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

The terms of the settlement agreement in Case No. 4:18-cv-00908-KGB, CHMS Provider's Association et al. v. Gillespie et al. required DHS to engage an actuary service to determine an appropriate transportation rate for day treatment transportation services. This rule amendment implements the rate methodology and payment for EIDT and ADDT transportation services as determined by the state procured actuary service.

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

The Rule implements the EIDT and ADDT transportation rate methodology and amount as determined by the state procured actuary in compliance with the settlement agreement in Case No. 4:18-cv-00908-KGB, CHMS Provider's Association et al. v. Gillespie et al.

*(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;*

N/A

*(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*

N/A

*(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 or repealed to reduce costs while continuing to achieve the statutory objectives.*

The Agency monitors State and Federal rules and policies for opportunities to reduce and control costs.

**LEGAL AUTHORIZATION:** The Department of Human Services has the responsibility to administer assigned forms of public assistance and is specifically authorized to maintain an indigent medical care program (Arkansas Medicaid). *See* Ark. Code Ann. §§ 20-76-201(1), 20-77-107(a)(1). The Department has the authority to make rules that are necessary or desirable to carry out its public assistance duties. Ark. Code Ann. § 20-76-201(12). The Department and its divisions also have the authority to promulgate rules as necessary to conform their programs to federal law and receive federal funding. Ark. Code Ann. § 25-10-129(b).

Per the agency, this rule implements the terms of the settlement agreement in Case No. 4:18-cv-00908-KGB, CHMS Provider's Association et al. v. Gillespie et al.



## DHS Responses to Public Comments Regarding ADDT & EIDT Transportation Services

**Charlie Green, Executive Director**  
**Pathfinder, Inc.**

**Comment:** The following proposed change stating that the ADDT covered services must be provided at the facility is not related to transportation and is a substantive change from what is stated in the Medicaid Manual and the ADDT Operations Manual. Service location restrictions are currently in dispute and attempting to add this restriction in a document entitled "ADDT and EIDT Transportation Services" does not seem in the best interest of the persons served by this program. Implementation of this restriction would make client participation in Special Olympics cost prohibitive. Exempting Special Olympic activities from this restriction could solve this issue.

*214.000 Covered ADDT Services A. All covered ADDT services must be provided at the ADDT facility, or, in the case of ADDT transportation services, only involve the transportation of clients to or from the ADDT facility.*

***Additional Comment from Public hearing held remotely on May 24, 2022 at 10:30 a.m.***

The proposed change, stating the ADDT must be provided as covered services by the facility 214.000, doesn't seem to be related to transportation, and is a substantive change from what states in the Medicaid manual and the ADDT Operations manual. Service location restrictions are currently in dispute and attempting to add this restriction on a document entitled transportation services don't seem to be in the best interest of the persons served. Implementation of these restrictions put my client's participation, to include in Special Olympics activities, including practices cost prohibitive for providers. Exempting Special Olympics practices and get in and participation would, could solve this problem without costing, or adding any fiscal impact to the changes. Thank you.

**Response:** Thank you for your comment. DDS does not believe this is a substantive change. This language adds the already existing state plan requirement that EIDT and ADDT services must be performed at the licensed EIDT or ADDT clinic to the ADDT Medicaid Manual and EIDT Medicaid Manual for clarification purposes. See the Arkansas Medicaid State Plan:

- Attachment 3.1-A, Page 1i: (3) on that page titled "Early Intervention Day Treatment (EIDT) Services" in the second sentence states, "Services are provided...in [a] multi-disciplinary clinic-based setting as defined in 42 CFR § 440.90." (my italics and underline emphasis).
- Attachment 3.1-A, Page 4a: sets out requirements for Adult Developmental Day Treatment (ADDT) Services under the title "9. Clinic Services".
- Attachment 3.1-B, Page 2h: (3) on that page titled "Early Intervention Day Treatment (EIDT) Services" for the second sentence states, "Services are provided...in [a] multi-

disciplinary *clinic-based setting* as defined in 42 CFR § 440.90.” (my italics and underline emphasis)

- Attachment 3.1-B, Page 4b: sets out requirements for Adult Developmental Day Treatment (ADDT) Services under the title “9. Clinic Services”.
- Attachment 4.19-B, Page 3a: sets out Methods and Standards of Care for establishing payment rates for Adult Developmental Day Treatment (ADDT) and Early Intervention Day Treatment (EIDT) under the title “9. Clinic Services.”

**Leah Henderson, CEO**  
**Civitan Services**

**Comment:** Please consider the following comments and recommendations for changes in *ADDT / EIDT Transportation: ADDT - Pg. 38, D ii*: Change to read “Sign and date each transportation log verifying that each client WHO...” as opposed to “that each client that...”

**Response:** Thank you for your comment. Section 605(b)(3)(D) of the ADDT Rules and Section 604(b)(3)(D) of the EIDT Rules will be deleted in their entirety.

**Comment:** *ADDT - Pg 41, 2 A*: Consider changing to age 18 for attendants. In the past we have had several college students who performed this job with excellence. Under this rule they would have been disallowed employment. The job market is difficult enough now without adding unnecessary age limitations. (The same language is found in EIDT rules on top line of page 39.)

**Response:** Thank you for your comment. DDS agrees with reducing the attendant minimum age requirement from twenty-one (21) years of age to eighteen (18) years of age in Section 605(c)(2)(A)(i)(a) of the ADDT Rules and Section 604(c)(2)(A)(i)(a) of the EIDT Rules. This is also consistent with current practice and daycare licensing interpretation.

**Comment:** *ADDT – Page 42, 3 B*: “Wear or have visible AN (not and) easily readable....” Also in *EIDT on page 39, 3 A*.

**Response:** Thank you for your comment. DDS agrees with the suggested change to Section 605(c)(3)(A) of the ADDT Rules and Section 604(c)(3)(A) of the EIDT Rules.

**Comment:** *ADDT – Page 44, 3 C*: I do not feel that the State of Arkansas / Department of Human Services should be listed as an additional insure and loss payee on all vehicles. Why should DHS



benefit from an accident in which they have not been responsible for the payment of premiums? Again, this language is repeated in *EIDT on page 41. C 3*

**Response:** Thank you for your comment. The DHS Office of Chief Counsel requires this provision to provide DHS with coverage should DHS be added as a party to a lawsuit or Claims Commission filing in connection with ADDT or EIDT transportation services.

**Martha McKenzie Hill**

**Mitchell, Williams, Selig, Gates & Woodyard, P.L.L.C.**

**On behalf of the CHMS Providers' Association**

**Comment:** Please see the following comments on the proposed rules on ADDT and EIDT Transportation Services. Specifically regarding Proposed *EIDT Rule 212.200 Prescription:* For consistency within all Medicaid rules, the CHMS Providers' Association urges inclusion of a signature of a Nurse Practitioner to be added as an accepted signature on the DMS-640.

**Response:** Thank you for your comment. The revised Arkansas Code Annotated § 20-77-140(a) allows advanced practice registered nurses to enroll as primary care providers (PCP). As a result, the signature of an advanced practice registered nurse enrolled as primary care provider with the Arkansas Medicaid Program would be an accepted signature on the DMS-640 pursuant to the proposed language. Additionally, the proposed language tracks the "PCP or attending physician" language that is used on the DMS-640.

The language covering this topic in other program Medicaid Manuals will be changed to track this language whenever those manuals are next submitted through promulgation.

**Comment:** Specifically regarding Proposed *Rule 215.000 Individual Treatment Plan (ITP)* A. 3: The ECDS's original signature and the date signed must be recorded on the ITP. The CHMS Providers' Association urges that language including electronic signatures should be included.

**Response:** Thank you for your comment. Rule 215.000(A)(3) in the EIDT Medicaid Manual will be revised to delete the word "original". Since electronic signatures are already specifically deemed acceptable in Section 202.300 of the EIDT Medicaid Manual, this would permit electronic signatures on the ITP.

**Comment:** Specifically regarding the Proposed *Rule 215.00 Individual Treatment Plan (ITP):* B.1. A. *Functional*, and B. *Measurable*. The CHMS Providers' Association urges that the word "functional" and "measurable" be defined or clarified as standards.

**Response:** Thank you for your comment. Section 215.000(B)(1)(a) of both the ADDT Medicaid Manual and EIDT Medicaid Manual shall be amended to state, “Written in the form of a regular function, task, or activity the client is working toward successfully performing;”

The Merriam-Webster definition of “measurable” is “that can be measured.” Each client goal and objective on an ITP must be able to be measured. A client goal of using their fingers more effectively would not comply because the goal is not written in a way that can be measured. Whereas a client goal of holding a round ball for ten (10) seconds would be acceptable because that task is able to be measured. DDS believes the word “measurable” provides sufficient clarity as to how the goal or objective must be written.

**Comment:** Specifically regarding Proposed *Rule 305 Client Service Records: (b) (1)(C) The name, address, phone number, email address, and relationship of the client’s custodian or legal guardian;* The CHMS Providers’ Association urges that “best efforts to ascertain the information” should be the standard when attempting to ascertain a client’s email address. Many parents and guardians do not have email addresses. Inclusion of this standard has caused review issues in the past. A “best efforts” standard with regard to email addresses should be included. This is a standard employed by the Federal government in many instances.

**Response:** Thank you for your comment. Section 305(b)(1)(C) of both the EIDT Rules and the ADDT Rules will be amended to read, “Telephone number and, if available, email address;”

#### **Larry Stang, Executive Director**

#### **Developmental Disabilities Provider Association**

**Comment:** *230.000 Reimbursement:* A. A full unit of service must be rendered to bill a unit of service (Added language)

Scenario – James is in day habilitation from 11:00 to 11:30. He goes to lunch from 11:30 to 12:00. He then returns to day habilitation from 12:00 to 12:30. He then goes to occupational therapy from 12:30 until 1:15 pm. According to the language above, the provider cannot bill for the hour of day habilitation provided James. EIDT has the same added language in the Arkansas Medicaid Manual for Early Intervention Developmental Treatment under 231.000 Method of Reimbursement. This has been fought over once before and it was decided that day habilitation can be a cumulative total of day habilitation sessions during a day, as best practices encourage limiting the length of training sessions due to shortened attention spans and ability of individuals to remain focused for extended periods of time. DDPA urges DHS/DDS to remove this additional language so as not to jeopardize existing strategies for effectively delivering these type services.



**Response:** Thank you for your comment. Section 231.000(C) will be added in both the ADDT Medicaid Manual and EIDT Medicaid Manual will be revised to state, “Non-consecutive periods of service delivery over the course of single day may be aggregated when computing a unit of service.”

**Comment:** *605 Transportation:* Continue to require a monitor/supervisor designee to “sign off” on transportation logs to verify everyone is off the vehicle. When the last route of the day gets back to the center everyone else is gone for the day. An agency would have to pay an employee overtime so that person can sit and wait for the van to get back to the center so they can “sign off” that no one is on the vehicle. Some latitude needs to be allowed if this situation is occurring. It looks like regulations on disqualifications for van drivers will necessitate providers running MVR’s for all drivers annually as there are specific disqualifications that insurance companies do not flag. There is a change which requires adult maltreatment to be done every 2 (two) years instead of the current 5 (five) years.

**Response:** Thank you for your comment. Section 605(b)(3)(D) of the ADDT Rules and Section 604(b)(3)(D) of the EIDT Rules will be deleted in their entirety. Additionally, Section 202.200(F)(2) of the EIDT Medicaid Manual will be revised to state:

“2. The driver of each vehicle must sign and date the transportation log verifying that each client that received transportation services from the EIDT was safely transported to and from:

- a. The client’s home (or other scheduled pick-up or drop-off location); or
- b. The EIDT facility.”

Section 202.200(D)(2) of the ADDT Rules will be revised to state:

“2. The driver of each vehicle must sign and date the transportation log verifying that each client that received transportation services on the trip was safely transported to and from:

- a. The client’s home (or other scheduled pick-up or drop-off location); or
- b. The ADDT facility.”

**Comment:** *Page 41 – Each attendant on a vehicle transporting clients on behalf of an ADDT must meet the following requirements: A. Be at least twenty-one (21) years of age.*

ADDT’s can employ individuals who are 18 years of age to supervise clients at the ADDT center, but, according to this requirement, cannot supervise the same individuals on a van.

**Response:** Thank you for your comment. Section 604(c)(2)(A) of the ADDT Rules and Section 605(c)(2)(A) of the EIDT Rules will be amended to lower the minimum required attendant age to eighteen (18) years of age. This is also consistent with current practice and daycare licensing interpretation.

**Comment:** *Page 44 – Each commercial insurance policy must name Arkansas Department of Human Services as an additional insured and loss payee under this policy.*

Why? Additional insured are named on policies because they are a lender and hold title/deed to vehicle/property insured. This is not the case with DHS.

**Response:** Thank you for your comment. The DHS Office of Chief Counsel requires this provision to provide DHS with coverage should DHS be added as a party to a lawsuit or Claims Commission filing in connection with ADDT or EIDT transportation services.

**Comment:** *Page 47 – Any vehicle used by an ADDT to transport clients must have a camera system installed.*

DDPA requests a grace period for the purchase and installation of cameras for five (5) months (through December 31, 2022). A recent survey of DDPA members identified 586 vans that need to be equipped with camera systems. With limited installers we feel a grace period prior to the enforcement of this rule is warranted. Language limiting EIDT/ADDT activities in the community is detrimental to the overall goals of day habilitation and community living. With an emphasis on community participation and home and community-based services, this limitation would have to be removed if regulators allow some limited community-based activities in the future.

**Response:** Thank you for your comment.

**Comment:** Transportation under NET - From the presentation Director Melissa Weatherton gave September 10, 2021, brokers in NET receive \$1.50 per passenger mile + \$7 passenger pick-up fee. We understand Milliman has developed and the State is proposing a “rate change” for brokers under NET. If it is lower than they get now, then that could cause real problems since clients who rely on NET to access ADDT/EIDT already have difficulty in obtaining reliable transportation at the current rate.

**Response:** Thank you for your comment.

**Comment:** EPSDT Option – DDS/Medicaid should disclose in the EIDT manual that if a child does not qualify for therapy or nursing, they may still qualify for day habilitation in EIDT by making application under the EPSDT process DDS presented to the court. It cannot be a “real” process if it is not disclosed openly. There should at least be a link to the EPSDT section.

**Response:** Thank you for your comment. The process is set out in Section 214.200 of the Child Health Services (EPSDT) Medicaid Manual. It would be outside of standard practice and potentially confusing to include information about another Medicaid program with a completely



different set of program coverage eligibility criteria and service offerings within the EIDT Medicaid Manual.

**Comment:** “Other Appropriate Location” – Under 202.200 in ADDT and EIDT manuals it says the client must be picked up at home, the ADDT center, or “other appropriate location.” Can you please clarify “other appropriate location”?

**Response:** Thank you for your comment. Section 605(b)(3)(D) of the ADDT Rules and Section 604(b)(3)(D) of the EIDT Rules will be deleted in their entirety. Additionally, Section 202.200(F)(2) of the EIDT Medicaid Manual will be revised to state:

“2. The driver of each vehicle must sign and date the transportation log verifying that each client that received transportation services from the EIDT was safely transported to and from:

- a. The client’s home (or other scheduled pick-up or drop-off location); or
- b. The EIDT facility.”

Section 202.200(D)(2) of the ADDT Rules will be revised to state:

“2. The driver of each vehicle must sign and date the transportation log verifying that each client that received transportation services on the trip was safely transported to and from:

- a. The client’s home (or other scheduled pick-up or drop-off location); or
- b. The ADDT facility.”

**Comment:** *Page 47 – Each vehicle used to transport a client must prominently display: A. ADDT name. B. ADDT contact information.*

Vehicles are interchanged among programs from time to time due to servicing requirements, repairs, and use of vehicles in multiple programs. It makes much more sense to have the name of the organization and contact information to be on the vans, and not specific programs. These comments should also apply to any similar EIDT regulations and rules that mirror those found in the ADDT regulations and rules.

**Response:** Thank you for your comment. Section 604(e)(5) of the EIDT Rules and Section 605(e)(5) of the ADDT Rules will be amended to state:

“(5) Each vehicle used to transport a client must prominently display:

- (A) Provider name; and
- (B) Provider contact information.”

**Amy Denton, Pediatrics Plus**

**Bess Ginty, Kids for the Future**

**Mary Katherine Hardin, Stars Academy**

**Bill Sims, Grow Learning Centre**

**Justin Allen, Wright Lindsey Jennings**

**Comment:** *101.(c)(2) DPSQA may perform regulatory functions regarding the monitoring of childcare centers that are licensed as Early Intervention Day Treatment programs on behalf of DCCECE.*

A sentence needs to be added that the DPSQA staff member must be adequately trained in or have experience with early childhood classrooms before monitoring on behalf of DCCECE

**Response:** Thank you for your comment.

**Comment:** *103.(23) "Serious injury" means any injury to a client that: May cause death; May result in substantial permanent impairment; Requires hospitalization; or Requires the attention of: (i) An emergency medical technician; (ii) A paramedic; or (iii) A doctor.*

(iii) is too broad...we may send a family to check on something minor or rule out something...just because a doctor is needed, doesn't make it serious. If the injury requires a doctor, then we would be sending them to the emergency room. Can this read "emergency room physician?"

**Response:** Thank you for your comment. Section 103(23)(D)(iii) of the EIDT Rules and Section 103(15)(D)(iii) of the ADDT Rules will be changed to read "An emergency room."

**Comment:** *201.(a)(1) An EIDT must have an EIDT license issued by the Division of Provider Services and Quality Assurance, pursuant to these standards, for the location at which the EIDT will provide services. 201.(b)(1) An EIDT license is specific to a single location.*

Location needs to be defined as being at a different address

**Response:** Thank you for your comment. Section 201(a)(1) and Sections 202(b)(1) through (3) of both the EIDT Rules and ADDT Rules will be amended to replace the word "location" with the word "address" wherever used.

**Comment:** *202. (a)(1)(E) Documentation of all required Child Maltreatment Central Registry checks and Adult and Long-term Care Facility Resident Maltreatment Registry checks for employees and operators;*

Please clarify if this is a new title for this check, or is this two separate checks? The check we currently complete is called the Arkansas Adult Maltreatment Central Registry.



**Response:** Thank you for your comment. It is just a single check. Arkansas Code Annotated § 12-12-1716 refers to the registry as the Adult and Long-term Care Facility Resident Maltreatment Central Registry, so that is the term that will be used throughout in the ADDT Rules and EIDT Rules. For that reason, Section 302(c)(3) of the ADDT Rules will be changed to use the term “Adult and Long-term Care Facility Resident Maltreatment Central Registry” for consistency purposes.

**Comment:** *302.(c)(5) An EIDT must conduct an Arkansas Sex Offender Central Registry search on each employee prior to hiring and at least every two (2) years thereafter.*

Clarify if this is a form we need to complete or just review the registry and print that the person is not on it.

**Response:** Thank you for your comment. Printing the page from the registry showing a search was conducted and the employee or applicant searched was not on the registry is one method of complying with Section 302(c)(5). However, nothing would prohibit a provider from creating a form that could be completed with information sufficient to demonstrate a registry search was performed and the employee or applicant searched was not on the registry that would also comply with Section 302(c)(5).

**Comment:** *302.(f)(2) The documentation required for Employee staffing includes without limitation employee: (A) Names; (B) Job title or credential; (C) Shift role; (D) Shift days; and (E) Shift times.*

Is an offer letter or documentation with days/hours of employment sufficient here? Most EIDT staff work set hours/days, not in shifts.

**Response:** Thank you for your comment. Section 302(f)(2) of both the EIDT Rules and ADDT Rules will be amended to state:

“(2) The documentation required for Employee staffing includes without limitation employee:  
(A) Names;  
(B) Job title or credential;  
(C) Job duties; and  
(D) Typical working days and hours.”

**Comment:** *604.(b)(1)(B) Notwithstanding the foregoing, a three to one (3:1) minimum client to attendant ratio is required for clients three (3) years of age or younger, on any vehicle used by an EIDT for transportation.*

This ratio is intended for infants and toddlers. This language requires this ratio up to 4 years old. It needs to be consistent with the CCL manual which reads: “In a vehicle transporting infants and

toddlers, the driver may be counted in the staff to child ratio but shall not be the only adult. A ratio of one (1) adult for each of the three (3) infants and toddlers shall be maintained.”

**Response:** Thank you for your comment. Section 604(b)(1)(B) of the EIDT Rules will be amended to state:

“(B)

(i) Notwithstanding the foregoing, a three to one (3:1) minimum client to attendant ratio is required for clients under three (3) years of age on any vehicle used by an EIDT for transportation.

(ii) The driver may be counted towards the minimum client to attendant ratio for these purposes, but under no circumstances can the driver be the only adult on a vehicle transporting one (1) or more clients under three (3) years of age.”

**Comment:** *604.(b)(4)(B) Any vehicle, with a maximum capacity of more than seven (7) passengers and one (1) driver, that is used by an EIDT to transport clients, must have the driver or an attendant complete a walk-through inspection of each seat on the vehicle in one (1) of the following ways upon arrival at the final unloading destination:*

These are similar to CCL but they are not good. We do not do it this way at all. We do a triple check that starts with the attendant checking all seats and engaging the seatbelts/straps on every seat on the van, followed by someone from inside the building and this person deactivates the alarm, and then the driver checks the van. So, I’m not sure if we should try and change the wording or I’ll just keep doing what I do and if they tell me it isn’t what we need to be doing, go from there.

**Response:** Thank you for your comment. The requirements track those in the childcare licensing regulations.

**Comment:** *604.(d)(3)(C) Each commercial insurance policy must name the Arkansas Department of Human Services as an additional insured and loss payee under the policy.*

This should not be necessary

**Response:** Thank you for your comment. The DHS Office of Chief Counsel requires this provision to provide DHS with coverage should DHS be added as a party to a lawsuit or Claims Commission filing in connection with ADDT or EIDT transportation services.

**Comment:** *604.(d)(3)(E) Each vehicle used to transport a client must have the following safety equipment on board: (A) Fire extinguisher (B) First-aid kit (C) Reflective triangles (D) Flashlight; and (E) Reflective safety.*



\*\*This is incorrectly cited. This should be 604.(d)(5)(E)?? And, this needs to be clarified – reflective safety, what?

**Response:** Thank you for your comment. The formatting and numbering of EIDT Rules Section 604 was thrown off as part of the markup. Additionally, the word “vest” was accidentally omitted from the subsection mentioned in the comment. (E) should state “Reflective safety vest.” The formatting will be corrected, and the word “vest” inserted in what will be EIDT Rules Section 604(e)(1)(E) after the words “Reflective safety.”

**Comment:** *(B) The safety alarm device must: (i) Always be in working order and properly maintained; (ii) Installed so that the driver is required to walk to the very back of the vehicle to reach the switch that deactivates the alarm; (iii) Be installed in accordance with the device manufacturer’s recommendations; and (iv) Sound the alarm for at least one (1) minute after the activation of the safety alarm device.*

This one also seems to be incorrectly cited. Can (B) (ii) read: “Driver or designee” It is not always the driver that deactivates that alarm. It could be a designated person that checks the van which is someone from inside the building as a second check. Never does the driver or rider deactivate the alarm.

**Response:** Thank you for your comment. The formatting and numbering of Rule 604 was thrown off as part of the markup and will be corrected. The Section referred to in the comment will be Section 604(e)(3)(B)(ii). This language tracks that used in Section 1301(14) of the childcare licensing regulations.

**Comment:** *701. Incidents to be Reported. (a) An EIDT must report all alleged, suspected, observed, or reported occurrences of any of the following events:*

This language needs to be clarified. The incident report needs to be completed when the incident occurs when the client is in the care of/under the supervision of the EIDT center, otherwise technically we would need to report 701.(a)(6) and (7) every day for every client when they go home. And, we cannot accurately fill out a report if we did not witness the incident. We can call the hotline for any incident that is reported to us that we do not witness for anything that needs to be investigated.

**Response:** Thank you for your comment. The introductory sentence to Section 701(a) of the EIDT Rules will be amended to state, “An EIDT must report all alleged, suspected, observed, or reported occurrences of any of the following events while a client is in the care or under the supervision of an EIDT:”. The introductory sentence to Section 701(a) of the ADDT Rules will be amended to state, “An ADDT must report all alleged, suspected, observed, or reported

occurrences of any of the following events while a client is in the care or under the supervision of an ADDT:"

**Comment:** 702. *Reporting Requirements. (a) An EIDT must: (1) Submit all reports of the following events, within one (1) hour of the event: (A) Death of a client; (B) Serious injury to a client; or (C) Any incident that an EIDT should reasonably know might be of interest to the public or the media. (2) Submit reports of all other incidents within forty-eight (48) hours of the event.*

This language needs to be clarified. We need the same language here where we report incidents that occur when a client is in the care of/under the supervision of the EIDT center. We cannot accurately fill out a form for a report if we did not witness an incident. We can call the hotline for any incident that is reported to us that we do not witness for anything that needs to be investigated.

**Response:** Thank you for your comment. The introductory sentence to Section 701(a) of the EIDT Rules will be amended to state, "An EIDT must report all alleged, suspected, observed, or reported occurrences of any of the following events while a client is in the care or under the supervision of an EIDT:". The introductory sentence to Section 701(a) of the ADDT Rules will be amended to state, "An ADDT must report all alleged, suspected, observed, or reported occurrences of any of the following events while a client is in the care or under the supervision of an ADDT:".

**Comment:** 202.200 *EIDT Documentation Requirements D. EIDT providers must maintain in each client's service record the following documentation for all day habilitative and nursing services performed pursuant to Sections 214.120 and 214.140 of this manual: 1. The specific services furnished each day; 2. The date and beginning and ending time for each of the services performed each day; 3. Name(s) and credential(s) of the person(s) providing each service each day; The relationship of each day's services to the goals and objectives in the client's ITP; and \**

#4 has created some problem in audits due to the interpretation. Can we take out the word "relationship" and state "the goals and/or objectives from the client's ITP that the day habilitation services are addressing.

\*We need to clarify #4 and #5

**Response:** Thank you for your comment. EIDT Medicaid Manual Section 202.200(D)(4) and ADDT Medicaid Manual Section 202.200(B)(4) will both be amended to state, "Which client ITP goal(s) and objective(s) the day's services are intended to address; and"



**Comment:** 212.200 Prescription. A. Covered EIDT services require a written prescription signed and dated by the client's primary care provider (PCP) or attending licensed physician. B. The prescription must identify the client's medical needs that covered EIDT services can address.\*

We are concerned about how this might be interpreted, or if a physician fills out the DMS-640 incorrectly. Can it just read the prescription must identify the client's "diagnosis." The DMS-640 is completed by the physician and the language on the form reads something like diagnosis related to the service prescribed. We believe this language should be consistent to the language on the DMS-640 form.

\*How does the script list medical needs - should we change to diagnoses, etc? Need to clear up

**Response:** Thank you for your comment. Section 212.200(A) of the EIDT Medicaid Manual will be amended to begin "EIDT core services require a written...". Section 212.200(B) of the EIDT Medicaid Manual will be deleted in its entirety. Section 212.200(A) of the ADDT Medicaid Manual will be amended to begin, "All covered ADDT services other than ADDT Transportation services under Section 214.230 require a written..." Section 212.200(B) of the ADDT Medicaid Manual will be deleted in its entirety.

**Comment:** 212.400 Comprehensive Developmental Evaluation for Clients yet to Reach School Age. D. Each evaluator must document that they were qualified to administer each instrument and that the test protocols for each instrument used were followed.\*

Will a simple clause on the bottom of the developmental eval that states the evaluator is qualified and the protocols are followed, work?...then the evaluator signs the entire evaluation?

\*How do we document the qualification of the evaluator?

**Response:** Thank you for your comment. The qualifications required to administer an evaluation instrument vary from instrument to instrument. A statement demonstrating how the evaluator met the administering qualifications of the evaluation instrument that was used, along with a separate statement that the evaluator followed all required protocols when administering the evaluation instrument would be an example of one way to comply with the requirements of EIDT Medicaid Manual Section 212.400(D).

**Comment:** 212.500 Qualifying Diagnosis for School Age Clients

Since Institutional Level of Care has been added for a reason a child can be waived from a screen, can it also be a qualifier for a child for the summer program. There are children that are tested and meet institutional level of care that don't fall under one of the listed diagnoses, but still could benefit from the program.

**Response:** Thank you for your comment. There is no plan to change current EIDT qualifying diagnosis criteria for school age clients.

**Comment:** 214.140 *Nursing Services*

Would DDS provide EIDT programs with a billing code for the nursing evaluation as they do for the other core service evaluations? Nurses are expensive and a great deal of their time is spent evaluating clients and writing up reports to send to doctors to prescribe nursing services.

**Response:** Thank you for your comment.





ARKANSAS  
DEPARTMENT OF  
**HUMAN  
SERVICES**

**Division of Developmental Disabilities Services**  
P.O. Box 1437, Slot N501, Little Rock, AR 72203-1437  
P: 501.682.8665 F: 501.682.8380 TDD: 501.682.1332

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May 9, 2022

Mrs. Rebecca Miller-Rice  
Administrative Rules Review Section  
Arkansas Legislative Council  
Bureau of Legislative Research  
#1 Capitol, 5<sup>th</sup> Floor  
Little Rock, AR 72201

Dear Mrs. Rebecca Miller-Rice:

**Re: ADDT and EIDT Transportation Services**

Please arrange for this rule to be reviewed by the ALC-Administrative Rules Subcommittee. If you have any questions or need additional information, please contact Mac Golden, Office of Rules Promulgation at 501-320-6383 or by emailing [Mac.E.Golden@dhs.arkansas.gov](mailto:Mac.E.Golden@dhs.arkansas.gov).

Sincerely,

A handwritten signature in black ink, appearing to read 'Melissa Weatherton'.

Melissa Weatherton  
Director

MW: lt

Attachments

**QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS  
WITH THE ARKANSAS LEGISLATIVE COUNCIL**

DEPARTMENT/AGENCY Department of Human Services  
DIVISION Division of Developmental Disabilities Services  
DIVISION DIRECTOR Melissa Weatherton  
CONTACT PERSON Mac Golden  
ADDRESS P. O. Box 1437, Slot S295 Little Rock, AR 72203-1437  
PHONE NO. 501-320-6383 FAX NO. 501-404-4619 E-MAIL Mac.E.Golden@dhs.arkansas.gov  
NAME OF PRESENTER AT COMMITTEE MEETING Melissa Weatherton  
PRESENTER E-MAIL Melissa.weatherton@dhs.arkansas.gov

**INSTRUCTIONS**

- A. Please make copies of this form for future use.
- B. Please answer each question **completely** using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

**Rebecca Miller-Rice  
Administrative Rules Review Section  
Arkansas Legislative Council  
Bureau of Legislative Research  
One Capitol Mall, 5<sup>th</sup> Floor  
Little Rock, AR 72201**

\*\*\*\*\*

- 1. What is the short title of this rule? ADDT and EIDT Transportation Services
- 2. What is the subject of the proposed rule? ADDT and EIDT transportation service requirements and reimbursement methodology and rate.
- 3. Is this rule required to comply with a federal statute, rule, or regulation? Yes  No   
If yes, please provide the federal rule, regulation, and/or statute citation. \_\_\_\_\_
- 4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes  No   
If yes, what is the effective date of the emergency rule? \_\_\_\_\_

When does the emergency rule expire? \_\_\_\_\_

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes  No



5. Is this a new rule? Yes  No   
If yes, please provide a brief summary explaining the regulation. \_\_\_\_\_

Does this repeal an existing rule? Yes  No   
If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does. \_\_\_\_\_

Is this an amendment to an existing rule? Yes  No   
If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

See attached.

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. Arkansas Code §§ 20-76-201, 20-77-107, and 25-10-129

7. What is the purpose of this proposed rule? Why is it necessary? See Attached.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).

<https://humanservices.arkansas.gov/do-business-with-dhs/proposed-rules/>

9. Will a public hearing be held on this proposed rule? Yes  No   
If yes, please complete the following:

Date: May 24<sup>th</sup>, 2022

Time: 10:30 a.m.

Zoom meeting  
<https://us02web.zoom.us/j/84442142354>

Place: Webinar ID: 844 4214 2354

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

June 06, 2022

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

August 1, 2022

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice. See Attached.

13. Please provide proof of filing the rule with the Secretary of State as required pursuant to Ark. Code Ann. § 25-15-204(e). See Attached.

14. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known. Occupational and Physical therapist and therapist assistants, and speech-language pathologist and speech-language pathologist assistants.

## NOTICE OF RULE MAKING

The Director of the Division of Developmental Disabilities Services of the Department of Human Services announces for a public comment period of thirty (30) calendar days a notice of rulemaking for the following proposed rule under one or more of the following chapters, subchapters, or sections of the Arkansas Code: §§ 20-48-201 to -212, 20-48-1101 to -1108, 20-76-201, 20-77-107, 25-10-102, and 25-10-129.

### **Effective July 1, 2022:**

The Director of the Division of Developmental Disabilities Services (DDS) amends the Early Intervention Day Treatment Medicaid Provider Manual (EIDT Manual), Adult Developmental Day Treatment Medicaid Provider Manual (ADDT Manual), Transportation Medicaid Provider Manual (Transportation Manual), Rules for the Division of Developmental Disabilities Early Intervention Day Treatment (EIDT Rules), and Rules for the Division of Developmental Disabilities Adult Developmental Day Treatment (ADDT Rules) to remove EIDT and ADDT transportation services from the Transportation Medicaid Provider Manual and include EIDT and ADDT transportation services as an optional service within the EIDT Manual and ADDT Manual, respectively, and, to update the reimbursement methodology and rate for EIDT and ADDT transportation services. Also, the EIDT Rules and ADDT Rules are being updated to establish the operational requirements relating to ADDT and EIDT transportation services, and to clarify the criminal background, adult and child maltreatment, and other central registry checks that must be completed for individuals that have direct contact with ADDT or EIDT clients. The Arkansas Medicaid State Plan is being updated to align with current ADDT and EIDT transportation reimbursement and operational requirements.

DDS is updating EIDT and ADDT transportation services to use a per person, per mile rate methodology with an actuarially determined per mile reimbursement rate. EIDT and ADDT transportation providers will be reimbursed at the lesser of the billed charges or the maximum Title XIX (Medicaid) charge allowed. The projected annual cost of this change beginning SFY 2023 is \$10,169,888.00, of which, the federal share is \$7,283,674.00.

The proposed rule is available for review at the Department of Human Services (DHS) Office of Rules Promulgation, 2nd floor Donaghey Plaza South Building, 7th and Main Streets, P. O. Box 1437, Slot S295, Little Rock, Arkansas 72203-1437. You may also access and download the proposed rule at <https://humanservices.arkansas.gov/do-business-with-dhs/proposed-rules/>. Public comments must be submitted in writing at the above address or at the following email address: [ORP@dhs.arkansas.gov](mailto:ORP@dhs.arkansas.gov). This notice also shall be posted at the local office of the Division of County Operations (DCO) of DHS in every county in the state.

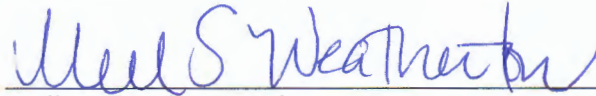
All public comments must be received by DHS no later than June 6th, 2022. Please note that public comments submitted in response to this notice are considered public documents. A public comment, including the commenter's name and any personal information contained within the public comment, will be made publicly available and may be seen by various people.

A public hearing by remote access only through a Zoom webinar will be held on May 24th, 2022, at 10:30 a.m. and public comments may be submitted at the hearing. Individuals can access this public hearing at <https://us02web.zoom.us/j/84442142354>. The webinar ID is 844 4214 2354. If you would like the electronic link, "one-tap" mobile information, listening only dial-in phone numbers, or international phone numbers, please contact ORP at [ORP@dhs.arkansas.gov](mailto:ORP@dhs.arkansas.gov).



If you need this material in a different format, such as large print, contact the Office of Rules Promulgation at 501-396-6428.

The Arkansas Department of Human Services is in compliance with Titles VI and VII of the Civil Rights Act and is operated, managed and delivers services without regard to religion, disability, political affiliation, veteran status, age, race, color or national origin. 4502035775



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Melissa Weatherton, Director  
Division of Developmental Disabilities Services

**From:** [legalads@arkansasonline.com](mailto:legalads@arkansasonline.com)  
**To:** [Lisa Teague](#)  
**Subject:** Re: Full Run AD (r189)  
**Date:** Friday, May 6, 2022 7:36:57 AM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image012.png](#)  
[image013.png](#)  
[image014.png](#)  
[image015.png](#)

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[EXTERNAL SENDER]

Will run Sun 5/8, Mon 5/9, and Tues 5/10.

Thank you.

Gregg Sterne, Legal Advertising  
Arkansas Democrat-Gazette

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**From:** "Lisa Teague" <Lisa.Teague@dhs.arkansas.gov>  
**To:** legalads@arkansasonline.com  
**Cc:** "Jack Tiner" <jack.tiner@dhs.arkansas.gov>, "Mac Golden" <Mac.E.Golden@dhs.arkansas.gov>, "Simone Blagg (DHS)" <Simone.A.Blagg@dhs.arkansas.gov>, "Elaine Stafford" <elaine.stafford@dhs.arkansas.gov>, "Thomas Tarpley" <Thomas.Tarpley@dhs.arkansas.gov>  
**Sent:** Thursday, May 5, 2022 2:59:32 PM  
**Subject:** Full Run AD (r189)

Please run the attached Notice of Public Hearing in the *Arkansas Democrat-Gazette* on the following days:

- Sunday, May 8<sup>th</sup>, 2022
- Monday, May 9<sup>th</sup>, 2022
- Tuesday, May 10<sup>th</sup>, 2022

I am aware that the print version will only be provided to all counties on Sundays.

**Invoice to: AR Dept of Human Services**  
**P.O. Box 1437**  
**Slot S535**  
**Little Rock, AR 72203**  
**ATTN: Elaine Stafford**



**From:** [Lisa Teague](#)  
**To:** "[register@sos.arkansas.gov](mailto:register@sos.arkansas.gov)"  
**Cc:** [Jack Tiner](#); [Mac Golden](#); [Simone Blagg \(DHS\)](#); [Daisy Reyes](#); [Lakeya Gipson](#); [Debbie Lee](#)  
**Subject:** DHS/DDS - Proposed Filing - ADDT and EIDT Transportation Services (r189)  
**Date:** Monday, May 9, 2022 8:06:00 AM  
**Attachments:** [SOS Initial Filing - ADDT and EIDT transportaion services.pdf](#)  
[image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)  
[image009.png](#)  
[image012.png](#)  
[image013.png](#)  
[image014.png](#)  
[image015.png](#)

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Good morning,

Please see the attached proposed rule for posting. The public notice will run in the Arkansas Democrat Gazette May 8<sup>th</sup>, 9<sup>th</sup>, and 10<sup>th</sup>. The 30 day comment period will end 06/06/22.

Thank you,



Lisa Teague

[Office of Rules Promulgation](#)

DHS Program Administrator

Phone: 501-396-6428

700 Main St./Slot S295

Little Rock, AR 72203

[lisa.teague@dhs.arkansas.gov](mailto:lisa.teague@dhs.arkansas.gov)

[humanservices.arkansas.gov](http://humanservices.arkansas.gov)



□□□

**This email may contain sensitive or confidential information.**

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**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT** Department of Human Services

**DIVISION** Division of Developmental Disabilities Services

**PERSON COMPLETING THIS STATEMENT** Jason Callan

**TELEPHONE** (501) 320-6540 **FAX** \_\_\_\_\_ **EMAIL:** Jason.callan@dhs.arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

**SHORT TITLE OF THIS RULE** ADDT and EIDT Transportation Services

- 1. Does this proposed, amended, or repealed rule have a financial impact?    Yes     No
- 2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?    Yes     No
- 3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered?    Yes     No

If an agency is proposing a more costly rule, please state the following:

(a) How the additional benefits of the more costly rule justify its additional cost;

\_\_\_\_\_

(b) The reason for adoption of the more costly rule;

\_\_\_\_\_

(c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;

\_\_\_\_\_

(d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.

\_\_\_\_\_

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

(a) What is the cost to implement the federal rule or regulation?

<b><u>Current Fiscal Year</u></b>		<b><u>Next Fiscal Year</u></b>	
General Revenue	<u>\$0.00</u>	General Revenue	<u>\$0.00.</u>
Federal Funds	<u>\$0.00</u>	Federal Funds	<u>\$0.00</u>
Cash Funds	_____	Cash Funds	_____
Special Revenue	_____	Special Revenue	_____
Other (Identify)	_____	Other (Identify)	_____
<b>Total</b>	<u><b>\$0.00</b></u>	<b>Total</b>	<u><b>\$0.00</b></u>



(b) What is the additional cost of the state rule?

**Current Fiscal Year**

General Revenue	<u>\$0</u>
Federal Funds	<u>\$0</u>
Cash Funds	<u></u>
Special Revenue	<u></u>
Other (Identify)	<u></u>
Total	<u>\$0</u>

**Next Fiscal Year**

General Revenue	<u>\$2,886,214</u>
Federal Funds	<u>\$7,283,674</u>
Cash Funds	<u></u>
Special Revenue	<u></u>
Other (Identify)	<u></u>
Total	<u>\$10,169,888</u>

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

**Current Fiscal Year**

\$ 0.00

**Next Fiscal Year**

\$ 0.00

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

**Current Fiscal Year**

\$ \$2,886,214

**Next Fiscal Year**

\$ \$2,886,214

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes  No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

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

**The purpose of this Rule is to implement the terms of the settlement agreement in Case No. 4:18-cv-00908-KGB, CHMS Provider's Association et al v. Gillespie et al..**

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

**The changes included in this Rule implement and carry out the terms of the settlement agreement in Case No. 4:18-cv-00908-KGB, CHMS Provider's Association et al v. Gillespie et al..**

(3) a description of the factual evidence that:

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

**The terms of the settlement agreement in Case No. 4:18-cv-00908-KGB, CHMS Provider's Association et al v. Gillespie et al. required DHS to engage an actuary service to determine an appropriate transportation rate for day treatment transportation services. This rule amendment implements the rate methodology and payment for EIDT and ADDT transportation services as determined by the state procured actuary service.**

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

**The Rule implements the EIDT and ADDT transportation rate methodology and amount as determined by the state procured actuary in compliance with the settlement agreement in Case No. 4:18-cv-00908-KGB, CHMS Provider's Association et al v. Gillespie et al.**

(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;

**N/A**

(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

**N/A**

(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 or repealed to reduce costs while continuing to achieve the statutory objectives.

**The Agency monitors State and Federal rules and policies for opportunities to reduce and control costs.**

## Statement of Necessity and Rule Summary

### Statement of Necessity

The Early Intervention Day Treatment Medicaid Provider Manual (EIDT Manual), Adult Developmental Day Treatment Medicaid Provider Manual (ADDT Manual), Transportation Medicaid Provider Manual (Transportation Manual), Rules for the Division of Developmental Disabilities Early Intervention Day Treatment (EIDT Rules), and Rules for the Division of Developmental Disabilities Adult Developmental Day Treatment (ADDT Rules) are being updated to remove EIDT and ADDT transportation services from the Transportation Medicaid Provider Manual and include EIDT and ADDT transportation services as an optional service within the EIDT Manual and ADDT Manual, respectively, and, to update the reimbursement methodology and rate for EIDT and ADDT transportation services. The EIDT Rules and ADDT Rules are being updated to establish the operational requirements relating to ADDT and EIDT transportation services, which would bring those rules into alignment with operational requirements applicable to other Department of Human Services funded transportation services. The Arkansas Medicaid State Plan is being updated to align with current ADDT and EIDT transportation reimbursement and operational requirements.

### Rule Summary:

Effective August 1, 2022, the Transportation Medicaid Provider Manual is being revised to remove Sections 260.000 “Early Intervention Day Treatment (EIDT) and Adult Developmental Day Treatment (ADDT) Transportation” and 270.000 “Program Coverage” from the manual in its entirety.

Effective August 1, 2022, the Early Intervention Day Treatment Medicaid Provider Manual is being revised as follows:

- Add Section 214.230 “EIDT Transportation Services” establishing transportation services to and from an EIDT facility as an optional EIDT service under the manual.
- Adding and clarifying required documentation related to EIDT services.
- Add other clarifying language and formatting changes.

Effective August 1, 2022, the Adult Developmental Day Treatment Medicaid Provider Manual is being revised as follows:

- Add Section 214.230 “ADDT Transportation Services” establishing transportation services to and from an ADDT facility as an optional ADDT service under the manual.
- Clarifying the requirements related to Occupational Therapy, Physical Therapy, and Speech-language Pathology services provided by an ADDT.
- Adding and clarifying required documentation related to ADDT services.
- Add other clarifying language and formatting changes.



Effective August 1, 2022, the Rules for the Division of Developmental Disabilities Early Intervention Day Treatment is being revised as follows:

- Add Section 604 “Transportation”, which outlines the operational requirements relating to transportation services provided by an EIDT, which would bring those rules into alignment with operational requirements applicable to other Department of Human Services transportation services.
- Clarify the criminal background, adult and child maltreatment, and other central registry checks that must be completed for individuals that have direct contact with EIDT clients.

Effective August 1, 2022, the Rules for the Division of Developmental Disabilities Adult Developmental Day Treatment is being revised as follows:

- Add Section 605 “Transportation”, which outlines the operational requirements relating to transportation services provided by an ADDT, which would bring those rules into alignment with operational requirements applicable to other Department of Human Services transportation services.
- Clarify the criminal background, adult and child maltreatment, and other central registry checks that must be completed for individuals that have direct contact with ADDT clients.

Effective July 1, 2022, the Arkansas Medicaid State Plan is being revised as follows:

- Attachment 3.1-B pg. 8b – changed “a DDTCS” facility to “their” facility
- Attachment 4.19 B pg. 8aa-2–
  - a) changed “2018” to “2022”
  - b) stated that mileage will be paid on a per person, per mile basis
  - c) removed the condition that Medicaid can only be billed for one recipient when multiple recipients are being transported
  - d) removed the statement that the State agency will review cost and mileage information biennially and adjust as necessary.

## TOC required

**201.000 Arkansas Medicaid Participation Requirements for Adult Developmental Day Treatment (ADDT) Providers** **4-1-218-1-22**

A provider must meet the following participation requirements ~~in order~~ to qualify as an Adult Developmental Day Treatment (ADDT) provider under ~~the Arkansas Medicaid Program~~:

~~A. Complete the Provider Participation and enrollment requirements contained within section 140.000 of the Arkansas Medicaid provider manual.~~

~~BA.~~ Obtain an Adult Developmental Day Treatment license issued by the Arkansas ~~Department of Human Services, Division of Provider Services and Quality Assurance, (DPSQA), and~~

~~B. Complete the provider participation and enrollment requirements contained within Section 140.000 of this manual~~

ADDT providers may furnish and claim reimbursement for covered ADDT services subject to all requirements and restrictions set forth and referenced in ~~the Arkansas Medicaid provider this~~ manual.

**201.100 ADDT Providers in Arkansas and Bordering States** **4-1-218-1-22**

ADDT providers in Arkansas and within fifty (50) miles of the state line in the six (6) bordering states (Louisiana, Mississippi, Missouri, Oklahoma, Tennessee and Texas) may be enrolled as ADDT providers if they meet all Arkansas Medicaid ~~Program~~ participation requirements.

**202.100 Documentation Requirements for All Medicaid Providers** **4-1-218-1-22**

See Section 1410.000 of ~~the Arkansas Medicaid provider this~~ manual for the documentation that is required for all Arkansas Medicaid ~~Program~~ providers.

**202.200 ADDT Documentation Requirements** **4-1-218-1-22**

A. ADDT providers must maintain ~~in each client's service record medical records for each beneficiary that include~~ sufficient, contemporaneous written documentation demonstrating the medical necessity of all covered ADDT services ~~provided~~ included on a client's individual treatment plan (ITP).

~~B.~~ ADDT providers must maintain in each client's service record the following documentation for all day habilitative and nursing services performed pursuant to Sections 214.120 and 214.220 of this manual:

~~B.~~ Service documentation for each beneficiary must include the following items:

1. The specific ~~covered ADDT~~ services furnished each day;
2. The date and beginning and ending time for each of the ~~covered ADDT~~ services performed each day;
3. Name(s) and credential(s) of the person(s) providing each ~~covered ADDT~~ service each day;

4. ~~The relationship of each day's covered ADDT services to the goals and objectives described in the beneficiary's Individual Treatment Plan. Which client ITP goal(s) and objective(s) the day's services are intended to address; and;~~
5. Weekly or more frequent progress notes, signed or initialed by the person(s) providing the ~~covered ADDT service(s)~~, describing ~~each the beneficiary's client's~~ status with respect to ~~his or her ITP goals and objectives for that service.~~

C. ADDT providers must maintain in the client's service record the documentation specified in Section 204.200 of Section II of the Occupational Therapy, Physical Therapy, and Speech-Language Therapy Pathology Services Medicaid manual for all occupational therapy, physical therapy, and speech-language pathology services performed pursuant to Section 214.210 of this manual.

D. ADDT providers must maintain the following documentation related to ADDT transportation services performed pursuant to Section 214.230 of this manual:

1. A separate transportation log must be maintained for each trip that a vehicle is used by an ADDT to transport clients that lists:
  - a. Each transported client's:
    - i. Name;
    - ii. Age;
    - iii. Date of birth;
    - iv. Medicaid ID number;
    - v. Exact address of pick up and drop off; and
    - vi. Exact time of pick up and drop off.
  - b. The driver of the vehicle;
  - c. Each attendant or any other persons transported; and
  - d. Odometer reading for vehicle at a trip's:
    - i. Initial pick up; and
    - ii. Final drop off.
2. The driver of each vehicle must sign and date each transportation log verifying that each client that received transportation services from the ADDT was safely transported to and from:
  - a. The client's home (or other scheduled pick-up or drop-off location); or
  - b. The ADDT facility.
3. An ADDT must maintain all transportation logs for five (5) years from the date of transportation.

## 202.300 Electronic Signatures

4-1-218-1-  
22

~~The Arkansas Medicaid Program~~ will accept electronic signatures in compliance with Arkansas Code § 25-31-103 et seq.

## 211.000 Introduction

4-1-218-1-  
22

~~The Arkansas Medicaid Program assists eligible individuals to obtain medical care in accordance with the guidelines specified in Section I of the Arkansas Medicaid provider manual. The Arkansas Medicaid Program will reimburse licensed and enrolled ADDT providers for medically necessary covered ADDT services when such services are provided to an eligible beneficiary client pursuant to an Individual Treatment Plan by a licensed ADDT meeting the in compliance with this requirements of the Arkansas Medicaid provider manual.~~



**212.100 Age Requirement****4-1-248-1-  
22**

A ~~beneficiary-client~~ must meet one of the following age criteria to be enrolled in an ADDT program and receive covered ADDT services through the Arkansas Medicaid Program:

- A. The ~~beneficiary-client~~ is at least twenty-one (21) years of age; or
- B. The ~~beneficiary-client~~ is between eighteen (18) and twenty-one (21) years of age and has a high school diploma or a certificate of completion.

**212.200 Prescription****4-1-248-1-  
22**

~~The Arkansas Medicaid Program will reimburse enrolled providers for covered ADDT services only when the beneficiary's physician has determined that covered ADDT services are medically necessary.~~

- A. ~~All covered ADDT services other than ADDT Transportation services under Section 214.230 require a written prescription signed and dated by the client's primary care provider (PCP) or attending licensed physician.~~
- ~~B. The physician prescription must identify the beneficiary's medical needs that covered ADDT services can address.~~
- B. ~~The physician must issue a written prescription for ADDT services dated and signed with his or her signature. The A~~ prescription for covered ADDT services is valid for one (1) year, unless a shorter period is specified. The prescription must be renewed at least once a year for covered ADDT services to continue.
- C. When prescribing ADDT services, the client's PCP or attending licensed physician shall not make any self-referrals in violation of state or federal law.

**212.300 Qualifying Diagnosis****4-1-248-1-  
22**

~~A.~~ A ~~beneficiary-client~~ must have an documented qualifying intellectual or developmental disability diagnosis that originated before the age of twenty-two (22) and is expected to continue indefinitely ~~in order to be eligible to enroll in an ADDT program and~~ receive covered ADDT services.

~~AB.~~ A qualifying intellectual or developmental disability diagnosis is any one ~~or more~~ of the following:

1. A diagnosis of Cerebral Palsy established by the results of a medical examination performed by ~~a~~ the client's primary care provider (PCP) or attending licensed physician;
2. A diagnosis of Spina Bifida established by the results of a medical examination performed by ~~a~~ the client's PCP or attending licensed physician;
3. A diagnosis of Down Syndrome established by the results of a medical examination performed by ~~a~~ the client's PCP or attending licensed physician;
4. A diagnosis of Epilepsy established by the results of a medical examination performed by ~~a~~ the client's primary care provider (PCP) or attending licensed physician;
5. A diagnosis of Autism Spectrum Disorder established by the results of ~~a team~~ evaluations performed by which must include a licensed at least two (2) of the

~~following three (3) licensed professionals either individually or as a team:~~ physician, ~~licensed~~ psychologist, and ~~licensed~~ speech pathologist; or

6. A diagnosis of ~~h~~intellectual and developmental disability or other similar condition found to be closely related to intellectual or developmental disability because it results in an impairment of general intellectual functioning or adaptive behavior similar to that of a person with an intellectual or developmental disability or requires treatment and services similar to that required for a person with an intellectual or developmental disability, based on the results of a team evaluation performed by athe client's PCP or attending licensed physician and a licensed psychologist.

BC. The ~~intellectual or developmental disability qualifying diagnosis~~ must constitute a substantial handicap to the ~~beneficiary client's~~ ability to function without appropriate support services in areas such as daily living and social activities, medical services, physical therapy, speech-language ~~therapy pathology~~, occupational therapy, job training, and employment services.

### 213.000 Non-Covered Services

4-1-248-1-  
22

~~The~~ Arkansas Medicaid ~~Program~~ will only reimburse for those covered ADDT services listed in Sections 214.000. Additionally, ~~the~~ Arkansas Medicaid ~~Program~~ will only reimburse for ADDT services when such services are provided to a Medicaid beneficiary client meeting the eligibility requirements in Section 212.000 by an ADDT meeting the requirements of this Mmanual.

### 214.000 Covered ADDT Services

4-1-248-1-  
22

Covered ADDT services are either core services or optional services. ~~It is presumed that no more than eight (8) combined hours of core and optional ADDT services per day is medically necessary.~~

- A. All covered ADDT services must be provided at the ADDT facility, or, in the case of ADDT transportation services, only involve the transportation of clients to or from the ADDT facility.
- B. All covered ADDT services must be provided by individuals employed or contracted with the ADDT provider.

### 214.100 ADDT Core Services

4-1-248-1-  
22

ADDT core services are those covered ADDT services that a provider must offer to its enrolled ~~beneficiary clients in order~~ to be licensed as an ADDT provider.

### 214.110 ADDT Evaluation and Treatment Planning Services

4-1-248-1-  
22

- A. An ADDT provider may be reimbursed ~~by the Arkansas Medicaid Program~~ for medically necessary ADDT evaluation and treatment planning services. ADDT evaluation and treatment planning services are a component of the process of determining a beneficiary client's eligibility for ADDT services and developing the ~~beneficiary client's~~ hindividualized Ttreatment Pplan (ITP).
- B. Medical necessity for ADDT evaluation and treatment planning services is demonstrated established by a ~~developmental disability qualifying~~ diagnosis ~~by the beneficiary's physician that designates the need for ADDT evaluation and treatment planning services pursuant to Section 212.300.~~

~~C. Medically necessary~~ ADDT evaluation and treatment planning services are covered once per calendar year and reimbursed on a per unit basis. The billable unit includes time spent administering an evaluation, scoring an evaluation, ~~and~~ writing an evaluation report, ~~and along with time spent~~ developing the ITP. ~~View or print the billable ADDT evaluation and treatment planning codes.~~

#### 214.120 Day Habilitative Services

~~4-1-248-1-22~~

- A. An ADDT provider may be reimbursed ~~by the Arkansas Medicaid Program~~ for medically necessary day habilitative services.
- B. Medical necessity for day habilitative services is established by a ~~developmental disability qualifying diagnosis under Section 212.300~~ by the beneficiary's physician that designates the need for day habilitative services.
- C. ADDT day habilitative services include the following:
1. Instruction in areas of cognition, communication, social and emotional, motor or adaptive (including self-care) skills;
  2. Instruction to reinforce skills learned and practiced ~~in as part of~~ occupational therapy, physical therapy, or speech-language ~~therapy~~ pathology services; or;
  3. Prevocational services that prepare a beneficiary-client for employment.
    - a. Prevocational services may not be used to provide job specific skill and task instruction, or address explicit employment objectives, but may:
      - i. Include habilitative goals such as compliance, attending, task completion, problem solving, and safety; and
      - ii. Be provided only to persons-clients who are not expected to be able to join the general work force or to participate in a transitional sheltered workshop within one (1) year (excluding supported employment programs).
    - b. A beneficiary-client's compensation for prevocational services must be less than fifty percent (50%) of the minimum wage for the training to qualify as prevocational services.
    - c. A beneficiary-client receiving prevocational services must have documentation in his or her file demonstrating such services are not available under a program funded under Section 110 of the Rehabilitation Act of 1973, as amended, or the Individuals with Disabilities Education Act (IDEA) of 1997.
- ~~BD.~~ ADDT day habilitative services are reimbursed on a per unit basis. No more than five (5) hours of ADDT day habilitative services may be billed per day without an extension of benefits. The unit of service calculation does not include time spent in transit to and from the ~~beneficiary's place of residence to the~~ ADDT facility ~~and from the ADDT facility back to the beneficiary's place of residence.~~ View or print the billable ADDT day habilitative ADDT services procedure codes and descriptions.

#### 214.200 ADDT Optional Services

~~4-1-248-1-22~~

ADDT optional services are those covered ADDT services that a licensed ADDT provider may, but is not required to, offer to its ~~enrolled beneficiaries in order to be licensed as an ADDT clients.~~

#### 214.210 Occupational Therapy, Physical Therapy, and Speech-Language Evaluation and Therapy Pathology Services

~~4-1-248-1-22~~



- A. An ADDT provider may be reimbursed for medically necessary occupational therapy, physical therapy, and speech-language pathology evaluation and treatment therapyplanning services.
1. A qualifying diagnosis pursuant to Section 212.300 of this manual alone does not establish the medical necessity of occupational therapy, physical therapy, or speech-language pathology evaluation and treatment planning services.
  2. The medical necessity for occupational therapy, physical therapy, and speech-language pathology evaluation and treatment planning services is demonstrated by a written referral to evaluate that is signed by the client's primary care provider (PCP) or attending physician.
  3. All of occupational therapy, physical therapy, or speech-language evaluation and treatment planning services must be performed by an enrolled Arkansas Medicaid provider that is licensed in the applicable service discipline.
  4. An individual treatment plan that includes occupational therapy, physical therapy, or speech-language pathology services must be signed by one of the following:
    - a. The licensed practitioner that conducted the evaluation and treatment planning for the service discipline; or
    - b. The prescribing PCP or licensed attending physician.
  5. Occupational therapy, physical therapy, and speech-language pathology evaluation and treatment planning services are reimbursed on a per unit basis.
    - a. The billable unit includes time spent for clinical observation, administering and scoring a standardized evaluation, administering supplemental tests and tools, writing an evaluation report and comprehensive assessment, and developing the individual treatment plan.
    - b. **View or print the billable Occupational Therapy, Physical Therapy, and Speech-language Pathology evaluation and treatment planning services procedure codes and descriptions.**
- B. An ADDT provider may be reimbursed for medically necessary occupational therapy, physical therapy, and speech-language pathology treatment services.
1. Occupational therapy, physical therapy, and speech-language pathology evaluation and therapytreatment services must be medically necessary in accordance with ~~require a written prescription meeting the requirements of Section 212.300 of the Medicaid Provider Manual for Occupational Therapy, Physical Therapy, and Speech-Language Therapy-Pathology Services, Section II Medicaid manual.~~ ~~A developmental disability diagnosis alone does not demonstrate the medical necessity of occupational, physical, or speech-language therapy.~~
  2. A prescription for occupational therapy, physical therapy, or speech-language pathology services is valid for the shorter of the length of time specified on the prescription or one (1) year.
  3. Occupational therapy, physical therapy, and speech-language pathology treatment services must be medically necessary as demonstrated by the results of a comprehensive assessment.
    - a. The comprehensive assessment must meet the requirements of Sections 212.400, 212.410, and 212.420 of Section II of the Occupational Therapy, Physical Therapy, and Speech-Language Pathology Services Medicaid manual.
    - b. A comprehensive assessment used to establish a client's eligibility for occupational therapy, physical therapy, and speech-language pathology treatment services must include the administration of a standardized evaluation meeting the requirements of Sections 212.500, 212.510, and

212.520 of Section II of the Occupational Therapy, Physical Therapy, and Speech-Language Pathology Services Medicaid manual.

4. Occupational therapy, physical therapy, and speech-language pathology treatment services are reimbursed on a per unit basis and each discipline is covered up to six (6) units per week without authorization.

a. See Section 216.000 of Section II of the Occupational Therapy, Physical Therapy, and Speech-Language Pathology Services Medicaid manual regarding requests for an extension of benefits to be reimbursed for more than six (6) units of services in a single discipline per week.

b. **View or print the billable occupational therapy, physical therapy, and speech-language pathology treatment procedure codes and descriptions.**

~~BC.~~ An ADDT provider must contract with or employ its qualified occupational therapy, physical therapy, and speech-language therapy-pathology practitioners.

1. The ADDT provider must identify the qualified individual licensed therapy practitioner as the performing provider on the claim when the ADDT bills billing the Arkansas Medicaid Program for the therapy service.

2. The qualified therapy licensed practitioner must be an enrolled with the Arkansas Medicaid Program provider and the criteria for group providers requirements of therapy services would apply (See Section 201.400-200 of the Section II of the Occupational Therapy, Physical Therapy, and Speech-Language Therapy-Pathology Services Medicaid manual) must be met.

~~C.~~ All occupational, physical, and speech-language therapy services furnished by an ADDT must be provided and billed in accordance with the Arkansas Medicaid Provider Manual for Occupational, Physical, and Speech Language Therapy Services, Section II. **View or print the billable occupational, physical, and speech-language therapy ADDT codes.**

## 214.220

## Nursing Services

4-1-248-1-  
22

A. An ADDT provider may be reimbursed ~~by the Arkansas Medicaid Program~~ for medically necessary nursing services.

1. Medical necessity for nursing services is established by a medical diagnosis and a comprehensive nursing evaluation approved by the client's primary care provider (PCP) or attending licensed physician that who designates prescribed the need for ADDT services.

2. The nursing evaluation must specify the required nursing services, and

3. The client's PCP or attending licensed physician must prescribe the specific number of medically necessary nursing service units per day.

B. ADDT nursing services must be:

1. performed by a licensed Registered Nnurse or Licensed Practical Nnurse; and

2. must be within the performing nurse's scope of practice as set forth by the Arkansas State Board of Nursing.

C. For the purposes of this manual, ADDT nursing services are defined as the following, or similar, activities:

1. Assisting ventilator-dependent beneficiaries/clients;
2. Tracheostomy suctioning and care;
3. Feeding tube administration, care, and maintenance;
4. Catheterizations;

5. Breathing treatments;
  6. Monitoring of vital statistics, including diabetes sugar checks, insulin, blood draws, and pulse ox;
  7. Cecostomy ~~or ileostomy~~-tube administration, care, and maintenance;
  - ~~8. Ileostomy tube administration, care, and maintenance;~~ and
  - ~~89. Administration of medication; however, ADDT nursing services are not considered medically necessary if when the administration of medication is not the client's only medically necessary nursing service needed by a beneficiary.~~
- D. ADDT nursing services must be prior authorized and are reimbursed on a per unit basis. Time spent taking a ~~beneficiaryclient's~~ temperature and performing other acts of standard first aid is not included in the units of an ADDT nursing service calculation. [View or print the billable ADDT nursing services procedure codes and descriptions.](#)

**214.230 ADDT Transportation Services****8-1-22**

- A. An ADDT provider may be reimbursed for providing its clients with transportation services to and from its ADDT facility.
- B. ADDT transportation services are reimbursable if each of the following is met:
  1. The transportation is provided by a licensed ADDT provider;
  2. The client transported is receiving ADDT services from the ADDT that is providing the ADDT transportation service; and
  3. The transportation is provided only to or from the ADDT provider's facility.
- C. ADDT transportation services are reimbursed on a per person, per mile basis. When transporting more than one client, an ADDT must make all reasonable efforts to minimize the total number of miles for each client each trip. For example, when transporting multiple clients to an ADDT facility the client with a pick-up location farthest away from the ADDT facility should be picked up first, and the client with the pick-up location closest to the ADDT facility should be picked up last. **View or print the billable ADDT transportation services procedure codes and description.**

**215.000 Individual Treatment Plan (ITP)****4-1-248-1-22**

- A. Each ~~beneficiaryclient~~ ~~enrolled in an~~ ~~receiving covered~~ ADDT, ~~services~~ must have an individual treatment plan (ITP). ~~This consists of~~
  1. An ITP is a written, individualized plan to improve or maintain the ~~beneficiaryclient's~~ condition based upon evaluation of the ~~beneficiaryclient~~.
  2. An ITP must be reevaluated and updated at least annually.
- B. Each ITP must at a minimum contain:
  - A1. A written description, of the ~~beneficiary's treatment goals and~~ objectives ~~for each covered EIDT service~~; Each client goal must be:
    - a. Written in the form of a regular function, task, or activity the client is working toward successfully performing;
    - b. Measurable; and
    - a-c. Specific to each individual client.
  - B2. The ~~beneficiary's treatment regimen, which includes the~~ specific medical and remedial services, therapies, and activities that will be provided ~~used to achieve the~~



- ~~beneficiary's treatment objectives~~ and how those services, therapies, and activities are designed to achieve the treatment client's goals and objectives;
- ~~E3.~~ Any evaluations or other documentation that supports the medical necessity of the covered ADDT services, therapies, or activities specified in the treatment regimen ITP;
- ~~D4.~~ A schedule of service delivery that includes the frequency and duration of each type of covered ADDT service, therapy, activity session, or encounter;
- ~~E5.~~ The job title(s) or credential(s) of the personnel that will furnish each ~~service, therapy, or activity~~ covered ADDT service;
- ~~F6.~~ ~~A tentative~~ The schedule for completing re-evaluations of the beneficiary client's condition and updating the ITP.

## 220.000 PRIOR AUTHORIZATION

4-1-218-1-  
22

Prior authorization is required for ~~the Arkansas Medicaid Program~~ an ADDT provider to be reimbursed for:

- A. Over five (5) hours of ~~ADDT~~ day habilitative services per in a single day;
- B. Over ninety (90) minutes per week of any of the following services:
1. Occupational therapy;
  2. Physical therapy; or
  3. Speech-language therapy/pathology;
- C. All ADDT nursing services; and,
- D. Over eight (8) total combined hours of ~~covered ADDT~~ the following services in a single day:
1. Day habilitative;
  2. Occupational therapy;
  3. Physical therapy;
  4. Speech-language pathology; and
  5. Nursing.

## 230.000 REIMBURSEMENT AND RECOUPMENT

4-1-218-1-  
22

### 231.000 Method of Reimbursement

4-1-218-1-  
22

Except as otherwise provided in this manual, covered ADDT services use "fee schedule" reimbursement methodology. Under ~~the~~ fee schedule methodology, reimbursement is made at the lower of the billed charge for the procedure service or the maximum allowable reimbursement for the procedure service under ~~the~~ Arkansas Medicaid ~~Program~~. The maximum allowable reimbursement for a procedure service is the same for all ADDT providers.

- A. A full unit of service must be rendered to bill a unit of service.
- B. Partial units of service may not be rounded up and are not reimbursable.
- C. Non-consecutive periods of service delivery over the course of a single day may be aggregated when computing a unit of service.

## 231.100 Fee Schedules

4-1-248-1-  
22

- A. ~~The~~ Arkansas Medicaid ~~Program~~ provides fee schedules on the ~~Arkansas Medicaid DMS~~ website. [View or print the ADDT fee schedule.](#)
- B. Fee schedules do not address coverage limitations or special instructions applied by ~~the~~ Arkansas Medicaid ~~Program~~ before final payment is determined.
- C. Fee schedules and procedure codes do not guarantee payment, coverage, or the reimbursement amount. Fee schedule and procedure code information may be changed or updated at any time ~~to correct a discrepancy or error.~~

MARKY-UP

**TOC required****201.000 Arkansas Medicaid Participation Requirements for Adult Developmental Day Treatment (ADDT) Providers 8-1-22**

A provider must meet the following participation requirements to qualify as an Adult Developmental Day Treatment (ADDT) provider under Arkansas Medicaid:

- A. Obtain an Adult Developmental Day Treatment license issued by the Arkansas Department of Human Services, Division of Provider Services and Quality Assurance, and
- B. Complete the provider participation and enrollment requirements contained within Section 140.000 of this manual

ADDT providers may furnish and claim reimbursement for covered ADDT services subject to all requirements and restrictions set forth and referenced in this manual.

**201.100 ADDT Providers in Arkansas and Bordering States 8-1-22**

ADDT providers in Arkansas and within fifty (50) miles of the state line in the six (6) bordering states (Louisiana, Mississippi, Missouri, Oklahoma, Tennessee and Texas) may be enrolled as ADDT providers if they meet all Arkansas Medicaid participation requirements.

**202.100 Documentation Requirements for All Medicaid Providers 8-1-22**

See Section 140.000 of this manual for the documentation that is required for all Arkansas Medicaid providers.

**202.200 ADDT Documentation Requirements 8-1-22**

- A. ADDT providers must maintain in each client's service record sufficient, contemporaneous written documentation demonstrating the medical necessity of all covered ADDT services included on a client's individual treatment plan (ITP).
- B. ADDT providers must maintain in each client's service record the following documentation for all day habilitative and nursing services performed pursuant to Sections 214.120 and 214.220 of this manual:
  1. The specific services furnished each day;
  2. The date and beginning and ending time for each of the services performed each day;
  3. Name(s) and credential(s) of the person(s) providing each service each day;
  4. Which client ITP goal(s) and objective(s) the day's services are intended to address; and
  5. Weekly or more frequent progress notes signed or initialed by the person(s) providing the service(s) describing the client's status with respect to ITP goals and objectives for that service.
- C. ADDT providers must maintain in the client's service record the documentation specified in Section 204.200 of Section II of the Occupational Therapy, Physical Therapy, and Speech-Language Therapy Pathology Services Medicaid manual for all occupational therapy, physical therapy, and speech-language pathology services performed pursuant to Section 214.210 of this manual.



- D. ADDT providers must maintain the following documentation related to ADDT transportation services performed pursuant to Section 214.230 of this manual:
1. A separate transportation log must be maintained for each trip that a vehicle is used by an ADDT to transport clients that lists:
    - a. Each transported client's:
      - i. Name;
      - ii. Age;
      - iii. Date of birth;
      - iv. Medicaid ID number;
      - v. Exact address of pick up and drop off; and
      - vi. Exact time of pick up and drop off.
    - b. The driver of the vehicle;
    - c. Each attendant or any other persons transported; and
    - d. Odometer reading for vehicle at a trip's:
      - i. Initial pick up; and
      - ii. Final drop off.
  2. The driver of each vehicle must sign and date each transportation log verifying that each client that received transportation services from the ADDT was safely transported to and from:
    - a. The client's home (or other scheduled pick-up or drop-off location); or
    - b. The ADDT facility.
  3. An ADDT must maintain all transportation logs for five (5) years from the date of transportation.

**202.300 Electronic Signatures 8-1-22**

Arkansas Medicaid will accept electronic signatures in compliance with Arkansas Code § 25-31-103 et seq.

**211.000 Introduction 8-1-22**

Arkansas Medicaid will reimburse licensed and enrolled ADDT providers for medically necessary covered ADDT services provided to an eligible client pursuant to an individual treatment plan in compliance with this manual.

**212.100 Age Requirement 8-1-22**

A client must meet one of the following age criteria to be enrolled in an ADDT program and receive covered ADDT services through the Arkansas Medicaid Program:

- A. The client is at least twenty-one (21) years of age; or
- B. The client is between eighteen (18) and twenty-one (21) years of age and has a high school diploma or a certificate of completion.

**212.200 Prescription 8-1-22**

- A. All covered ADDT services other than ADDT Transportation services under Section 214.230 require a written prescription signed and dated by the client's primary care provider (PCP) or attending licensed physician.

- B. A prescription for covered ADDT services is valid for one (1) year, unless a shorter period is specified. The prescription must be renewed at least once a year for covered ADDT services to continue.
- C. When prescribing ADDT services, the client's PCP or attending licensed physician shall not make any self-referrals in violation of state or federal law.

**212.300****Qualifying Diagnosis****8-1-22**

- A. A client must have a documented qualifying intellectual or developmental disability diagnosis that originated before the age of twenty-two (22) and is expected to continue indefinitely to receive covered ADDT services.
- B. A qualifying intellectual or developmental disability diagnosis is any one of the following:
  - 1. A diagnosis of Cerebral Palsy established by the results of a medical examination performed by the client's primary care provider (PCP) or attending licensed physician;
  - 2. A diagnosis of Spina Bifida established by the results of a medical examination performed by the client's PCP or attending licensed physician;
  - 3. A diagnosis of Down Syndrome established by the results of a medical examination performed by the client's PCP or attending licensed physician;
  - 4. A diagnosis of Epilepsy established by the results of a medical examination performed by the client's primary care provider (PCP) or attending licensed physician;
  - 5. A diagnosis of Autism Spectrum Disorder established by the results of evaluations performed by at least two (2) of the following three (3) licensed professionals either individually or as a team: physician, psychologist, and speech pathologist; or
  - 6. A diagnosis of intellectual and developmental disability or other similar condition found to be closely related to intellectual or developmental disability because it results in an impairment of general intellectual functioning or adaptive behavior similar to that of a person with an intellectual or developmental disability or requires treatment and services similar to that required for a person with an intellectual or developmental disability, based on the results of a team evaluation performed by the client's PCP or attending licensed physician and a licensed psychologist.
- C. The qualifying diagnosis must constitute a substantial handicap to the client's ability to function without appropriate support services in areas such as daily living and social activities, medical services, physical therapy, speech-language pathology, occupational therapy, job training, and employment services.

**213.000****Non-Covered Services****8-1-22**

Arkansas Medicaid will only reimburse for those covered ADDT services listed in Sections 214.000. Additionally, Arkansas Medicaid will only reimburse for ADDT services when such services are provided to a client meeting the eligibility requirements in Section 212.000 by an ADDT meeting the requirements of this manual.

**214.000****Covered ADDT Services****8-1-22**

Covered ADDT services are either core services or optional services.

- A. All covered ADDT services must be provided at the ADDT facility, or, in the case of ADDT transportation services, only involve the transportation of clients to or from the ADDT facility.

- B. All covered ADDT services must be provided by individuals employed or contracted with the ADDT provider.

**214.100 ADDT Core Services 8-1-22**

ADDT core services are those covered ADDT services that a provider must offer to its enrolled clients to be licensed as an ADDT provider.

**214.110 ADDT Evaluation and Treatment Planning Services 8-1-22**

- A. An ADDT provider may be reimbursed for medically necessary ADDT evaluation and treatment planning services. ADDT evaluation and treatment planning services are a component of the process of determining a client's eligibility for ADDT services and developing the client's individualized treatment plan (ITP).
- B. Medical necessity for ADDT evaluation and treatment planning services is established by a qualifying diagnosis pursuant to Section 212.300.
- C. ADDT evaluation and treatment planning services are covered once per calendar year and reimbursed on a per unit basis. The billable unit includes time spent administering an evaluation, scoring an evaluation, writing an evaluation report, and developing the ITP.

**214.120 Day Habilitative Services 8-1-22**

- A. An ADDT provider may be reimbursed for medically necessary day habilitative services.
- B. Medical necessity for day habilitative services is established by a qualifying diagnosis under Section 212.300.
- C. ADDT day habilitative services include the following:
  - 1. Instruction in areas of cognition, communication, social and emotional, motor or adaptive (including self-care) skills;
  - 2. Instruction to reinforce skills learned and practiced as part of occupational therapy, physical therapy, or speech-language pathology services; or
  - 3. Prevocational services that prepare a client for employment.
    - a. Prevocational services may not be used to provide job specific skill and task instruction, or address explicit employment objectives, but may:
      - i. Include habilitative goals such as compliance, attending, task completion, problem solving, and safety; and
      - ii. Be provided only to clients who are not expected to be able to join the general work force or to participate in a transitional sheltered workshop within one (1) year (excluding supported employment programs).
    - b. A client's compensation for prevocational services must be less than fifty percent (50%) of the minimum wage for the training to qualify as prevocational services.
    - c. A client receiving prevocational services must have documentation in his or her file demonstrating such services are not available under a program funded under Section 110 of the Rehabilitation Act of 1973, as amended, or the Individuals with Disabilities Education Act (IDEA) of 1997.
- D. ADDT day habilitative services are reimbursed on a per unit basis. No more than five (5) hours of ADDT day habilitative services may be billed per day without an extension of benefits. The unit of service calculation does not include time spent in transit to and from the ADDT facility. [View or print the billable ADDT day habilitative services procedure codes and descriptions.](#)



**214.200      ADDT Optional Services      8-1-22**

ADDT optional services are those covered ADDT services that a licensed ADDT provider may, but is not required to, offer to its clients.

**214.210      Occupational Therapy, Physical Therapy, and Speech-Language Pathology Services      8-1-22**

- A. An ADDT provider may be reimbursed for medically necessary occupational therapy, physical therapy, and speech-language pathology evaluation and treatment planning services.
1. A qualifying diagnosis pursuant to Section 212.300 of this manual alone does not establish the medical necessity of occupational therapy, physical therapy, or speech-language pathology evaluation and treatment planning services.
  2. The medical necessity for occupational therapy, physical therapy, and speech-language pathology evaluation and treatment planning services is demonstrated by a written referral to evaluate that is signed by the client's primary care provider (PCP) or attending physician.
  3. All of occupational therapy, physical therapy, or speech-language evaluation and treatment planning services must be performed by an enrolled Arkansas Medicaid provider that is licensed in the applicable service discipline.
  4. An individual treatment plan that includes occupational therapy, physical therapy, or speech-language pathology services must be signed by one of the following:
    - a. The licensed practitioner that conducted the evaluation and treatment planning for the service discipline; or
    - b. The prescribing PCP or licensed attending physician.
  5. Occupational therapy, physical therapy, and speech-language pathology evaluation and treatment planning services are reimbursed on a per unit basis.
    - a. The billable unit includes time spent for clinical observation, administering and scoring a standardized evaluation, administering supplemental tests and tools, writing an evaluation report and comprehensive assessment, and developing the individual treatment plan.
    - b. [View or print the billable Occupational Therapy, Physical Therapy, and Speech-language Pathology evaluation and treatment planning services procedure codes and descriptions.](#)
- B. An ADDT provider may be reimbursed for medically necessary occupational therapy, physical therapy, and speech-language pathology treatment services.
1. Occupational therapy, physical therapy, and speech-language pathology treatment services require a written prescription meeting the requirements of Section 212.300 of the Occupational Therapy, Physical Therapy, and Speech-Language Pathology Services Medicaid manual.
  2. A prescription for occupational therapy, physical therapy, or speech-language pathology services is valid for the shorter of the length of time specified on the prescription or one (1) year.
  3. Occupational therapy, physical therapy, and speech-language pathology treatment services must be medically necessary as demonstrated by the results of a comprehensive assessment.
    - a. The comprehensive assessment must meet the requirements of Sections 212.400, 212.410, and 212.420 of Section II of the Occupational Therapy,

- Physical Therapy, and Speech-Language Pathology Services Medicaid manual.
- b. A comprehensive assessment used to establish a client's eligibility for occupational therapy, physical therapy, and speech-language pathology treatment services must include the administration of a standardized evaluation meeting the requirements of Sections 212.500, 212.510, and 212.520 of Section II of the Occupational Therapy, Physical Therapy, and Speech-Language Pathology Services Medicaid manual.
4. Occupational therapy, physical therapy, and speech-language pathology treatment services are reimbursed on a per unit basis and each discipline is covered up to six (6) units per week without authorization.
    - a. See Section 216.000 of Section II of the Occupational Therapy, Physical Therapy, and Speech-Language Pathology Services Medicaid manual regarding requests for an extension of benefits to be reimbursed for more than six (6) units of services in a single discipline per week.
    - b. [View or print the billable occupational therapy, physical therapy, and speech-language pathology treatment procedure codes and descriptions.](#)
- C. An ADDT provider must contract with or employ its qualified occupational therapy, physical therapy, and speech-language pathology practitioners.
1. The ADDT provider must identify the licensed practitioner as the performing provider on the claim when billing for the service.
  2. The licensed practitioner must be an enrolled Arkansas Medicaid provider and the group provider requirements of Section 201.200 of Section II of the Occupational Therapy, Physical Therapy, and Speech-Language Pathology Services Medicaid manual must be met.

**214.220****Nursing Services****8-1-22**

- A. An ADDT provider may be reimbursed for medically necessary nursing services.
1. Medical necessity for nursing services is established by a medical diagnosis and a comprehensive nursing evaluation approved by the client's primary care provider (PCP) or attending licensed physician who prescribed the ADDT services.
  2. The nursing evaluation must specify the required nursing services.
  3. The client's PCP or attending licensed physician must prescribe the specific number of medically necessary nursing service units per day.
- B. ADDT nursing services must be:
1. Performed by a licensed registered nurse or licensed practical nurse; and
  2. Within the performing nurse's scope of practice as set forth by the Arkansas State Board of Nursing.
- C. For the purposes of this manual, ADDT nursing services are defined as the following, or similar, activities:
1. Assisting ventilator dependent clients;
  2. Tracheostomy suctioning and care;
  3. Feeding tube administration, care, and maintenance;
  4. Catheterizations;
  5. Breathing treatments;
  6. Monitoring of vital statistics, including diabetes sugar checks, insulin, blood draws, and pulse ox;

7. Cecostomy tube administration, care, and maintenance;
  8. Ileostomy tube administration, care, and maintenance; and
  9. Administration of medication when the administration of medication is not the client's only medically necessary nursing service.
- D. ADDT nursing services must be prior authorized and are reimbursed on a per unit basis. Time spent taking a client's temperature and performing other acts of standard first aid is not included in the units of an ADDT nursing service calculation. [View or print the billable ADDT nursing services procedure codes and descriptions.](#)

**214.230 ADDT Transportation Services**

8-1-22

- A. An ADDT provider may be reimbursed for providing its clients with transportation services to and from its ADDT facility.
- B. ADDT transportation services are reimbursable if each of the following is met:
  1. The transportation is provided by a licensed ADDT provider;
  2. The client transported is receiving ADDT services from the ADDT that is providing the ADDT transportation service; and
  3. The transportation is provided only to or from the ADDT provider's facility.
- C. ADDT transportation services are reimbursed on a per person, per mile basis. When transporting more than one client, an ADDT must make all reasonable efforts to minimize the total number of miles for each client each trip. For example, when transporting multiple clients to an ADDT facility the client with a pick-up location farthest away from the ADDT facility should be picked up first, and the client with the pick-up location closest to the ADDT facility should be picked up last. [View or print the billable ADDT transportation services procedure codes and description.](#)

**215.000 Individual Treatment Plan (ITP)**

8-1-22

- A. Each client receiving covered ADDT services must have an individual treatment plan (ITP).
  1. An ITP is a written, individualized plan to improve or maintain the client's condition based upon evaluation of the client.
  2. An ITP must be reevaluated and updated at least annually.
- B. Each ITP must at a minimum contain:
  1. A written description of the goals and objectives for each covered EIDT service. Each client goal and objective must be:
    - a. Written in the form of a regular function, task, or activity the client is working toward successfully performing;
    - b. Measurable; and
    - c. Specific to each individual client.
  2. The specific medical and remedial services, therapies, and activities that will be provided and how those services, therapies, and activities are designed to achieve the client's goals and objectives;
  3. Any evaluations or other documentation that supports the medical necessity of the covered ADDT services specified in the ITP;
  4. A schedule of service delivery that includes the frequency and duration of each type of covered ADDT service;

5. The job title(s) or credential(s) of the personnel that will furnish each covered ADDT service;
6. The schedule for completing re-evaluations of the client's condition and updating the ITP.

**220.000 PRIOR AUTHORIZATION**

8-1-22

Prior authorization is required for an ADDT provider to be reimbursed for:

- A. Over five (5) hours of day habilitative services in a single day;
- B. Over ninety (90) minutes per week of any of the following services:
  1. Occupational therapy;
  2. Physical therapy; or
  3. Speech-language pathology;
- C. All ADDT nursing services; and
- D. Over eight (8) total combined hours of the following services in a single day:
  1. Day habilitative;
  2. Occupational therapy;
  3. Physical therapy;
  4. Speech-language pathology; and
  5. Nursing.

**230.000 REIMBURSEMENT**

8-1-22

**231.000 Method of Reimbursement**

8-1-22

Except as otherwise provided in this manual, covered ADDT services use fee schedule reimbursement methodology. Under fee schedule methodology, reimbursement is made at the lower of the billed charge for the service or the maximum allowable reimbursement for the service under Arkansas Medicaid. The maximum allowable reimbursement for a service is the same for all ADDT providers.

- A. A full unit of service must be rendered to bill a unit of service.
- B. Partial units of service may not be rounded up and are not reimbursable.
- C. Non-consecutive periods of service delivery over the course of a single day may be aggregated when computing a unit of service.

**231.100 Fee Schedules**

8-1-22

- A. Arkansas Medicaid provides fee schedules on the DMS website. [View or print the ADDT fee schedule.](#)
- B. Fee schedules do not address coverage limitations or special instructions applied by Arkansas Medicaid before final payment is determined.
- C. Fee schedules and procedure codes do not guarantee payment, coverage, or the reimbursement amount. Fee schedule and procedure code information may be changed or updated at any time.



**TOC required****201.000 Arkansas Medicaid Participation Requirements for Early Intervention Day Treatment (EIDT) Providers 4-1-248-1-22**

A provider must meet the following participation requirements ~~in order~~ to qualify as an Early Intervention Day Treatment (EIDT) provider under ~~the~~ Arkansas Medicaid ~~Program~~:

- ~~A. Complete the Provider Participation and enrollment requirements contained within Section 140.000 of the Arkansas Medicaid provider manual;~~
- ~~BA.~~ Obtain an Early Intervention Day Treatment license issued by the Arkansas Department of Human Services, Division of Provider Services and Quality Assurance (DPSQA); ~~and~~,
- ~~CB.~~ Complete the provider participation and enrollment requirements contained within Section 140.000 of this manual; and
- ~~C.~~ Except as provided in Section 201.200 of this manual, obtain a ~~C~~child ~~c~~Care ~~F~~facility license issued by DPSQA.

EIDT providers may furnish and claim reimbursement for covered EIDT services subject to all requirements and restrictions set forth and referenced in this manual.

**201.100 EIDT Providers in Arkansas and Bordering States 4-1-248-1-22**

EIDT providers in Arkansas and within fifty (50) miles of the state line in the six (6) bordering states (Louisiana, Mississippi, Missouri, Oklahoma, Tennessee and Texas) may be enrolled as EIDT providers if they meet all Arkansas Medicaid ~~Program~~ participation requirements.

**201.200 Academic Medical Center ~~Program~~ Specializing in Development Pediatrics 4-1-248-1-22**

- A. An academic medical center ~~program~~ specializing in developmental pediatrics is eligible for reimbursement as an EIDT provider if it ~~meets the following requirements~~:
1. Is located in Arkansas;
  2. Provides multi-disciplinary diagnostic and evaluation services to children throughout Arkansas;
  3. Specializes in developmental pediatrics;
  4. Serves as a large, multi-referral program, ~~as well as a~~ and referral source for non-academic medical center EIDT ~~programs~~ ~~viders~~ within ~~the state~~ Arkansas;
  5. ~~Is staffed to p~~ Provides training ~~of~~ to pediatric residents and other professionals in the multi-disciplinary diagnostics and evaluation of children with developmental disabilities and other special health care needs; ~~and~~;
  6. Does not provide treatment services to children.
- B. An EIDT provider operating as an academic medical center is not required to be a licensed ~~C~~child ~~c~~Care ~~F~~facility.
- C. An EIDT provider that operates as ~~-an~~ academic medical center may bill diagnostic and evaluation codes outside of those used by a non-academic medical center EIDT program, but may not bill EIDT treatment codes. [View or print the academic medical center billable EIDT procedure codes and descriptions.](#)

**202.100 Documentation Requirements for All Medicaid Providers****4-1-218-1-  
22**

See Section 140.000 of ~~the Arkansas Medicaid provider~~this manual for the documentation that is required for all Arkansas Medicaid ~~Program~~ providers.

**202.200 EIDT ~~Record~~ Documentation Requirements****4-1-218-1-  
22**

- A. EIDT providers must maintain ~~in each client's service record~~medical records for each beneficiary that include sufficient, contemporaneous written documentation demonstrating the medical necessity of all ~~covered~~ EIDT services ~~provided~~ included on a client's individual treatment plan (ITP).
- B. The ~~service~~ record of a ~~client beneficiary~~ who has yet to meet the age requirement for Kindergarten enrollment or who has filed a signed Kindergarten waiver must include:
1. Either:
    - a. ~~The results of the A~~ developmental screen ~~performed administered~~ by the Department of Human Services' ~~contracted~~ ~~Third-Party~~ ~~Vendor~~, the results of which indicate the client should be referred for further evaluation; or
    - b. ~~an approved waiver of that A~~ developmental screen waiver (See Section 212.300); and
  2. The results of an annual comprehensive developmental evaluation (See Section 212.400).
- C. The ~~service~~ record of a ~~beneficiary client~~ enrolled in school must have a documented ~~developmental disability qualifying~~ diagnosis ~~that originated before the age of twenty-two (22) and is expected to continue indefinitely (See pursuant to Section 212.500) of this manual.~~
- D. ~~Service documentation for each beneficiary must include the following items~~ EIDT providers must maintain in each client's service record the following documentation for all day habilitative and nursing services performed pursuant to Sections 214.120 and 214.140 of this manual:
1. The specific ~~covered EIDT~~ services furnished each day;
  2. The date and beginning and ending time for each of the ~~covered EIDT~~ services performed each day;
  3. Name(s) and credential(s) of the person(s) providing each ~~covered EIDT~~ service each day;
  4. ~~The relationship of each day's covered EIDT services to the goals and objectives described in the beneficiary's Individual Treatment Plan ( Which client ITP) goal(s) and objective(s) the day's services are intended to address;~~ and
  5. Weekly or more frequent progress notes, signed or initialed by the person(s) providing the ~~covered EIDT~~ service(s); describing ~~each beneficiary the client's~~ status with respect to ~~his or her~~ ITP goals and objectives for that service.
- E. EIDT providers must maintain in the client's service record the documentation specified in Section 204.200 of Section II of the Occupational Therapy, Physical Therapy, and Speech-Language Pathology Services Medicaid manual for all occupational therapy, physical therapy, and speech-language pathology services performed pursuant to Section 214.130 of this manual.
- F. EIDT providers must maintain the following documentation related to EIDT transportation services performed pursuant to Section 214.210 of this manual:

1. A separate transportation log must be maintained for each trip that a vehicle is used by an EIDT to transport clients that lists:
  - a. Each transported client's:
    - i. Name;
    - ii. Age;
    - iii. Date of birth;
    - iv. Medicaid ID number;
    - v. Exact address of pick up and drop off; and
    - vi. Exact time of pick up and drop off.
  - b. The driver of the vehicle;
  - c. Each attendant or any other persons transported; and
  - d. Odometer reading for vehicle at a trip's:
    - i. Initial pick up; and
    - ii. Final drop off.
2. The driver of each vehicle -must sign and date each transportation log verifying that each client that received transportation services from the EIDT was safely transported to and from:
  - a. The client's home (or other scheduled pick-up or drop-off location); or
  - b. The EIDT facility;
3. An EIDT must maintain all transportation logs for five (5) years from the date of transportation.

### 202.300 Electronic Signatures

4-1-248-1-  
22

~~The Arkansas Medicaid Program~~ will accept electronic signatures in compliance with Arkansas Code ~~Ann. §§ 25-31-103 et seq.~~

### 211.000 Introduction

4-1-248-1-  
22

~~The Arkansas Medicaid Program assists eligible individuals to obtain medical care in accordance with the guidelines specified in Section I of the Arkansas Medicaid provider manual. The Arkansas Medicaid Program will reimburse licensed and enrolled EIDT providers for medically necessary covered Early Intervention Day Treatment (EIDT) services when such services are provided to an eligible beneficiary client pursuant to an Individual Treatment Plan by a licensed EIDT meeting the requirements in compliance with this manual.~~

### 212.100 Age Requirement

4-1-248-1-  
22

~~A beneficiary client must be under the age of twenty-two (22) to be enrolled in an EIDT program and receive covered EIDT services through the Arkansas Medicaid Program.~~

~~AB. Covered EIDT services may be provided year-round to beneficiary clients:~~

- ~~1. Who have yet to meet the age requirement for Kindergarten enrollment; or~~
- ~~2. Who have filed a signed Kindergarten waiver.~~

- ~~BC.~~ Covered EIDT services may be provided to school age ~~clients beneficiaries up to the age of twenty one (21)~~ during the summer when school is not in session to prevent a ~~beneficiary client~~ from regressing over the summer.

## 212.200

## Prescription

4-1-248-1-  
22

~~The Arkansas Medicaid Program will reimburse providers for covered EIDT services only when the beneficiary's physician has determined that covered EIDT services are medically necessary.~~

- A. ~~-EIDT core services require a written prescription signed and dated by the client's primary care provider (PCP) or attending licensed physician.~~
- B. ~~The physician must identify the beneficiary's medical needs that covered EIDT services can address.~~
- B. ~~The physician must issue written prescriptions for a comprehensive developmental evaluation and EIDT services that are dated and signed with his or her signature. A prescription for covered EIDT services is valid for one (1) year, unless a shorter period is specified. The prescription must be renewed at least once a year for covered EIDT services to continue.~~
- C. When prescribing EIDT services, the ~~client's PCP or attending licensed~~ physician shall not make any self-referrals in violation of state or federal law.

## 212.300

Developmental Screen or Waiver for ~~Beneficiaries Clients~~ yet to Reach School Age4-1-248-1-  
22

- A. ~~A beneficiary client who has yet to meet the age requirement for Kindergarten enrollment or who has filed a signed Kindergarten waiver must receive one of the following to receive EIDT services:~~
1. ~~An age appropriate developmental screen performed administered by the Arkansas Department of Human Services' (DHS') contracted Third Party Vendor, that the results of which indicates the beneficiary client has been should be referred for further evaluation;~~ or
  2. ~~have a A waiver of the developmental screen waiver requirement in order to be eligible to enroll in an EIDT program and receive covered EIDT services.~~
- AB. ~~A waiver of the developmental screen requirement waiver is available granted when the beneficiary a client:~~
1. ~~hHas been deemed determined to require an meet the institutional level of care (as shown on a DMS-703);~~ or
  2. ~~hHas one of the following a qualifying diagnosis as defined in Section 212.500 of this manual.:~~
    1. ~~Intellectual Disability~~
    2. ~~Spina Bifida~~
    3. ~~Cerebral Palsy~~
    4. ~~Autism Spectrum Disorder~~
    5. ~~Epilepsy/Seizure Disorder~~
    6. ~~Down Syndrome~~
- B3. ~~In order to obtain a waiver of the developmental screen requirement, the beneficiary's physician or the EIDT provider A developmental screen waiver request must send and all relevant medical documentation must be submitted to DHS's~~



~~contracted Third Party Vendor~~ for review. A clinician for ~~the DHS' Third Party Vendor~~ will review the submitted documentation to determine if a developmental screen ~~waiver is required granted~~.

- C. School age ~~beneficiaries~~ ~~up to the age twenty-one (21)~~ receiving covered EIDT services only during the summer when school is not in session do not have to ~~undergo a receive a~~ developmental screen ~~performed by DHS' Third Party Vendor~~.

**212.400 Comprehensive Developmental Evaluation for Beneficiaries-Clients yet to Reach School Age** **4-1-248-1-22**

- A. A beneficiary-client that has not yet reached school age (up to age six (6) if the ~~k~~kindergarten year has been waived) must have a documented developmental disability or delay based on the results of an annual comprehensive developmental evaluation ~~in order to be eligible to enroll in an EIDT program and~~ receive covered EIDT services.
- B. The comprehensive annual developmental evaluation must include a norm referenced (standardized) evaluation and a criterion referenced evaluation. ~~Each evaluator must document that they were qualified to administer each instrument and that the test protocols for each instrument used were followed.~~
- A1. The norm referenced evaluation must be one of the two (2) latest editions of ~~one of~~ the following:
- 4a. Battelle Developmental Inventory (BDI); or
  - 2b. Brigance Inventory of Early Development Standardized.
- B2. The criterion referenced evaluation must be age appropriate and one of the two (2) latest editions of ~~one of~~ the following:
- 4a. Hawaii Early Learning Profile (HELP);
  - 2b. Learning Accomplishment Profile (LAP);
  - 3c. Early Learning Accomplishment Profile (E-LAP); or
  - 4d. Brigance Inventory of Early Development - Early Childhood Edition.
- C. The results of the comprehensive developmental evaluation must show:
1. For ages zero (0) up to thirty-six (36) months, a score on both the norm and criterion referenced evaluations that indicate a developmental delay of twenty-five percent (25%) or greater ~~delay~~ in at least two (2) of five (5) domains: motor (the delay can be shown in either gross motor, fine motor, or total motor), social, cognitive, self-help or adaptive, or communication ~~on both the norm referenced evaluation and the criterion referenced evaluation~~;
  2. For ages three (3) through six (6);:
    - a. a score on the norm referenced evaluation of at least two (2) standard deviations below the mean in at least two (2) of the five (5) domains: motor (the delay can be ~~shown in either~~ gross motor, fine motor, or total motor), social, cognitive, self-help or adaptive, or communication; ~~on the norm referenced evaluation and~~
    - b. A score of on the criterion referenced evaluation indicating a twenty-five percent (25%) or greater developmental delay ~~on the criterion referenced evaluation~~; and
  3. The same two (2) areas of delay on both the norm referenced evaluation and the criterion referenced evaluation.
- D. Each evaluator must document that they were qualified to administer each instrument and that the test protocols for each instrument used were followed.

212.500 Qualifying Diagnosis for School Age ~~Beneficiaries~~Clients4-1-248-1-  
22

- A. School age ~~beneficiaries-clients~~ up to the age of twenty-one (21) must have a documented qualifying intellectual or developmental disability diagnosis that originated before the age of twenty-two (22) and is expected to continue indefinitely ~~in order to be eligible to enroll in an EIDT program and~~ receive covered EIDT services during the summer when school is not in session.
- AB. A qualifying intellectual or developmental disability diagnosis is any one of the following:
1. A diagnosis of Cerebral Palsy established by the results of a medical examination performed by ~~a~~the client's primary care provider (PCP) or attending licensed physician;
  2. A diagnosis of Spina Bifida established by the results of a medical examination performed by the client's PCP or attending ~~a~~ licensed physician;
  3. A diagnosis of Down Syndrome established by the results of a medical examination performed by the client's PCP or attending ~~a~~ licensed physician;
  4. A diagnosis of Epilepsy established by the results of a medical examination performed by the client's primary care provider (PCP) or attending ~~a~~ licensed physician;
  5. A diagnosis of Autism Spectrum Disorder established by the results of ~~a team~~ evaluations performed by at least two (2) of the following three (3) licensed professionals either individually or as a team: which must include a licensed physician; ~~licensed~~ psychologist; and ~~licensed~~ speech pathologist; or
  6. A diagnosis of intellectual and developmental disability or other similar condition found to be closely related to intellectual or developmental disability because it results in an impairment of general intellectual functioning or adaptive behavior similar to that of a person with an intellectual or developmental disability or requires treatment and services similar to that required for a person with an intellectual or developmental disability, based on the results of a team evaluation performed by the client's primary care provider (PCP) or attending ~~a~~ licensed physician and a licensed psychologist.
- BC. The ~~intellectual or developmental disability qualifying diagnosis~~ must constitute a substantial handicap to the ~~beneficiary's-client's~~ ability to function without appropriate support services such as daily living and social activities services, medical services, physical therapy, speech-language ~~therapy~~pathology, and occupational therapy.

212.600 Medically Necessary Speech-Language TherapyPathology, Occupational Therapy, Physical Therapy, or Nursing Services4-1-248-1-  
22

- A. In addition to meeting the applicable comprehensive developmental evaluation scoring thresholds in Section 212.400 or having a qualifying ~~developmental disability~~ diagnosis in Section 212.500, as applicable, one of the following services must be medically necessary ~~in order for a beneficiary-client to be eligible to enroll in an EIDT program and~~ receive covered EIDT services:
1. Physical therapy ~~services~~;
  2. Occupational therapy ~~services~~;
  3. Speech-language ~~therapy-pathology~~services; or
  4. Nursing ~~services~~.
- B. Medical necessity for occupational therapy, physical therapy, and speech-language ~~evaluation and therapy~~pathology services is established in accordance with ~~the Arkansas~~

~~Medicaid provider manual for~~Section II of the Occupational Therapy, Physical Therapy, and Speech-Language Therapy Pathology Services Medicaid manual, Section II.

- C. Medical necessity for nursing services is established by a medical diagnosis and a comprehensive nursing evaluation approved by the client's primary care provider or attending licensed physician that ~~designates-prescribes~~ the ~~need for~~EIDT services.

### 213.000 Non-covered Services

~~4-1-218-1-~~  
22

~~The~~Arkansas Medicaid ~~Program~~ will only reimburse for those covered EIDT services listed in Sections 214.000. Additionally, ~~the~~Arkansas Medicaid ~~Program~~ will only reimburse for EIDT services when such services are provided to a Medicaid beneficiaryclient meeting the eligibility requirements in Section 212.000 by an EIDT meeting the requirements of this manual.

### 214.000 Covered EIDT Services

~~4-1-218-1-~~  
22

Covered EIDT services are ~~either core services or optional services, provided in licensed EIDT clinics and include the following:~~

- ~~A. EIDT evaluation and treatment planning services;~~
- ~~B. Day habilitative services;~~
- ~~C. Speech language evaluation and speech language therapy services;~~
- ~~D. Physical therapy evaluation and physical therapy services;~~
- ~~E. Occupational therapy evaluation and occupational therapy services; and~~
- ~~F. Nursing services.~~
  - ~~1. All covered EIDT services must be provided at the EIDT facility, or, in the case of EIDT transportation services, only involve the transportation of clients to or from the EIDT facility.~~
  - ~~2. All covered EIDT services must be provided by individuals employed or contracted with the EIDT provider.~~

### 214.100 EIDT Core Services

8-1-22

EIDT core services are those covered EIDT services that a provider must offer to its enrolled clients to be licensed as an EIDT provider.

### 214.1010 EIDT Evaluation and Treatment Planning Services

~~4-1-218-1-~~  
22

- ~~A. An EIDT provider may be reimbursed by the Arkansas Medicaid Program for medically necessary EIDT evaluation and treatment planning services. EIDT evaluation and treatment planning services are a component of the process of determining a beneficiaryclient's eligibility for EIDT services and developing the beneficiaryclient's individual Treatment Plan (ITP).~~
- ~~B. For beneficiariesClients who have yet to meet the age requirement for Kindergarten enrollment or who have filed a signed Kindergarten waiver, establish medical necessity for EIDT evaluation and treatment planning services is demonstrated bywith:~~
  - ~~1. The results of an age appropriate developmental screen performed by the Department of Human Service's contracted DHS' Third Party Assessorvendor; or unless~~

~~2. A clinician for DHS' Third Party Vendor has reviewed diagnosis and other medical documentation submitted in accordance with developmental screen waiver granted pursuant to Section 212.300 and determined a developmental screen is not required.~~

~~C. For school age beneficiaries up to the age of twenty-one (21), establish medical necessity for EIDT evaluation and treatment planning services is established through a developmental disability qualifying diagnosis pursuant to Section 212.500 by the beneficiary's physician that designates the need for EIDT evaluation and treatment planning services.~~

~~D. EIDT evaluation and treatment planning services are covered once per calendar year and reimbursed on a per unit basis. The billable unit includes time spent administering an evaluation, scoring the evaluation, and writing an evaluation report, along with time spent and developing the ITP. ~~View or print the billable EIDT evaluation and treatment planning codes.~~~~

## 214.1200 Day Habilitative Services

4-1-248-1-  
22

- A. An EIDT provider may be reimbursed ~~by the Arkansas Medicaid Program~~ for medically necessary day habilitative services.
1. For a beneficiary-client who has yet to meet the age requirement for Kindergarten enrollment or who had filed a signed Kindergarten waiver, medical necessity for EIDT day habilitative services is ~~demonstrated~~ established by the results of a comprehensive developmental evaluation described in Section 212.400.
  2. For school age beneficiaries up to the age of twenty-one (21), medical necessity for day habilitative services is established ~~through by~~ a developmental disability qualifying diagnosis pursuant to Section 212.500 ~~by the beneficiary's physician that designates the need for day habilitative services.~~
- B. EIDT day habilitative services are instruction:
1. ~~in the skill~~ areas of:
    - a. eCognition;<sub>7</sub>
    - b. eCommunication;<sub>7</sub>
    - c. sSocial and emotional;<sub>7</sub>
    - d. mMotor;<sub>7</sub> and
    - e. aAdaptive ~~skills~~;<sub>7</sub> or
  2. ~~To~~ reinforce skills learned and practiced ~~in as part of~~ occupational therapy, physical therapy, or speech-language ~~therapy pathology services.~~
- ~~C. EIDT day habilitative activities services must be designed to teach attain the habilitation goals and objectives specified in the beneficiary's client's individual Treatment Plan.~~
- ~~D. EIDT day habilitative services must be overseen by an Early Childhood Development Specialist (ECDS) who:~~
1. Is a licensed Speech-Language TherapistPathology, Occupational Therapist, Physical Therapist, or Developmental Therapist; or,
  2. Has a bachelor's degree, plus at least one (1) of the following:
    - a. An Early Childhood or Early Childhood Special Education certificate;
    - b. A Child Development Associate Certificate;
    - c. A birth to pre-K credential; or,
    - d. Documented experience working with children with special needs and twelve (12) hours of completed college courses in any of the following areas:



- i. Early ~~C~~childhood;
- ii. Child ~~D~~development;
- iii. Special ~~E~~education/
- iv. Elementary ~~E~~education; or,
- iv. Child and ~~F~~family ~~S~~studies.

~~DE.~~ There must be one (1) ECDS for every forty (40) ~~beneficiaries-clients~~ enrolled at an EIDT site.

~~EF.~~ EIDT day habilitative services are reimbursed on a per unit basis. No more than five (5) hours of EIDT day habilitative services may be billed per day without an extension of benefits. The unit of service calculation includes naptime, but does not include time spent in transit to and from the beneficiary's place of residence to the EIDT facility and from the facility back to the beneficiary's place of residence. [View or print the billable EIDT day habilitative EIDT services procedure codes and descriptions.](#)

**214.1300**      **Occupational Therapy, Physical Therapy, and Speech-Language Pathology Evaluation and Therapy Treatment Services**      **4-1-248-1-22**

A. An EIDT provider may be reimbursed for medically necessary occupational therapy, physical therapy, and speech-language pathology evaluation and therapy treatment services.

1. Occupational therapy, physical therapy, and speech-language pathology evaluation and therapy treatment services must be medically necessary in accordance with ~~the Section II of the Arkansas Medicaid provider manual for~~ Occupational Therapy, Physical Therapy, and Speech-Language Therapy Pathology Services Medicaid manual, Section II.

2. A ~~developmental disability qualifying~~ diagnosis pursuant to Section 212.500 of this manual alone does not ~~demonstrate establish~~ the medical necessity of occupational therapy, physical therapy, or speech-language therapy pathology services.

B. An EIDT provider ~~must~~ contract with or employ its qualified occupational therapy, physical therapy, and speech-language therapy pathology practitioners.

1. The EIDT provider must identify the ~~qualified individual therapy licensed~~ practitioner as the performing provider on the claim when ~~billing the EIDT bills the Arkansas Medicaid Program~~ for the therapy service.

2. The ~~qualified licensed therapy~~ practitioner must be an enrolled ~~with the Arkansas Medicaid Program provider~~ and the ~~criteria for group providers requirements of therapy services would apply (See Section 201.1200 of the Section II of the Occupational Therapy, Physical Therapy, and Speech-Language Therapy Pathology Services Medicaid manual)~~ must be met.

C. All occupational therapy, physical therapy, and speech-language therapy pathology services ~~furnished by an EIDT~~ must be provided and billed in accordance with ~~the Arkansas Medicaid provider manual for Section II of the~~ Occupational Therapy, Physical Therapy, and Speech-Language Therapy Pathology Services Medicaid manual, Section II. [View or print the billable eOccupational Therapy, pPhysical Therapy, and sSpeech-language therapy Pathology EIDT services procedure codes and descriptions.](#)

**214.1400**      **Nursing Services**      **4-1-248-1-22**

-A. An EIDT provider may be reimbursed ~~by the Arkansas Medicaid Program~~ for medically necessary nursing services.

1. Medical necessity for nursing services is established by a medical diagnosis and a comprehensive nursing evaluation approved by the client's primary care provider (PCP) or attending licensed physician who that designates prescribed the need for EIDT services.
  2. The nursing evaluation must specify the required nursing services, and
  3. †The client's PCP or attending licensed physician must prescribe the specific number of medically necessary nursing service units per day.
- B. EIDT nursing services must be:
1. pPerformed by a licensed Rregistered Nnurse or Llicensed Ppractical Nnurse; and
  2. must be wWithin the performing nurse's scope of practice as set forth by the Arkansas State Board of Nursing.
- C. For the purposes of this manual, EIDT nursing services are defined as the following, or similar, activities:
1. Assisting ventilator- dependent beneficiariesclients;
  2. Tracheostomy suctioning and care;
  3. Feeding tube administration, care, and maintenance;
  4. Catheterizations;
  5. Breathing treatments;
  6. Monitoring of vital statistics, including diabetes sugar checks, insulin, blood draws, and pulse ox;
  7. Cecostomy or ileostomy tube administration, care, and maintenance;
  8. Ileostomy tube administration, care, and maintenance; -and
  89. Administration of medication; however, EIDT nursing services are not considered medically necessary if when the administration of medication is not the client's only medically necessary nursing service needed by a beneficiary.
- D. EIDT nursing services are reimbursed on a per unit basis. The Arkansas Medicaid Program will reimburse up to one (1) hour of EIDT nursing services per day without prior authorization. Time spent taking a beneficiary's client's temperature and performing other acts of standard first aid is not included in the units of an EIDT nursing service calculation. [View or print the billable EIDT nursing services procedure codes and descriptions.](#)

**214.200 EIDT Optional Services****8-1-22**

EIDT optional services are those covered EIDT services that a licensed EIDT provider may, but is not required to, offer to its clients.

**214.210 EIDT Transportation Services****8-1-22**

- A. An EIDT provider may be reimbursed for providing its clients with transportation services to and from its EIDT facility.
- B. EIDT transportation services are reimburseable if each of the following is met:
  1. The transportation is provided by a licensed EIDT provider;
  2. The client transported is receiving EIDT services from the EIDT that is providing the EIDT transportation service; and
  3. The transportation is provided only to or from the EIDT provider's facility.

- C. EIDT transportation services are reimbursed on a per person, per mile basis. When transporting more than one client, an EIDT must make all reasonable efforts to minimize the total number of miles for each client each trip. For example, when transporting multiple clients to an EIDT facility the client with a pick-up location farthest away from the EIDT facility should be picked up first, and the client with the pick-up location closest to the EIDT facility should be picked up last. **View or print the billable EIDT transportation services procedure codes and description.**

## 215.000 Individual Treatment Plan (ITP)

4-1-248-1-  
22

- A. ~~Each beneficiary client enrolled in an receiving covered EIDT program services must have an individual Treatment Plan (ITP) that is developed, re-evaluated, and updated at least annually.~~
1. ~~The An~~ ITP is a written, individualized plan to improve or maintain the beneficiary's client's condition based upon evaluation of the client.
  2. The ITP must be reevaluated and updated at least annually by the Early Childhood Development Specialist (ECDS) assigned to the client.
  3. The ECDS's signature and the date signed must be recorded on the ITP.
- B. ~~Each ITP must that at a minimum must contain:~~
1. A written description of the ~~beneficiary's treatment goals and objectives for each covered EIDT service. Each client goal and objective must be:~~
    - a) Written in the form of a regular function, task, or activity the client is working toward successfully performing;
    - b) Measurable; and
    - c) Specific to each individual client.
  2. ~~The beneficiary's treatment regimen, which includes the specific medical and remedial services, therapies, and activities that will be provided used to achieve the beneficiary's treatment objectives and how those services, therapies, and activities are designed to achieve the treatment client's goals and objectives;~~
  3. Any evaluations or other documentation that supports the medical necessity of the covered EIDT services, therapies, or activities specified in the ITP treatment regimen;
  4. A schedule of service delivery that includes the frequency and duration of each type of covered EIDT service, therapy or activity session, or encounter;
  5. The job title(s) or credential(s) of the personnel that will furnish each covered EIDT service, therapy, or activity; and
  6. The schedule for completing re-evaluations of the beneficiary client's condition and updating the ITP.
- ~~B. The ITP must be developed, re-evaluated, and updated by the Early Childhood Development Specialist (ECDS) assigned to the beneficiary. The ECDS's original signature and date signed must be recorded on the ITP.~~

## 220.000 PRIOR AUTHORIZATION

Prior authorization is required for ~~the Arkansas Medicaid Program an EIDT provider to be reimbursed a licensed EIDT provider~~ for:

- A. Over five (5) hours of ~~EIDT~~ day habilitative services in a single day;

- B. Over ninety (90) minutes per week of any of the following services:
1. Occupational therapy,
  2. Physical therapy, or
  3. Speech-language therapy-pathology services;
- C. Over one (1) hour per day of covered EIDT nursing services in a single day; and,
- D. Over eight (8) total combined hours of covered EIDT the following services in a single day:-
1. Day habilitative;
  2. Occupational therapy;
  3. Physical therapy;
  4. Speech-language pathology; and
  5. Nursing.

### 231.000 Method of Reimbursement

4-1-248-1-  
22

Except as otherwise provided in this manual, covered EIDT services use “fee schedule” reimbursement methodology. Under the fee schedule methodology, reimbursement is made at the lower of the billed charge for the service or the maximum allowable reimbursement for the procedure-service under the Arkansas Medicaid Program. The maximum allowable reimbursement for a procedure-service is the same for all EIDT providers.

- A. A full unit of service must be rendered to bill a unit of service.
- B. Partial units of service may not be rounded up and are not reimbursable.
- C. Non-consecutive periods of service delivery over the course of a single day may be aggregated when computing a unit of service.

### 231.100 Fee Schedules

4-1-248-1-  
22

- A. The Arkansas Medicaid Program provides fee schedules on the Arkansas Medicaid DMS website. [View or print the EIDT fee schedule.](#)
- B. Fee schedules do not address coverage limitations or special instructions applied by the Arkansas Medicaid Program before final payment is determined.
- C. Fee schedules and procedure codes do not guarantee payment, coverage, or the reimbursement amount. Fee schedule and procedure code information may be changed or updated at any time to correct a discrepancy or error.



**TOC required****201.000 Arkansas Medicaid Participation Requirements for Early Intervention Day Treatment (EIDT) Providers 8-1-22**

A provider must meet the following participation requirements to qualify as an Early Intervention Day Treatment (EIDT) provider under Arkansas Medicaid:

- A. Obtain an Early Intervention Day Treatment license issued by the Arkansas Department of Human Services, Division of Provider Services and Quality Assurance (DPSQA);
- B. Complete the provider participation and enrollment requirements contained within Section 140.000 of this manual; and
- C. Except as provided in Section 201.200 of this manual, obtain a child care facility license issued by DPSQA.

EIDT providers may furnish and claim reimbursement for covered EIDT services subject to all requirements and restrictions set forth and referenced in this manual.

**201.100 EIDT Providers in Arkansas and Bordering States 8-1-22**

EIDT providers in Arkansas and within fifty (50) miles of the state line in the six (6) bordering states (Louisiana, Mississippi, Missouri, Oklahoma, Tennessee and Texas) may be enrolled as EIDT providers if they meet all Arkansas Medicaid participation requirements.

**201.200 Academic Medical Center Specializing in Development Pediatrics 8-1-22**

- A. An academic medical center specializing in developmental pediatrics is eligible for reimbursement as an EIDT provider if it:
  1. Is located in Arkansas;
  2. Provides multi-disciplinary diagnostic and evaluation services to children throughout Arkansas;
  3. Specializes in developmental pediatrics;
  4. Serves as a large, multi-referral program and referral source for non-academic medical center EIDT providers within Arkansas;
  5. Provides training to pediatric residents and other professionals in the multi-disciplinary diagnostics and evaluation of children with developmental disabilities and other special health care needs; and
  6. Does not provide treatment services to children.
- B. An EIDT provider operating as an academic medical center is not required to be a licensed child care facility.
- C. An EIDT provider that operates as an academic medical center may bill diagnostic and evaluation codes outside of those used by a non-academic medical center EIDT program, but may not bill EIDT treatment codes. [View or print the academic medical center billable EIDT procedure codes and descriptions.](#)

**202.100 Documentation Requirements for All Medicaid Providers 8-1-22**

See Section 140.000 of this manual for the documentation that is required for all Arkansas Medicaid providers.

**202.200 EIDT Documentation Requirements 8-1-22**

- A. EIDT providers must maintain in each client's service record sufficient, contemporaneous written documentation demonstrating the medical necessity of all covered EIDT services included on a client's individual treatment plan (ITP).
- B. The service record of a client who has yet to meet the age requirement for Kindergarten enrollment or who has filed a signed Kindergarten waiver must include:
  1. Either:
    - a. A developmental screen administered by the Department of Human Services' contracted third-party vendor, the results of which indicate the client should be referred for further evaluation; or
    - b. A developmental screen waiver (See Section 212.300); and
  2. The results of an annual comprehensive developmental evaluation (See Section 212.400).
- C. The service record of a client enrolled in school must have a documented qualifying diagnosis pursuant to Section 212.500 of this manual.
- D. EIDT providers must maintain in each client's service record the following documentation for all day habilitative and nursing services performed pursuant to Sections 214.120 and 214.140 of this manual:
  1. The specific services furnished each day;
  2. The date and beginning and ending time for each of the services performed each day;
  3. Name(s) and credential(s) of the person(s) providing each service each day;
  4. Which client ITP goals and objective(s) the day's services are intended to address; and
  5. Weekly or more frequent progress notes, signed or initialed by the person(s) providing the service(s) describing the client's status with respect to ITP goals and objectives for that service.
- E. EIDT providers must maintain in the client's service record the documentation specified in Section 204.200 of Section II of the Occupational Therapy, Physical Therapy, and Speech-Language Pathology Services Medicaid manual for all occupational therapy, physical therapy, and speech-language pathology services performed pursuant to Section 214.130 of this manual.
- F. EIDT providers must maintain the following documentation related to EIDT transportation services performed pursuant to Section 214.210 of this manual:
  1. A separate transportation log must be maintained for each trip that a vehicle is used by an EIDT to transport clients that lists:
    - a. Each transported client's:
      - i. Name;
      - ii. Age;
      - iii. Date of birth;
      - iv. Medicaid ID number;
      - v. Exact address of pick up and drop off; and
      - vi. Exact time of pick up and drop off.
    - b. The driver of the vehicle;
    - c. Each attendant or any other persons transported; and

- d. Odometer reading for vehicle at a trip's:
  - i. Initial pick up; and
  - ii. Final drop off.
2. The driver of each vehicle must sign and date each transportation log verifying that each client that received transportation services from the EIDT was safely transported to and from:
  - a. The client's home (or other scheduled pick-up or drop-off location); or
  - b. The EIDT facility.
3. An EIDT must maintain all transportation logs for five (5) years from the date of transportation.

**202.300 Electronic Signatures 8-1-22**

Arkansas Medicaid will accept electronic signatures in compliance with Arkansas Code § 25-31-103 et seq.

**211.000 Introduction 8-1-22**

Arkansas Medicaid will reimburse licensed and enrolled EIDT providers for medically necessary covered EIDT services provided to an eligible client pursuant to an individual treatment plan in compliance with this manual.

**212.100 Age Requirement 8-1-22**

- A. A client must be under the age of twenty-two (22) to receive covered EIDT services.
- B. Covered EIDT services may be provided year-round to clients:
  1. Who have yet to meet the age requirement for Kindergarten enrollment; or
  2. Who have filed a signed Kindergarten waiver.
- C. Covered EIDT services may be provided to school age clients during the summer when school is not in session to prevent a client from regressing over the summer.

**212.200 Prescription 8-1-22**

- A. EIDT core services require a written prescription signed and dated by the client's primary care provider (PCP) or attending licensed physician.
- B. A prescription for covered EIDT services is valid for one (1) year, unless a shorter period is specified. The prescription must be renewed at least once a year for covered EIDT services to continue.
- C. When prescribing EIDT services, the client's PCP or attending licensed physician shall not make any self-referrals in violation of state or federal law.

**212.300 Developmental Screen or Waiver for Clients yet to Reach School Age 8-1-22**

- A. A client who has yet to meet the age requirement for Kindergarten enrollment or who has filed a signed Kindergarten waiver must receive one of the following to receive EIDT services:
  1. An age appropriate developmental screen administered by the Arkansas Department of Human Services' (DHS) contracted third party vendor, the results of which indicate the client should be referred for further evaluation; or

2. A developmental screen waiver.
- B. A developmental screen waiver is granted when a client:
1. Has been determined to require an institutional level of care (as shown on a DMS-703); or
  2. Has a qualifying diagnosis as defined in Section 212.500 of this manual.
  3. A developmental screen waiver request and all relevant medical documentation must be submitted to DHS's contracted third party vendor for review. A clinician for the vendor will review the submitted documentation to determine if a developmental screen waiver is granted.
- C. School age clients receiving covered EIDT services only during the summer when school is not in session do not have to receive a developmental screen.

**212.400 Comprehensive Developmental Evaluation for Clients yet to Reach School Age 8-1-22**

- A. A client that has not yet reached school age (up to age six (6) if the Kindergarten year has been waived) must have a documented developmental disability or delay based on the results of an annual comprehensive developmental evaluation to receive covered EIDT services.
- B. The comprehensive annual developmental evaluation must include a norm referenced (standardized) evaluation and a criterion referenced evaluation.
1. The norm referenced evaluation must be one of the two (2) latest editions of the following:
    - a. Battelle Developmental Inventory (BDI); or
    - b. Brigance Inventory of Early Development Standardized.
  2. The criterion referenced evaluation must be age appropriate and one of the two (2) latest editions of the following:
    - a. Hawaii Early Learning Profile (HELP);
    - b. Learning Accomplishment Profile (LAP);
    - c. Early Learning Accomplishment Profile (E-LAP); or
    - d. Brigance Inventory of Early Development - Early Childhood Edition.
- C. The results of the comprehensive developmental evaluation must show:
1. For ages zero (0) up to thirty-six (36) months, a score on both the norm and criterion referenced evaluations that indicate a developmental delay of twenty-five percent (25%) or greater in at least two (2) of five (5) domains: motor (the delay can be shown in either gross motor, fine motor, or total motor), social, cognitive, self-help or adaptive, or communication;
  2. For ages three (3) through six (6):
    - a. A score on the norm referenced evaluation of at least two (2) standard deviations below the mean in at least two (2) of the five (5) domains: motor (the delay can be in gross motor, fine motor, or total motor), social, cognitive, self-help or adaptive, or communication; and
    - b. A score of on the criterion referenced evaluation indicating a twenty-five percent (25%) or greater developmental delay; and
  3. The same two (2) areas of delay on both the norm referenced evaluation and the criterion referenced evaluation.



- D. Each evaluator must document that they were qualified to administer each instrument and that the test protocols for each instrument used were followed.

**212.500**      **Qualifying Diagnosis for School Age Clients**      **8-1-22**

- A. School age clients up to the age of twenty-one (21) must have a documented qualifying intellectual or developmental disability diagnosis that originated before the age of twenty-two (22) and is expected to continue indefinitely to receive covered EIDT services during the summer when school is not in session.
- B. A qualifying intellectual or developmental disability diagnosis is any one of the following:
  - 1. A diagnosis of Cerebral Palsy established by the results of a medical examination performed by the client's primary care provider (PCP) or attending licensed physician;
  - 2. A diagnosis of Spina Bifida established by the results of a medical examination performed by the client's PCP or attending licensed physician;
  - 3. A diagnosis of Down Syndrome established by the results of a medical examination performed by the client's PCP or attending licensed physician;
  - 4. A diagnosis of Epilepsy established by the results of a medical examination performed by the client's primary care provider (PCP) or attending licensed physician;
  - 5. A diagnosis of Autism Spectrum Disorder established by the results of evaluations performed by at least two (2) of the following three (3) licensed professionals either individually or as a team: physician psychologist, and speech pathologist; or
  - 6. A diagnosis of intellectual and developmental disability or other similar condition found to be closely related to intellectual or developmental disability because it results in an impairment of general intellectual functioning or adaptive behavior similar to that of a person with an intellectual or developmental disability or requires treatment and services similar to that required for a person with an intellectual or developmental disability, based on the results of a team evaluation performed by the client's primary care provider (PCP) or attending licensed physician and a licensed psychologist.
- C. The qualifying diagnosis must constitute a substantial handicap to the client's ability to function without appropriate support services such as daily living and social activities services, medical services, physical therapy, speech-language pathology, and occupational therapy.

**212.600**      **Medically Necessary Speech-Language Pathology, Occupational Therapy, Physical Therapy, or Nursing Services**      **8-1-22**

- A. In addition to meeting the applicable comprehensive developmental evaluation scoring thresholds in Section 212.400 or having a qualifying diagnosis in Section 212.500, as applicable, one of the following services must be medically necessary for a client to be eligible to receive covered EIDT services:
  - 1. Physical therapy;
  - 2. Occupational therapy;
  - 3. Speech-language pathology; or
  - 4. Nursing.
- B. Medical necessity for occupational therapy, physical therapy, and speech-language pathology services is established in accordance with Section II of the Occupational Therapy, Physical Therapy, and Speech-Language Pathology Services Medicaid manual.

- C. Medical necessity for nursing services is established by a medical diagnosis and a comprehensive nursing evaluation approved by the client's primary care provider or attending licensed physician that prescribes the EIDT services.

**213.000 Non-covered Services**

8-1-22

Arkansas Medicaid will only reimburse for those covered EIDT services listed in Sections 214.000. Additionally, Arkansas Medicaid will only reimburse for EIDT services when such services are provided to a client meeting the eligibility requirements in Section 212.000 by an EIDT meeting the requirements of this manual.

**214.000 Covered EIDT Services**

8-1-22

Covered EIDT services are either core services or optional services.

1. All covered EIDT services must be provided at the EIDT facility, or, in the case of EIDT transportation services, only involve the transportation of clients to or from the EIDT facility.
2. All covered EIDT services must be provided by individuals employed or contracted with the EIDT provider.

**214.100 EIDT Core Services**

8-1-22

EIDT core services are those covered EIDT services that a provider must offer to its enrolled clients to be licensed as an EIDT provider.

**214.110 EIDT Evaluation and Treatment Planning Services**

8-1-22

- A. An EIDT provider may be reimbursed for medically necessary EIDT evaluation and treatment planning services. EIDT evaluation and treatment planning services are a component of the process of determining a client's eligibility for EIDT services and developing the client's individual treatment plan (ITP).
- B. Clients who have yet to meet the age requirement for Kindergarten enrollment or who have filed a signed Kindergarten waiver, establish medical necessity for EIDT evaluation and treatment planning services with:
1. The results of an age appropriate developmental screen performed by the Department of Human Service's contracted third party vendor; or
  2. A developmental screen waiver granted pursuant to Section 212.300.
- C. School age clients up to the age of twenty-one (21) establish medical necessity for EIDT evaluation and treatment planning services through a qualifying diagnosis pursuant to Section 212.500.
- D. EIDT evaluation and treatment planning services are covered once per calendar year and reimbursed on a per unit basis. The billable unit includes time spent administering an evaluation, scoring an evaluation, writing an evaluation report, and developing the ITP.

**214.120 Day Habilitative Services**

8-1-22

- A. An EIDT provider may be reimbursed for medically necessary day habilitative services.
1. For a client who has yet to meet the age requirement for Kindergarten enrollment or who had filed a signed Kindergarten waiver, medical necessity for EIDT day habilitative services is established by the results of a comprehensive developmental evaluation described in Section 212.400.

2. For school age clients up to the age of twenty-one (21), medical necessity for day habilitative services is established by a qualifying diagnosis pursuant to Section 212.500.
- B. EIDT day habilitative services are instruction:
1. In the skill areas of:
    - a. Cognition;
    - b. Communication;
    - c. Social and emotional;
    - d. Motor; and
    - e. Adaptive; or
  2. To reinforce skills learned and practiced as part of occupational therapy, physical therapy, or speech-language pathology services.
- C. EIDT day habilitative services must be designed to attain the habilitation goals and objectives specified in the client's individual treatment plan.
- D. EIDT day habilitative services must be overseen by an Early Childhood Development Specialist (ECDS) who:
1. Is a licensed Speech-Language Pathology, Occupational Therapist, Physical Therapist, or Developmental Therapist; or
  2. Has a bachelor's degree, plus at least one (1) of the following:
    - a. An early childhood or early childhood special education certificate;
    - b. A child development associate certificate;
    - c. A birth to pre-K credential; or
    - d. Documented experience working with children with special needs and twelve (12) hours of completed college courses in any of the following areas:
      - i. Early childhood;
      - ii. Child development;
      - iii. Special education
      - iv. Elementary education; or
      - v. Child and family studies.
- E. There must be one (1) ECDS for every forty (40) clients enrolled at an EIDT.
- F. EIDT day habilitative services are reimbursed on a per unit basis. No more than five (5) hours of EIDT day habilitative services may be billed per day without an extension of benefits. The unit of service calculation includes naptime, but does not include time spent in transit to and from the EIDT facility. [View or print the billable EIDT day habilitative services procedure codes and descriptions.](#)

**214.130****Occupational Therapy, Physical Therapy, and Speech-Language Pathology Evaluation and Treatment Services****8-1-22**

- A. An EIDT provider may be reimbursed for medically necessary occupational therapy, physical therapy, and speech-language pathology evaluation and treatment services.
1. Occupational therapy, physical therapy, and speech-language pathology evaluation and treatment services must be medically necessary in accordance with Section II of the Occupational Therapy, Physical Therapy, and Speech-Language Pathology Services Medicaid manual.

2. A qualifying diagnosis pursuant to Section 212.500 of this manual alone does not establish the medical necessity of occupational therapy, physical therapy, or speech-language pathology services.
- B. An EIDT provider must contract with or employ its qualified occupational therapy, physical therapy, and speech-language pathology practitioners.
1. The EIDT provider must identify the licensed practitioner as the performing provider on the claim when billing for the service.
  2. The licensed practitioner must be an enrolled Arkansas Medicaid provider and the group provider requirements of Section 201.120 of Section II of the Occupational Therapy, Physical Therapy, and Speech-Language Pathology Services Medicaid manual) must be met.
- C. All occupational therapy, physical therapy, and speech-language pathology services must be billed in accordance with Section II of the Occupational Therapy, Physical Therapy, and Speech-Language Pathology Services Medicaid manual. [View or print the billable Occupational Therapy, Physical Therapy, and Speech-language Pathology services procedure codes and descriptions.](#)

## 214.140

## Nursing Services

8-1-22

- A. An EIDT provider may be reimbursed for medically necessary nursing services.
1. Medical necessity for nursing services is established by a medical diagnosis and a comprehensive nursing evaluation approved by the client's primary care provider (PCP) or attending licensed physician who prescribed the EIDT services.
  2. The nursing evaluation must specify the required nursing services.
  3. The client's PCP or attending licensed physician must prescribe the specific number of medically necessary nursing service units per day.
- B. EIDT nursing services must be:
1. Performed by a licensed registered nurse or licensed practical nurse; and
  2. Within the performing nurse's scope of practice as set forth by the Arkansas State Board of Nursing.
- C. For the purposes of this manual, EIDT nursing services are defined as the following, or similar, activities:
1. Assisting ventilator dependent clients;
  2. Tracheostomy suctioning and care;
  3. Feeding tube administration, care, and maintenance;
  4. Catheterizations;
  5. Breathing treatments;
  6. Monitoring of vital statistics, including diabetes sugar checks, insulin, blood draws, and pulse ox;
  7. Cecostomy tube administration, care, and maintenance;
  8. Ileostomy tube administration, care, and maintenance; and
  9. Administration of medication when the administration of medication is not the client's only medically necessary nursing service.
- D. EIDT nursing services are reimbursed on a per unit basis. Arkansas Medicaid will reimburse up to one (1) hour of EIDT nursing services per day without prior authorization. Time spent taking a client's temperature and performing other acts of standard first aid is



not included in the units of an EIDT nursing service calculation. [View or print the billable EIDT nursing services procedure codes and descriptions.](#)

**214.200 EIDT Optional Services 8-1-22**

EIDT optional services are those covered EIDT services that a licensed EIDT provider may, but is not required to, offer to its clients.

**214.210 EIDT Transportation Services 8-1-22**

- A. An EIDT provider may be reimbursed for providing its clients with transportation services to and from its EIDT facility.
- B. EIDT transportation services are reimburseable if each of the following is met:
  1. The transportation is provided by a licensed EIDT provider;
  2. The client transported is receiving EIDT services from the EIDT that is providing the EIDT transportation service; and
  3. The transportation is provided only to or from the EIDT provider's facility.
- C. EIDT transportation services are reimbursed on a per person, per mile basis. When transporting more than one client, an EIDT must make all reasonable efforts to minimize the total number of miles for each client each trip. For example, when transporting multiple clients to an EIDT facility the client with a pick-up location farthest away from the EIDT facility should be picked up first, and the client with the pick-up location closest to the EIDT facility should be picked up last. [View or print the billable EIDT transportation services procedure codes and description.](#)

**215.000 Individual Treatment Plan (ITP) 8-1-22**

- A. Each client receiving covered EIDT services must have an individual treatment plan (ITP).
  1. An ITP is a written, individualized plan to improve or maintain the client's condition based upon evaluation of the client.
  2. The ITP must be reevaluated and updated at least annually by the Early Childhood Development Specialist (ECDS) assigned to the client.
  3. The ECDS's signature and the date signed must be recorded on the ITP.
- B. Each ITP must at a minimum contain:
  1. A written description of the goals and objectives for each covered EIDT service. Each client goal and objective must be:
    - a) Written in the form of a regular function, task, or activity the client is working toward successfully performing;
    - b) Measurable; and
    - c) Specific to each individual client.
  2. The specific medical and remedial services, therapies, and activities that will be provided and how those services, therapies, and activities are designed to achieve the client's goals and objectives;
  3. Any evaluations or other documentation that supports the medical necessity of the covered EIDT service specified in the ITP;
  4. A schedule of service delivery that includes the frequency and duration of each type of covered EIDT service;

5. The job title(s) or credential(s) of the personnel that will furnish each covered EIDT service; and
6. The schedule for completing re-evaluations of the client's condition and updating the ITP.

## 220.000 PRIOR AUTHORIZATION

Prior authorization is required for an EIDT provider to be reimbursed for:

- A. Over five (5) hours of day habilitative services in a single day;
- B. Over ninety (90) minutes per week of any of the following services:
  1. Occupational therapy,
  2. Physical therapy, or
  3. Speech-language pathology services;
- C. Over one (1) hour of nursing services in a single day; and
- D. Over eight (8) total combined hours of the following services in a single day:
  1. Day habilitative;
  2. Occupational therapy;
  3. Physical therapy;
  4. Speech-language pathology; and
  5. Nursing.

### 231.000 Method of Reimbursement

8-1-22

Except as otherwise provided in this manual, covered EIDT services use fee schedule reimbursement methodology. Under fee schedule methodology, reimbursement is made at the lower of the billed charge for the service or the maximum allowable reimbursement for the service under Arkansas Medicaid. The maximum allowable reimbursement for a service is the same for all EIDT providers.

- A. A full unit of service must be rendered to bill a unit of service.
- B. Partial units of service may not be rounded up and are not reimbursable.
- C. Non – consecutive periods of service delivery over the course of a single day may be aggregated when computing a unit of service.

### 231.100 Fee Schedules

8-1-22

- A. Arkansas Medicaid provides fee schedules on the DMS website. [View or print the EIDT fee schedule.](#)
- B. Fee schedules do not address coverage limitations or special instructions applied by Arkansas Medicaid before final payment is determined.
- C. Fee schedules and procedure codes do not guarantee payment, coverage, or the reimbursement amount. Fee schedule and procedure code information may be changed or updated at any time.

## TOC required

## ~~260.000 — EARLY INTERVENTION DAY TREATMENT (EIDT) AND ADULT DEVELOPMENTAL DAY TREATMENT (ADDT) TRANSPORTATION~~

### ~~261.000 — Arkansas Medicaid Participation Requirements for EIDT and ADDT Transportation Providers 7-1-18~~

~~Non-emergency medical transportation will be provided by the transportation broker for the region in which the beneficiary lives with the exception of transportation to and from an Early Intervention Day Treatment (EIDT) or an Adult Developmental Day Treatment (ADDT) center when the transportation is provided by the EIDT or ADDT facility.~~

~~The EIDT or ADDT provider may choose to provide transportation services for individuals with developmental disabilities as a fee-for-service provider to and from an EIDT or ADDT facility only. A transportation broker must provide transportation to and from medical providers.~~

~~The EIDT or ADDT transportation providers must meet the following criteria to be eligible for participation in the Arkansas Medicaid Program:~~

- ~~A. The provider must complete a provider application (Form DMS-652), a Medicaid contract (Form DMS-653), an Ownership and Conviction Disclosure (Form DMS-675), a Disclosure of Significant Business Transactions (Form DMS-689) and a Request for Taxpayer Identification Number and Certification (Form W-9) with the Arkansas Medicaid Program. **View or print a provider application (Form DMS-652), Medicaid contract (Form DMS-653), Ownership and Conviction Disclosure (Form DMS-675), Disclosure of Significant Business Transactions (Form DMS-689) and Request for Taxpayer Identification Number and Certification (Form W-9).**~~
- ~~B. The provider application and Medicaid contract must be approved by the Arkansas Medicaid Program.~~
- ~~C. The provider must submit:
 
  - ~~1. A copy of his or her current vehicle registration for each vehicle to be used for EIDT transportation~~
  - ~~2. A copy of the driver's current commercial and/or non-commercial driver's license(s) appropriate for the operation of any motor vehicle(s) the driver will be operating/driving to transport EIDT beneficiaries~~
  - ~~3. Proof of automobile insurance for each vehicle with minimum liability coverage of \$50,000.00 per person per occurrence~~
  - ~~4. Consent for Release of Information (Form DMS-619), completed by each driver. **View or print Consent for Release of Information Form DMS-619.**~~
  - ~~5. Provider agreement~~~~
- ~~D. The provider must subsequently submit, upon receipt, proof of the periodic renewal of each of the following:
 
  - ~~1. Vehicle registration~~
  - ~~2. Commercial and/or non-commercial driver's license(s) appropriate for the operation of any motor vehicle(s) the driver will be operating/driving to transport beneficiaries~~
  - ~~3. Required liability insurance~~~~

**270.000 PROGRAM COVERAGE****271.000 Introduction 9-1-08**

Non-emergency medical transportation will be provided by the transportation broker for the region in which the beneficiary lives with the exception of transportation to and from a Developmental Day Treatment Clinic Services (DDTCS) facility when the transportation is provided by the DDTCS facility.

**272.000 Coverage of EIDT or ADDT Transportation Services 7-1-18**

Transportation provided by an EIDT or ADDT transportation providers is a covered service only for Medicaid eligible beneficiaries who are being transported to and from an EIDT or ADDT facility. Transportation by an EIDT or ADDT of Medicaid beneficiaries to and from other medical providers is not covered.

The Medicaid Program covers EIDT or ADDT transportation for “loaded miles” only. For purposes of this manual, “loaded miles” is that part of the trip in which a Medicaid beneficiary is a passenger in an EIDT or ADDT vehicle and is being transported either from the point of pickup to the facility or from the facility to the point of delivery. The exact address where the beneficiary is picked up and delivered must be documented in the EIDT or ADDT transportation provider’s records.

**272.100 Trips With Multiple Medicaid Beneficiaries 7-1-18**

If more than one Medicaid beneficiary is transported at the same time to the same location, Medicaid may be billed only for one beneficiary. If more than one Medicaid beneficiary is transported at the same time to different locations, the provider may bill only for the beneficiary traveling the farthest distance. (For purposes of this manual, the farthest distance means the beneficiary on the route who lives the farthest away from the facility.)

The provider must keep a record of all persons being transported. If the person is a Medicaid beneficiary, the beneficiary’s Medicaid identification number must also be recorded in the provider’s records. The provider must complete the EIDT/ADDT Transportation Log (Form DMS-638) each time a client is transported to or from the facility. [View or print EIDT/ADDT Transportation Log Form DMS-638.](#)

**272.200 Mileage Calculation 7-1-18**

Mileage calculation is based on the odometer mileage for the Medicaid beneficiary traveling the farthest distance. The odometer mileage will be determined based on the following:

- A. From the point of pickup of the **first** Medicaid beneficiary to the facility.
- B. From the facility to the **last** Medicaid beneficiary’s point of delivery.

The route taken when transporting the clients must be reasonable and must be planned to minimize the beneficiaries’ time spent in route to and from the facility (i.e., must pick up the beneficiary farthest from the facility first and drop him or her off last). The provider must not take unnecessary extended routes to increase the mileage.

See Section 290.000 of this manual for billing procedures.

**273.000 Record Requirements for EIDT and ADDT Transportation Providers 7-1-18**

DDTCS transportation providers are required to keep written documentation of records to support the services actually furnished. The following records must be maintained:



- A. ~~EIDT and ADDT transportation providers must complete the EIDT/ADDT Transportation Log (Form DMS 638) each time a client is transported to or from the DDTCS facility. The following information must be recorded on the EIDT/ADDT Transportation Log:~~
1. ~~Provider's name.~~
  2. ~~The date and time of each pickup and delivery.~~
  3. ~~Provider's identification number.~~
  4. ~~Vehicle description, including the vehicle identification number and license plate number.~~
  5. ~~Driver's name.~~
  6. ~~Attendants' name, if applicable.~~
  7. ~~Odometer reading and total mileage.~~
  8. ~~The names of all persons transported.~~
  9. ~~The exact address of a pickup and/or delivery point must be recorded on the log when the client is picked up or delivered to an address that is different from the address listed in the client's file. (The provider must provide documentation in the client's file of the reason(s) for a different address pickup and/or delivery.)~~
- B. ~~The exact address where the client is scheduled to be picked up and delivered according to the client's file.~~
- C. ~~The Medicaid identification number of each Medicaid beneficiary.~~

**274.000 — Retention of Records**

7-1-18

~~EIDT and ADDT transportation providers must maintain all required records for a period of five (5) years from the last date of service or until all audit questions, appeal hearings, investigations or court cases are resolved, whichever is longer. The records must be made available during normal business hours to authorized representatives of the Arkansas Department of Human Services, Arkansas Division of Medical Services, the State Medicaid Fraud Unit, and representatives of the Department of Human Services and its authorized agents or officials. Failure to furnish records upon request will result in sanctions being imposed.~~

~~All documentation must be made available to representatives of the Division of Medical Services at the time of an audit by the Medicaid Field Audit Unit. All documentation must be available at the provider's place of business. If an audit determines that recoupment is necessary, there will be no more than thirty (30) days after the date of the recoupment notice in which additional documentation will be accepted.~~

**275.000 — PRIOR AUTHORIZATION**

7-1-18

~~Prior Authorization is not applicable to Transportation Services provided by EIDT or ADDT providers in Arkansas.~~

**280.000 — REIMBURSEMENT****281.000 — Method of Reimbursement for EIDT and ADDT Transportation Providers**

7-1-18

~~The Medicaid Program reimburses the lesser of the billed charges or the Title XIX maximum allowable. EIDT and ADDT Transportation providers are reimbursed on the basis of a rate times loaded miles traveled for the eligible Medicaid beneficiary transported the longest distance for each trip.~~

**281.100 — EIDT/ADDT Transportation Survey**

8-1-21

EIDT and ADDT transportation providers are required to prepare and submit an annual EIDT/ADDT Survey ([View or print EIDT/ADDT Transportation Survey DMS-632](#)) and other applicable information concerning the survey to the Arkansas Department of Human Services Division of Medical Services, Provider Reimbursement Unit. [View or print the Arkansas Department of Human Services Division of Medical Services, Provider Reimbursement Unit contact information.](#)

The survey information will be reported for the provider's fiscal period. The survey must be submitted within five (5) months after the close of the provider's fiscal year end. Providers with financial reporting periods of less than six (6) months are not required to submit a survey. However, if no survey is required, the provider must notify the Division of Medical Services (DMS) in writing why the survey is not being submitted. Failure to submit the completed survey or failure to submit a written explanation of a reporting period of less than six (6) months within the prescribed period, except as expressly extended by the State Medicaid agency, may result in the suspension of reimbursement until DMS receives this information.

Survey information requested includes direct and indirect/overhead costs, revenues and client mileage information associated with and applicable to the EIDT or ADDT Transportation Program. No other program costs, revenues or mileage information is to be included on the survey. If the provider provides transportation services for programs other than EIDT or ADDT programs, please remove the other program costs, revenues and mileage information before completing the survey and submit a narrative describing how these other transportation program amounts were calculated and removed. All cost and revenue amounts are to be reported using the accrual method of accounting and will be reported in whole dollar amounts, no cents.

Providers must also submit with the survey a written general description of what costs are included with indirect/overhead costs and how these costs were identified, calculated and allocated to the EIDT or ADDT transportation program.

Providers are required to maintain adequate financial records, mileage data and rider data for proper documentation and support of the cost and statistical information reported on the annual survey. These records must be retained for a period of five (5) years after submission of the survey. The surveys, supporting documentation and provider narratives are subject to on-site review and inspection by DHS/DMS personnel.

EIDT and ADDT providers may order copies of Form DMS-632 on the Medicaid Form Request. Requests may be forwarded to the DHS or designated Fiscal Agent's Provider Assistance Center. [View or print the DHS or designated Fiscal Agent's contact information.](#)

**290.000 — EIDT/ADDT BILLING PROCEDURES****291.000 — Introduction to Billing**

7-1-20

EIDT and ADDT transportation providers use the CMS-1500 claim form to bill the Arkansas Medicaid Program on paper for services provided to eligible Medicaid beneficiaries. Each claim should contain charges for only one (1) beneficiary.

Section III of this manual contains information about available options for electronic claim submission.

**292.000 — CMS-1500 Billing Procedures****292.100 — EIDT/ADDT Procedure Codes**

7-1-18

Early Intervention Day Treatment (EIDT) providers and Adult Developmental Day Treatment (ADDT) providers may choose to provide transportation services for their clients as a fee-for-

service provider for transportation to and from an EIDT or ADDT facility only. EIDT or ADDT transportation cannot be claimed for transporting beneficiaries to and from other medical providers.

The procedure code **A0120** must be used when billing the Medicaid Program for EIDT or ADDT transportation services. The Medicaid Program reimburses for “loaded miles” only, e.g., from the point of pickup to the EIDT or ADDT facility and from the EIDT or ADDT facility to the point of delivery. The route must be planned to minimize each beneficiary’s time in route (i.e., the facility must pick up the beneficiary who lives farthest away first and drop him or her off last). One unit equals one mile. The overall allowable one-way mileage for each pickup and delivery trip should be totaled and rounded to a whole mile. Mileage will be rounded up if 0.5 or greater and rounded down if 0.4 or less.

**292.200 National Place of Service Code 7-1-07**

Electronic and paper claims now require the same national place of service codes.

Place of Service	POS Codes
Other Locations	99

**292.300 EIDT and ADDT Transportation Billing Instructions—Paper Only 7-1-18**

Bill Medicaid for professional services with form CMS-1500. The numbered items in the following instructions correspond to the numbered fields on the claim form. [View a sample form CMS-1500.](#)

Carefully follow these instructions to help the Arkansas Medicaid fiscal agent efficiently process claims. Accuracy, completeness, and clarity are essential. Claims cannot be processed if necessary information is omitted.

Forward completed claim forms to the Claims Department. [View or print the Claims Department contact information.](#)

**NOTE: A provider delivering services without verifying beneficiary eligibility for each date of service does so at the risk of not being reimbursed for the services.**

**292.310 Completion of CMS-1500 Claim Form 9-1-14**

Field Name and Number	Instructions for Completion
1. (type of coverage)	Not required.
1a. INSURED'S I.D. NUMBER (For Program in Item 1)	Beneficiary's or participant's 10-digit Medicaid or ARKids First A or ARKids First B identification number.
2. PATIENT'S NAME (Last Name, First Name, Middle Initial)	Beneficiary's or participant's last name and first name.
3. PATIENT'S BIRTH DATE	Beneficiary's or participant's date of birth as given on the individual's Medicaid or ARKids First A or ARKids First B identification card. Format: MM/DD/YY.
SEX	Check M for male or F for female.

Field Name and Number	Instructions for Completion
4. _____ INSURED'S NAME (Last _____ Name, First Name, Middle _____ Initial)	Required if insurance affects this claim. Insured's last name, first name and middle initial.
5. _____ PATIENT'S ADDRESS (No., _____ Street)  _____ CITY  _____ STATE	Optional. Beneficiary's or participant's complete mailing address (street address or post office box).  Name of the city in which the beneficiary or participant resides.  Two-letter postal code for the state in which the beneficiary or participant resides.
_____ ZIP CODE _____ TELEPHONE (Include Area _____ Code)	Five-digit zip code; nine digits for post office box.  The beneficiary's or participant's telephone number or the number of a reliable message/contact/emergency telephone.
6. _____ PATIENT RELATIONSHIP _____ TO INSURED	If insurance affects this claim, check the box indicating the patient's relationship to the insured.
7. _____ INSURED'S ADDRESS _____ (No., Street)  _____ CITY  _____ STATE  _____ ZIP CODE	Required if insured's address is different from the patient's address.
_____ TELEPHONE (Include Area _____ Code)	
8. _____ RESERVED	Reserved for NUCC use.
9. _____ OTHER INSURED'S NAME _____ (Last name, First Name, _____ Middle Initial)	If patient has other insurance coverage as indicated in Field 11d, the other insured's last name, first name and middle initial.
_____ a. _____ OTHER INSURED'S _____ POLICY OR _____ GROUP _____ NUMBER	Policy and/or group number of the insured individual.
_____ b. _____ RESERVED _____ SEX	Reserved for NUCC use.  Not required.
_____ c. _____ RESERVED	Reserved for NUCC use.
_____ d. _____ INSURANCE PLAN _____ NAME OR _____ PROGRAM _____ NAME	Name of the insurance company.
10. _____ IS PATIENT'S CONDITION _____ RELATED TO:	
_____ a. _____ EMPLOYMENT? _____ (Current or _____ Previous)	Check YES or NO.
_____ b. _____ AUTO ACCIDENT?	Required when an auto accident is related to the services. Check YES or NO.

Field Name and Number	Instructions for Completion
_____ PLACE (State)	If 10b is YES, the two-letter postal abbreviation for the state in which the automobile accident took place.
_____ c. _____ OTHER _____ _____ ACCIDENT?	Required when an accident other than automobile is related to the services. Check YES or NO.
_____ d. _____ CLAIM CODES	The "Claim Codes" identify additional information about the beneficiary's condition or the claim. When applicable, use the Claim Code to report appropriate claim codes as designated by the NUCC. When required to provide the subset of Condition Codes, enter the condition code in this field. The subset of approved Condition Codes is found at <a href="http://www.nucc.org">www.nucc.org</a> under Code Sets.
11. _____ INSURED'S POLICY _____ GROUP OR FECA _____ NUMBER	Not required when Medicaid is the only payer.
_____ a. _____ INSURED'S DATE _____ OF BIRTH	Not required.
_____ _____ SEX	Not required.
_____ b. _____ OTHER CLAIM ID _____ NUMBER	Not required.
_____ c. _____ INSURANCE PLAN _____ NAME OR _____ _____ PROGRAM NAME	Not required.
_____ d. _____ IS THERE _____ _____ ANOTHER HEALTH _____ BENEFIT PLAN?	When private or other insurance may or will cover any of the services, check YES and complete items 9, 9a and 9d. Only one box can be marked.
12. _____ PATIENT'S OR _____ AUTHORIZED PERSON'S _____ SIGNATURE	Enter "Signature on File," "SOF" or legal signature.
13. _____ INSURED'S OR _____ AUTHORIZED PERSON'S _____ SIGNATURE	Enter "Signature on File," "SOF" or legal signature.
14. _____ DATE OF CURRENT: _____ ILLNESS (First symptom) _____ OR _____ INJURY (Accident) OR _____ PREGNANCY (LMP)	Required when services furnished are related to an accident, whether the accident is recent or in the past. Date of the accident.
	Enter the qualifier to the right of the vertical dotted line. Use Qualifier 431 Onset of Current Symptoms or Illness; 484 Last Menstrual Period.



Field Name and Number	Instructions for Completion
15. <del>OTHER DATE</del>	<p data-bbox="732 205 1398 296"><del>Enter another date related to the beneficiary's condition or treatment. Enter the qualifier between the left hand set of vertical, dotted lines.</del></p> <p data-bbox="732 317 1398 407"><del>The "Other Date" identifies additional date information about the beneficiary's condition or treatment. Use qualifiers:</del></p> <p data-bbox="732 428 992 457"><del>454 Initial Treatment</del></p> <p data-bbox="732 478 1122 508"><del>304 Latest Visit or Consultation</del></p> <p data-bbox="732 529 1317 558"><del>453 Acute Manifestation of a Chronic Condition</del></p> <p data-bbox="732 579 899 609"><del>439 Accident</del></p> <p data-bbox="732 630 927 659"><del>455 Last X-Ray</del></p> <p data-bbox="732 680 938 709"><del>471 Prescription</del></p> <p data-bbox="732 730 1219 760"><del>090 Report Start (Assumed Care Date)</del></p> <p data-bbox="732 781 1252 810"><del>091 Report End (Relinquished Care Date)</del></p> <p data-bbox="732 831 1101 861"><del>444 First Visit or Consultation</del></p>
16. <del>DATES PATIENT UNABLE TO WORK IN CURRENT OCCUPATION</del>	Not required.
17. <del>NAME OF REFERRING PROVIDER OR OTHER SOURCE</del>	<p data-bbox="732 974 1398 1100"><del>Primary Care Physician (PCP) referral is not required for ARChoices services. If services are the result of a Child Health Services (EPSDT) screening/referral, enter the referral source, including name and title.</del></p>
17a. <del>(blank)</del>	Not required.
17b. <del>NPI</del>	Enter NPI of referring physician.
18. <del>HOSPITALIZATION DATES RELATED TO CURRENT SERVICES</del>	<p data-bbox="732 1222 1377 1373"><del>When the serving/billing provider's services charged on this claim are related to a beneficiary's or participant's inpatient hospitalization, enter the individual's admission and discharge dates. Format: MM/DD/YY.</del></p>
19. <del>ADDITIONAL CLAIM INFORMATION</del>	<p data-bbox="732 1394 1398 1520"><del>Identifies additional information about the beneficiary's or the claim. Enter the appropriate qualifiers describing the identifier. See <a href="http://www.nucc.org">www.nucc.org</a> for qualifiers.</del></p>
20. <del>OUTSIDE LAB? \$ CHARGES</del>	Not required.
	Not required.

Field Name and Number	Instructions for Completion
21. <del>DIAGNOSIS OR NATURE OF ILLNESS OR INJURY</del>	<p>Enter the applicable ICD indicator to identify which version of ICD codes is being reported.</p> <p>Use "9" for ICD-9-CM.</p> <p>Use "0" for ICD-10-CM.</p> <p>Enter the indicator between the vertical, dotted lines in the upper right-hand portion of the field.</p> <p>Diagnosis code for the primary medical condition for which services are being billed. Use the appropriate International Classification of Diseases (ICD). List no more than 12 diagnosis codes. Relate lines A-L to the lines of service in 24E by the letter of the line. Use the highest level of specificity.</p>
22. <del>RESUBMISSION CODE ORIGINAL REF. NO.</del>	<p>Reserved for future use.</p> <p>Any data or other information listed in this field does not/will not adjust, void or otherwise modify any previous payment or denial of a claim. Claim payment adjustments, voids and refunds must follow previously established processes in policy.</p>
23. <del>PRIOR AUTHORIZATION NUMBER</del>	<p>The prior authorization or benefit extension control number if applicable.</p>
24A. <del>DATE(S) OF SERVICE</del>	<p>The "from" and "to" dates of service for each billed service. Format: MM/DD/YY.</p> <ol style="list-style-type: none"> <li>1. On a single claim detail (one charge on one line), bill only for services provided within a single calendar month.</li> <li>2. Some providers may bill on the same claim detail for two or more sequential dates of service within the same calendar month when the provider furnished equal amounts of the service on each day of the date sequence.</li> </ol>
B. <del>PLACE OF SERVICE</del>	<p>Enter the appropriate place of service code. See Section 262.200 for codes.</p>
C. <del>EMG</del>	<p>Enter "Y" for "Yes" or leave blank if "No." EMG identifies if the service was an emergency.</p>
D. <del>PROCEDURES, SERVICES, OR SUPPLIES CPT/HCPCS MODIFIER</del>	<p>One CPT or HCPCS procedure code for each detail.</p> <p>Modifier(s) if applicable.</p>

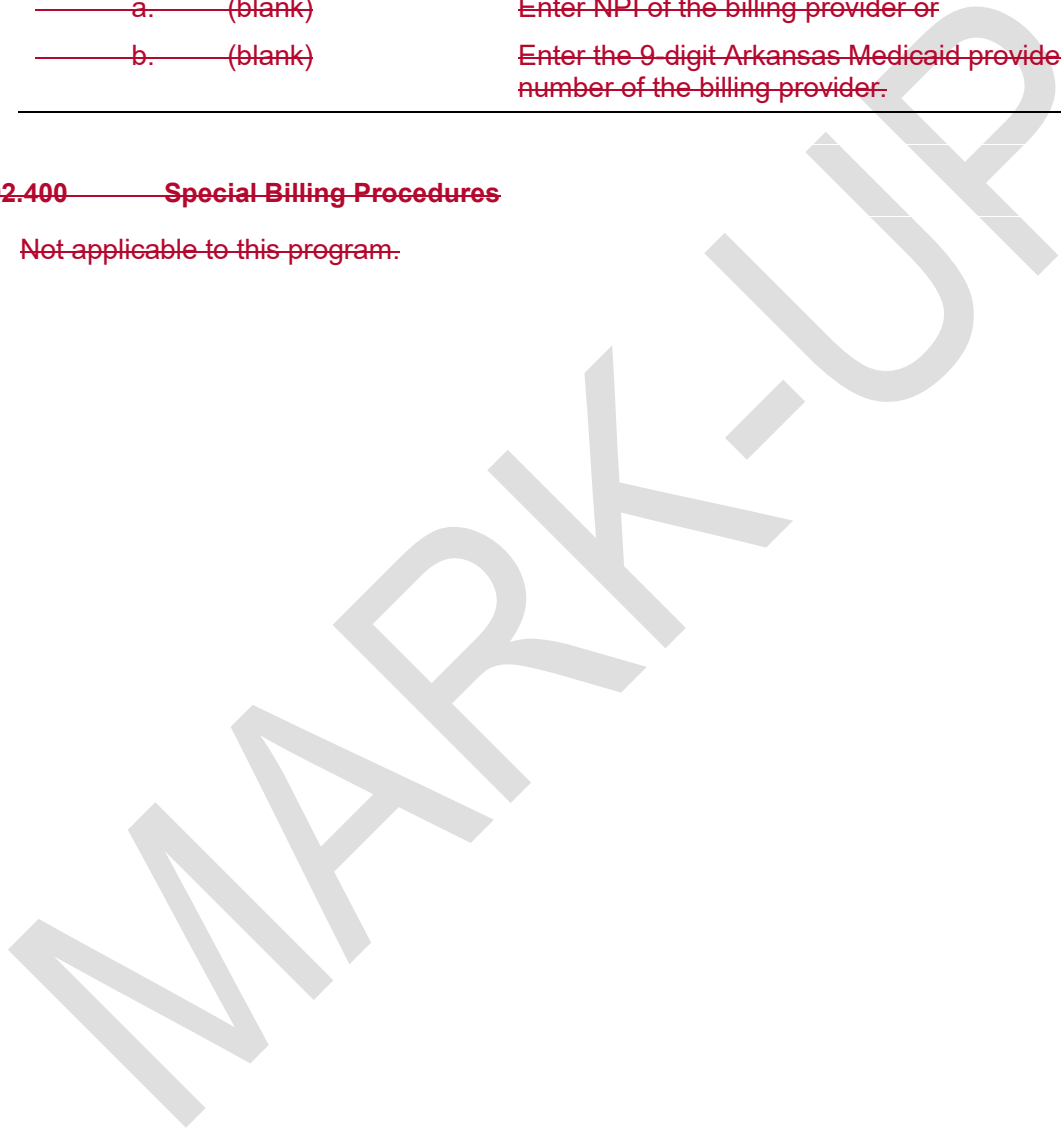
Field Name and Number	Instructions for Completion
E. <del>DIAGNOSIS POINTER</del>	Enter the <del>diagnosis code reference letter (pointer) as shown in Item Number 21 to relate to the date of service and the procedures performed to the primary diagnosis. When multiple services are performed, the primary reference letter for each service should be listed first; other applicable services should follow. The reference letter(s) should be A-L or multiple letters as applicable. The "Diagnosis Pointer" is the line letter from Item Number 21 that relates to the reason the service(s) was performed.</del>
F. <del>\$ CHARGES</del>	The full charge for the <del>service(s) totaled in the detail. This charge must be the usual charge to any client, patient, or other beneficiary of the provider's services.</del>
G. <del>DAYS OR UNITS</del>	The <del>units (in whole numbers) of service(s) provided during the period indicated in Field 24A of the detail.</del>
H. <del>EPSDT/Family Plan</del>	Not required for ARChoices.
I. <del>ID QUAL</del>	Not required.
J. <del>RENDERING PROVIDER ID #</del>	Enter the <del>9 digit Arkansas Medicaid provider ID number of the individual who furnished the services billed for in the detail or</del>
<del>NPI</del>	Enter <del>NPI of the individual who furnished the services billed for in the detail.</del>
25. <del>FEDERAL TAX I.D. NUMBER</del>	Not required. This information is carried in the <del>provider's Medicaid file. If it changes, please contact Provider Enrollment.</del>
26. <del>PATIENT'S ACCOUNT NO.</del>	Optional entry that may be used for accounting purposes; <del>use up to 16 numeric or alphabetic characters. This number appears on the Remittance Advice as "MRN."</del>
27. <del>ACCEPT ASSIGNMENT?</del>	Not required. Assignment is automatically accepted by the provider when billing Medicaid.
28. <del>TOTAL CHARGE</del>	Total of Column 24F <del>the sum all charges on the claim.</del>
29. <del>AMOUNT PAID</del>	Enter the <del>total of payments previously received on this claim. Do not include amounts previously paid by Medicaid. Do not include in this total the automatically deducted Medicaid co-payments.</del>
30. <del>RESERVED</del>	Reserved for NUCC use.
31. <del>SIGNATURE OF PHYSICIAN OR SUPPLIER INCLUDING DEGREES OR CREDENTIALS</del>	The <del>provider or designated authorized individual must sign and date the claim certifying that the services were personally rendered by the provider or under the provider's direction. "Provider's signature" is defined as the provider's actual signature, a rubber stamp of the provider's signature, an automated signature, a typewritten signature, or the signature of an individual authorized by the provider rendering the service. The name of a clinic or group is not acceptable.</del>

Field Name and Number	Instructions for Completion
32. <del>SERVICE FACILITY LOCATION INFORMATION</del>	If other than home or office, enter the name and street, city, state and zip code of the facility where services were performed.
a. <del>(blank)</del>	Not required.
b. <del>(blank)</del>	Not required.
33. <del>BILLING PROVIDER INFO &amp; PH #</del>	Billing provider's name and complete address. Telephone number is requested but not required.
a. <del>(blank)</del>	Enter NPI of the billing provider or
b. <del>(blank)</del>	Enter the 9 digit Arkansas Medicaid provider ID number of the billing provider.

**292.400 ~~Special Billing Procedures~~**

**10-13-03**

Not applicable to this program.



**Rules for the Division of Developmental Disabilities**  
**Adult Developmental Day Treatment**



**LAST UPDATED: ~~January~~August 1, 2021**



**Subchapter 1.        General.**

**101.   Authority.**

(a) These standards are promulgated under the authority of Ark. Code Ann. § 20-48-101 to -105, Ark. Code Ann. § 20-48-201 to -212, Ark. Code Ann. § 20-48-701 to -705, Ark. Code Ann. § 20-48-812, Ark. Code Ann. § 25-10-102, and Ark. Code Ann. § 25-15-217.

**(b)**

- (1) The Division of Provider Services and Quality Assurance (DPSQA) shall perform all regulatory functions regarding the licensure and monitoring of Adult Developmental Day Treatment programs, on behalf of the Division of Developmental Disabilities Services (DDS).
- (2) The Division of Developmental Disabilities Services (DDS) shall determine whether and to what an extent a county is underserved.

**102.   Purpose.**

The purpose of these standards is to:

- (a1) Serve as the minimum standards for adult developmental day treatment programs and facilities; and
- (b2) Ensure that all beneficiariesclients receive all adult developmental day treatment services recommended by a physician for the maximum reduction of physical or mental disability and restoration of the beneficiaryclient to the best functional level.

**103.   Definitions.**

As used in these standards:

- (1) “ADDT” means an adult developmental day treatment program, which is a day treatment program prescribed by a physician that provides adult developmental day treatment services to adults with intellectual or developmental disabilities.
- (2) “ADDT license” means a non-transferable license issued by the Division of Provider Services and Quality Assurance DPSQA to an ADDT for a specific location that meets these standards.
- (3) “Adult developmental day treatment services” means services that are available under the Adult Developmental Day Treatment program for Medicaid

~~beneficiaries~~clients as defined in Section II of the Adult Developmental Day Treatment Medicaid Manual.

- (4) “Adverse regulatory action” means a denial of an ADDT ~~license~~license, and any enforcement action taken by ~~DPSQA~~the Division of Provider Services and Quality Assurance, pursuant to Section 803 to 807.
- (5) “Applicant” means an applicant for an ADDT license.

(6)

~~(A)~~ “Change in ownership” means one (1) or more transactions within a twelve (12) —month period that result in a change in greater than fifty percent (50%) of the —financial interests, governing body, operational control, or other operational or ownership interests of the ADDT.

~~(2B)~~ “Change in ownership” does not include a change of less than fifty percent (50%) in the membership of the ADDT’s:

~~(i)~~ Board of directors;

~~(ii)~~ Board of trustees; or

~~(iii)~~ Other governing body.

~~(6)(7)~~ “Directed in-service training plan” means a plan of action that:

- (A) Provides training to assist an ADDT in complying with these standards and correcting deficiencies;
- (B) Includes the topics covered in the training and materials used in the training;
- (C) Specifies the length of the training;
- (D) Specifies the employees required to attend the training; and
- (E) Is approved by the Division of Provider Services and Quality Assurance~~DPSQA~~.

(8)

~~(A)~~ “Employee” means an employee, owner, independent contractor, driver, attendant, or other agent of an ADDT and includes without limitation:

~~(i)~~ Full-time employees;

(ii) ~~p~~Part-time employees;

(iii) ~~t~~Transportation contractors; and

(iv) ~~a~~Any other person who acts on behalf of an ADDT or has an ownership, financial, or voting interest in the ADDT.

(2B) “Employee” does not mean an independent contractor if:

(i) The independent contractor does not assist in the day-to-day operations of the ADDT; and

(ii) The independent contractor has no beneficiaryclient contact.

~~(7)(9)~~ “Irreconcilable conflict” means a conflict between two (2) standards where an ADDT cannot comply with both standards at the same time.

~~(8)(10)~~ “ITP” means a beneficiaryclient’s individual treatment plan, which is a written, individualized service plan for an ADDT beneficiaryclient to improve the beneficiaryclient’s condition.

(11)

(+A) “Marketing” means the accurate and honest advertisement of an ADDT that does not also constitute solicitation.

(2B) “Marketing” includes without limitation:

(i) Advertising using traditional media;

(ii) Distributing brochures or other informational materials regarding the services offered by the ADDT;

(iii) Conducting tours of the ADDT to interested beneficiariesclients and their families;

(iv) Mentioning services offered by the ADDT in which the beneficiaryclient or ~~his or her~~their family might have an interest; ~~or~~and

(v) Hosting informational gatherings during which the services offered by the ADDT are described.

(12) “Medication error” means the:

- (A) ~~H~~Loss of medication;<sup>5</sup>
- (B) ~~U~~navailability of medication;<sup>5</sup>
- (C) ~~F~~alsification of medication logs;<sup>5</sup>
- (D) ~~T~~heft of medication;<sup>5</sup>
- (E) ~~M~~issed doses of medication;<sup>5</sup>
- (F) ~~I~~ncorrect medications administered;<sup>5</sup>
- (G) ~~I~~ncorrect doses of medication;<sup>5</sup>
- (H) ~~I~~ncorrect time of administration;<sup>5</sup>
- (I) ~~I~~ncorrect method of administration;<sup>5</sup> and
- (J) ~~the d~~Discovery of an ~~u~~ unlocked medication container that is always supposed to be locked.

~~(9)~~(13) “Plan of correction” means a plan of action that:

- (A) Provides the steps an ADDT must take to correct noncompliance with these standards;
- (B) Sets a timeframe for each specific action provided in the plan; and
- (C) Is approved by the Division of Provider Services and Quality Assurance~~DPSQA~~.

~~(10)~~(14) “Residence” means the county where a beneficiary~~client~~ is listed as residing in the Arkansas Medicaid Management Information System.

~~(11)~~(15) “Serious injury” means any injury to a beneficiary~~client~~ that:

- (A) May cause death;
- (B) May result in substantial permanent impairment;
- (C) Requires hospitalization; or
- (D) Requires the attention of:
  - (i) ~~a~~An emergency medical technician;<sup>5</sup>

(ii) ~~a~~ paramedic; or

(iii) ~~a~~ An doctor emergency room; or.

~~Requires hospitalization.~~

(16)

(A1) “Solicitation” means the initiation of contact with a beneficiaryclient or his or hertheir family by an ADDT when the beneficiaryclient is currently receiving services from another provider and the ADDT is attempting to convince the beneficiaryclient or his or hertheir family to switch to or otherwise use the services of the ADDT that initiated the contact.

(2B) “Solicitation” includes without limitation the following acts to induce a beneficiaryclient or his or hertheir family by:

(i) Contacting a beneficiaryclient or the family of a beneficiaryclient that is currently receiving services from another provider;

(ii) Offering cash or gift incentives to a beneficiaryclient or his or hertheir family;

(iii) Offering free goods or services not available to other similarly situated beneficiariesclients or their families;

(iv) Making negative comments to a beneficiaryclient or his or hertheir family regarding the quality of services performed by another service provider;

(v) Promising to provide services in excess of those necessary;

(vi) Giving a beneficiaryclient or his or hertheir family the false impression, directly or indirectly, that the ADDT is the only service provider that can perform the services desired by the beneficiaryclient or his or hertheir family; or

(vii) Engaging in any activity that the Division of Provider Services and Quality AssuranceDPSQA reasonably determines to be “solicitation.”

(12)(17) “Underserved county” means a county that is underserved regarding adult developmental day treatment services in accordance with Arkansas Code § 20-48-105 of the Arkansas Code.



Subchapter 2.        **Licensing.**

**201.    License Required.**

(a)

- (1)    An ADDT must have an ADDT license that is issued by the Division of Provider Services and Quality Assurance, DPSQA pursuant to these ~~standards,~~ for the ~~location~~address at which the ADDT will provide services.
- (2)    An ADDT must comply with all requirements of these standards.

(b)

- (1)    An ADDT license is specific to a single ~~location~~address.
- (2)    A separate ADDT license is required for each ~~location~~address even if the same person or entity has an ADDT at other ~~locations~~addresses.
- (3)    An ~~location~~address may only have one (1) ADDT license attributed to it at any one (1) time.

**202.    Licensure Application.**

(a)

- (1)    To apply for an ADDT license, an applicant must submit a complete application to the Division of Provider Services and Quality Assurance, DPSQA.
- (2)    A complete application includes:
  - (A)    Documentation demonstrating the applicant's entire ownership, including without limitation all the applicant's financial, governing body, and business interests;
  - (B)    Documentation of the applicant's management, including without limitation the management structure and members of the management team;
  - (C)    Documentation of the applicant's current contractors and the contractors that the applicant intends to use as part of operating the ADDT;

- (D) Documentation of all required state and national criminal background checks for ~~employee~~Employees and operators;
  - (E) Documentation of all required Child Maltreatment Central Registry checks and Adult and Long-term Care Facility Resident Maltreatment Central Registry checks for ~~Eee~~Employees and operators;
  - (F) Documentation demonstrating compliance with these standards; and
  - (G) All other documentation or other information requested by the division~~DPSQA~~.
- (b) To apply to change the ownership of an existing ADDT, the ADDT must submit a complete application described in ~~Section 202~~subsection (a)(2) of this section.

**203. Licensure Process.**

- (a) The Division of Provider Services and Quality Assurance~~DPSQA~~ may approve an application for an ADDT license and issue an ADDT license if:
- (1) The applicant submits a complete application under Section 202(a);
  - (2) The Division of Provider Services and Quality Assurance~~DPSQA~~ determines that the applicant has successfully passed all required criminal background and maltreatment checks.
  - (3) The Division of Provider Services and Quality Assurance~~DPSQA~~ determines that the applicant satisfies these standards; and
  - (4) The Division of Provider Services and Quality Assurance~~DPSQA~~ determines that one (1) of the following conditions are met:
    - (A) ~~DDS~~The Division of Developmental Disabilities Services has determined that the county in which the new ADDT would be located is an underserved county;
    - (B) The applicant has one (1) or more ADDT licensed locations in the same county in which the new ADDT would be located; or
    - (C) The applicant has one (1) or more ADDT licensed locations in a county, contiguous to the county in which the new ADDT would be located, and the existing location serves at least twenty (20) individuals who are eligible, enrolled, and participating in the existing location, but reside in the county in which the ADDT would be located.

- (b) The Division of Provider Services and Quality Assurance~~DPSQA~~ may approve an application to change the ownership of an existing ADDT and change the ownership of an existing ADDT license if:
  - (1) The applicant submits a complete application under Section 202;
  - (2) The Division of Provider Services and Quality Assurance~~DPSQA~~ determines that all ~~employee~~Employees and operators have successfully passed all required criminal background and maltreatment checks; and
  - (3) The Division of Provider Services and Quality Assurance~~DPSQA~~ determines that the applicant satisfies these standards.
- (c) The Division of Provider Services and Quality Assurance~~DPSQA~~ shall issue new ADDT licenses in accordance with the order of priority required by ~~section~~ Arkansas Code § 20-48-105~~of the Arkansas Code~~.
- (d) ADDT licenses do not expire until terminated under these standards.

**204. Notice of Underserved Status.**

The Division of Developmental Disabilities Services~~DDS~~ shall provide written notice of any underserved determination made under Section 203(a)(3)(i) as required in ~~section~~ Arkansas Code § 20-48-105~~of the Arkansas Code~~.

Subchapter 3. Administration.

301. Organization and Ownership.

(a) The ADDT must be authorized and in good standing to do business under the laws of the State of Arkansas.

(b)

(1) An ADDT must:

(A) ~~a~~ Appoint a single manager as the point of contact for all Division of Developmental Disabilities ServicesDDS and Division of Provider Services and Quality AssuranceDPSQA matters; and

(B) ~~p~~ Provide the Division of Developmental Disabilities ServicesDDS and Division of Provider Services and Quality AssuranceDPSQA with updated contact information for that manager.

(2) This manager must have authority over the ADDT, all ADDT employees, and is responsible for ensuring that the Division of Developmental Disabilities ServicesDDS and Division of Provider Services and Quality AssuranceDPSQA requests, concerns, inquiries, and enforcement actions are addressed and resolved to the satisfaction of the Division of Developmental Disabilities ServicesDDS and Division of Provider Services and Quality AssuranceDPSQA.

(c)

(1) An ADDT cannot transfer its ADDT license to any person or entity.

(2) An ADDT cannot change its ownership unless the Division of Provider Services and Quality AssuranceDPSQA approves the application of the new ownership, pursuant to Sections 202 and 203.

(3) An ADDT cannot change its name or otherwise operate under a different name than the name listed on the ADDT license without prior written notice to the Division of Provider Services and Quality AssuranceDPSQA.

302. Employees and Staffing Requirements.

(a)

(1) An ADDT must appropriately supervise all beneficiariesclients based on each ~~beneficiary~~client's needs.

- (2) An ADDT must have enough ~~e~~Employees on-site to supervise ~~beneficiaries~~clients at the ~~ADDT~~ location.
- (b)
- (1) An ADDT must comply with all requirements applicable to ~~E~~employees under these ~~standards~~, including without limitation: drug screens, criminal background checks, and adult and child maltreatment checks.
- (2) An ADDT must verify an ~~e~~Employee ~~still~~meets all requirements under these standards:
- (A) ~~u~~Upon the request of DPSQA; or
- (B) ~~w~~Whenever the ADDT receives information after hiring, if the information that would create a reasonable belief that an ~~e~~Employee no longer meets all requirements under these standards including without limitation requirements related to criminal background checks and adult and child maltreatment checks.
- (c)
- (1) An ADDT must conduct ~~child maltreatment, adult maltreatment, and criminal~~ background checks for all ~~e~~Employees as required pursuant to Ark. Code Ann. § 20-38-101, et seq by law.
- (2) ~~Except as provided in this section, all ADDT employees, contractors, sub-contractors, interns, volunteers, and trainees, as well as all other persons who have routine contact with beneficiaries within the ADDT or who provide services within the ADDT, must successfully pass all required criminal background checks and adult and child maltreatment checks~~An ADDT must conduct an Arkansas Child Maltreatment Central Registry check on each Employee prior to hiring and at least every two (2) years thereafter.
- (3) An ADDT must conduct an Adult and Long-term Care Facility Resident Maltreatment Central Registry check on each Employee prior to hiring and at least every two (2) years thereafter.
- (4) An ADDT must conduct a drug screen that tests for the use of illegal drugs- on each Employee prior to hiring.
- (5) An ADDT must conduct an Arkansas Sex Offender Central Registry search on each Employee prior to hiring and at least every two (2) years thereafter.
- (d) ~~(1)~~ Employees must be at least eighteen (18) years of age.



~~(2) A beneficiary's custodian or legal guardian is not required to have criminal background checks, child maltreatment checks, or adult maltreatment checks, if the custodian or legal guardian only volunteers on a field trip and is not left alone with any beneficiary.~~

(e) An ADDT must maintain at least a one to ten (1:10) staff-to-~~beneficiary~~client ratio at all times.

(f)

(1) An ADDT must document all scheduled and actual ~~e~~Employee staffing.

(2) The documentation required for ~~of e~~Employee staffing includes without limitation employee:

~~(A) Names;~~

~~(B) Job title or credential;~~

~~(C) shift roleJob duties; and~~

~~(D) shift daysTypical working days and hours.; and~~

~~(E) Shift times.~~

### **303. Employee Training.**

(a) All ~~e~~Employees involved in any way with services provided to ~~beneficiaries~~clients, or who have routine contact with ~~beneficiaries~~clients, must receive the following training before having contact with ~~beneficiaries~~clients and must do so no later than thirty (30) days after beginning their employment:

- (1) Basic health and safety practices;
- (2) Infection control and infection control procedures;
- (3) Identification and mitigation of unsafe environmental factors;
- (4) Emergency and evacuation procedures required in Section 308;
- (5) Identification and prevention of adult and child maltreatment;

- (6) Mandated reporter requirements; and
  - (7) Reporting incidents and accidents as required in these standards.
- (b) Employees required to receive training, prescribed in ~~subdivision-subsection~~ (a) of this section, must receive annual re-training on those topics at least once every twelve (12) months.

**304. Employee Records.**

- (a) An ADDT must maintain a personnel file for each ~~e~~Employee that includes:
- (1) A detailed job description;
  - (2) All required criminal background checks;
  - (3) All required ~~C~~child ~~M~~maltreatment ~~R~~registry checks;
  - (4) All required ~~A~~adult ~~M~~maltreatment ~~R~~registry checks;
  - (5) All conducted drug screen results;
  - (6) ~~A~~ Signed statement that ~~the e~~~~Employee~~Employee will comply with the ADDT's drug screen and drug use policies;
  - (7) ~~A~~ Copy of a current state or federal identification;
  - (8) ~~A~~ Copy of a valid state-issued driver's license, if driving is required in the job description, and documentation of completion of any required driver safety courses;
  - (9) Documentation demonstrating that the ~~e~~~~E~~~~E~~employee received all training required in Section 303;
  - (10) Documentation demonstrating that the ~~e~~~~E~~~~E~~employee obtained and maintained in good standing all professional licensures, certifications, or credentials ~~for the employee or the service the employee is performing that are~~ required for the ~~employee or the~~ service that the ~~e~~Eemployee is performing; and
  - (11) Documentation demonstrating that the ~~e~~~~E~~~~E~~employee meets all continuing education, in-service, or other training requirements applicable ~~to that employee~~ under these standards, and any professional licensures, certifications, or credentials held by that ~~E~~Employee.
- (b)

(1) An ADDT must ensure that each personnel record is kept confidential and available only to:

(A) Employees who need to know the information contained in the personnel record;

(B) Persons or entities who need to know the information contained in the personnel record;

(C) The Division of Provider Services and Quality Assurance~~DPSQA~~ and any governmental entity with jurisdiction or other authority to access the personnel record;

(D) The ~~e~~Employee; ~~and/or~~

(E) Any other individual authorized in writing by the ~~e~~Employee.

(2)

(A) An ADDT must keep personnel records in a file cabinet or room that is always locked.

(B)

(i) An ADDT may use electronic records in addition to or in place of physical records, to comply with these standards.

(ii) An ADDT provider that uses electronic records must take reasonable steps to backup all electronic records and reconstruct a personnel record in the event of a breakdown in the ADDT's electronic records system.

(c) An ADDT must retain all ~~e~~Employee records for five (5) years from the date an ~~e~~Employee is no longer an ~~e~~Employee of the ADDT or, if longer, the final conclusion of all reviews, appeals, investigations, administrative actions, or judicial actions related to that ~~e~~Employee that are pending at the end of the five-year period.

**305. BeneficiaryClient Service Records.**

(a)

(1) An ADDT must maintain a separate, updated, and complete service record, for each beneficiaryclient documenting the services provided to the beneficiaryclient, and all other documentation required under these standards.

(2) Each beneficiaryclient service record must be uniformly organized and readily available for review by the Division of Provider Services and Quality AssuranceDPSQA at the ADDT's location.

(b) A beneficiaryclient's service record must include a summary document at the front that includes:

(1)      The beneficiaryclient's:

(A)      ~~f~~Full name;

(B)      ~~The beneficiary's a~~Address and county of residence;

(C)      ~~The beneficiary's t~~Telephone number and, if available, email address;

(D)      ~~The beneficiary's d~~Date of birth;

(E)      ~~The beneficiary's p~~Primary language;

(F)      ~~The beneficiary's d~~Diagnoses;

(G)      ~~The beneficiary's m~~Medications, dosage, and frequency, if applicable;

(H)      ~~The beneficiary's k~~Known allergies;

(I)      ~~The beneficiary's e~~Entry date into the ADDT;

(J)      ~~The beneficiary's e~~Exit date from the ADDT;

(K)      ~~The beneficiary's~~ Medicaid Number; and

(L)      ~~The beneficiary's e~~Commercial or private health insurance information or managed care organization information, if applicable;

~~(1)(2)~~      ~~The n~~Name, address, phone number, email address, and relationship of the beneficiaryclient's custodian or legal guardian; and

~~(2)(3)~~      ~~The n~~Name, address, and phone number of the beneficiaryclient's primary care physician.

(c) A beneficiaryclient's service record must include at least the following information and documentation:

(1)      The beneficiaryclient's:

(A)      ITP;

~~(B)~~ The beneficiary's bBehavioral management plan;

~~(C)~~ The beneficiary's dDaily activity logs; and

~~(D)~~ The beneficiary's mMedication management plan and medication logs;

~~(1)(2)~~ Copies of any assessments or evaluations completed on the beneficiaryclient; and

~~(2)(3)~~ Copies of any orders that place the beneficiaryclient in the custody of another person or entity.

(d)

(1) An ADDT must ensure that each beneficiaryclient service record is kept confidential and ~~——~~available only to:

(A) Employees who need to know the information contained in the beneficiaryclient's service record;

(B) Persons or entities who need to know the information contained in the beneficiaryclient service record in order to provide services to the beneficiaryclient;

(C) ~~DPSQA~~ The division and any governmental entity with jurisdiction or other authority to access the beneficiaryclient's service record;

(D) The beneficiaryclient's legal guardian or custodian; and

(E) Any other individual authorized in writing by the legal guardian or custodian.

(2)

(A) An ADDT must keep beneficiaryclient service records in a file cabinet or room ~~———~~that is always locked.

(B)

(i) An ADDT may use electronic records in addition to or in place of physical records to comply with these standards.

(ii) An ADDT provider that uses electronic records must take reasonable steps to backup all electronic records and reconstruct a beneficiaryclient's service record in the event of a breakdown in the ADDT's electronic records system.



- (e) An ADDT must retain all beneficiaryclient service records for five (5) years from the date the beneficiaryclient last exits from the ADDT or, if longer, the final conclusion of all reviews, appeals, investigations, administrative actions, or judicial actions related to the beneficiaryclient that are pending at the end of the five-year period.

**306. Marketing and Solicitation.**

- (a) An ADDT can market its services.
- (b) An ADDT cannot solicit a beneficiaryclient or ~~his or her~~their family.

**307. Third-party Service Agreements.**

- (a) An ADDT may contract in writing with third-party vendors to provide services or otherwise satisfy requirements under these standards.
- ~~(b)~~ An ADDT must ensure that all third-party vendors comply with these standards and all other applicable:
- ~~(1)~~ Laws;
  - ~~(2)~~ Rules; and
  - ~~(3)~~ Regulations.

**308. Emergency Plans and Drills.**

- ~~(a)~~
- (1) An ADDT must have a written emergency plan.
  - (2)
    - (A) The written emergency plan must provide the procedures to follow in the \_\_\_\_\_event of emergencies to safeguard the health and safety of beneficiariesclients and \_\_\_\_\_ensure continuity of services to the extent possible.
    - (B) A written emergency plan must address all foreseeable emergencies including without limitation:
      - ~~(i)~~ Fires;

~~(ii) Floods;~~

~~(iii) Tornadoes;~~

~~(iv) Utility disruptions;~~

~~(v) Bomb threats;~~

~~(vi) Active shooters;~~

~~(vii) Outbreaks of infectious disease;~~ and

~~(viii) Public health emergencies.~~

(3) An ADDT must evaluate all written emergency plans at least annually and update as needed.

(b) The written emergency plan must include at least:

(1) Designated relocation sites and evacuation routes;

(2) Procedures for notifying legal guardians and custodians of relocation;

(3) Procedures for ensuring each beneficiaryclient's safe return to the ADDT or ~~his or her~~their residence;

(4) Procedures to address the special needs of each beneficiaryclient;

(5) Procedures to address interruptions in the delivery of ADDT services;

(6) Procedures for reassigning employee duties in an emergency; and

~~(7) Procedures for annual training of employees regarding the emergency plan.~~

~~(8)(7)~~

(c)

(1) ~~An ADDT must conduct emergency fire drills and tornado drills, at least once a — month, — each and on separate days, and at different times of day.~~

(2) An ADDT must document all emergency drills completed and include at least:

(A) The date of the emergency drill;

- (B) The type of emergency drill;
- (C) The time of day the emergency drill was conducted;
- (D) The number of beneficiariesclients participating in the emergency drill;
- (E) The length of time taken to complete the emergency drill; and
- (F) Notes regarding any aspects of the emergency procedure or drill that need improvement based on the performance of the emergency drill.

(d) An ADDT must have an emergency alarm system in place that will alert all employees and beneficiariesclients when there is an emergency.

**309. Infection Control.**

(a)

(1) An ADDT must follow all applicable guidance and directives from the Arkansas Department of Health (~~ADH~~) related to infection control including without limitation guidance and directives on:

~~(A)~~ (A) ~~Preventing the spread of infectious diseases;~~

~~(B)~~ (B) ~~Hand hygiene;~~

~~(C)~~ (C) ~~Handling potentially infectious material;~~

~~(D)~~ (D) ~~Use of personal protective equipment;~~

~~(E)~~ (E) ~~Tuberculosis;~~

~~(G)~~ (G) ~~Blood borne pathogens;~~ and

~~(H)~~ (H) ~~Coronaviruses.~~

(2) An ADDT must provide personal protective equipment for all employees and beneficiariesclients as may be required in the circumstances.

(3) Employees and beneficiariesclients must wash their hands with soap before eating, after toileting, and as otherwise appropriate to prevent the spread of infectious diseases.

(b)

- (1) An ADDT cannot allow a beneficiaryclient, employee, or any other person who has an ~~infectious~~ disease to enter an ADDT facility.
- (2) ~~—~~A beneficiaryclient who becomes ill while at an ADDT must be separated from other- beneficiariesclients to the extent possible.
- (3) ~~—~~The ADDT must notify a beneficiaryclient's legal guardian or custodian if the beneficiaryclient becomes ill while at an ADDT facility.

**310. Compliance with State and Federal Laws, Rules, and Other Standards.**

- (a) An ADDT must comply with all applicable state and federal laws and rules including without limitation:
  - (1) The Americans with Disabilities Act of 1990 (ADA);
  - (2) The Disability Civil Rights Act of 1964;
  - (3) The Health Insurance Portability and Accounting Act of 1996 (HIPPA);
  - (4) The Privacy Act of 1974; and
  - (5) All applicable laws and rules governing the protection of medical, social, personal, financial, and electronically stored records.
- (b) An ADDT facility must comply with all:
  - (1) Building codes and local ordinances;
  - (2) Fire and safety inspections and requirements of the State Fire Marshal or local authorities;
  - (3) Arkansas Department of Health requirements including without limitation requirements regarding water, plumbing, and sewage;
  - (4) Arkansas Department of Labor and Licensing requirements, including without limitation requirements regarding water heaters and boilers; and
  - (5) Other federal, state, or local requirements applicable to the HCBS community service location, property, and structures.
- (c) An ADDT provider must maintain documentation of compliance with applicable state, local, and federal:

(1) ~~L~~aws;

(2) ~~R~~ules;

(3) ~~C~~odes; and

(4) ~~S~~tandards.

~~(e)~~(d) A violation of any applicable state, local, or federal laws, rules, codes, or standards constitutes a violation of these standards.

~~(e)~~

(1) In the event of a conflict between these standards and other applicable state, local, \_\_\_\_\_ or federal laws, rules, or standards, the stricter requirement shall apply.

(2) In the event of an irreconcilable conflict between these standards and other applicable state, local, or federal laws, rules, or standards these standards shall govern to the extent not governed by federal laws or rules or state law.



## Subchapter 4. Facility Requirements.

### 401. General Requirements.

An ADDT facility must:

- (1) Have a minimum of forty (40) square feet of program training area per beneficiaryclient;
- (2) Be heated, air-conditioned, well-lighted, well-ventilated, and well-maintained at a comfortable temperature;
- ~~(3)~~ Be safe, clean, maintained, in good repair, and sanitary, including without limitation as to the facility's:
  - ~~(A)~~ Exterior;
  - ~~(B)~~ Surrounding property; and
  - ~~(C)~~ Interior floors and ceilings;
- ~~(3)~~~~(4)~~ Be free of offensive odors and potentially hazardous objects including without limitation explosives and broken equipment;
- ~~(4)~~~~(5)~~ Have drinking water available to beneficiariesclients and ~~eEe~~Employees;
- ~~(5)~~~~(6)~~ Have an emergency alarm system throughout the facility to alert ~~eEe~~employees and beneficiariesclients when there is an emergency;
- ~~(7)~~ Have at least one (1) toilet and one (1) sink for every fifteen (15) beneficiariesclients, with:
  - ~~(A)~~ Running hot and cold water;
  - ~~(B)~~ Toilet tissue;
  - ~~(C)~~ Liquid soap; and
  - ~~(D)~~ Paper towels or air dryers;
- ~~(6)~~~~(8)~~ Have bathrooms that provide for individual privacy and are appropriate for all beneficiariesclients with regard to size and accessibility;

~~(7)~~(9) Have at least one (1) operable telephone on site that is available at all hours and reachable with a phone number, for outside callers;

~~(8)~~(10) Have working smoke and carbon monoxide detectors in all areas used by ~~beneficiaries~~clients or ~~eEeE~~employees;

~~(9)~~(11) Have a first aid kit that includes at least the following:

- (A) Adhesive band-aids of various sizes;
- (B) Sterile gauze squares;
- (C) Adhesive tape;
- (D) Roll of gauze bandages;
- (E) Antiseptic;
- (F) Thermometer;
- (G) Scissors;
- (H) Disposable gloves; and
- (I) Tweezers;

~~(10)~~(12) Have enough fire extinguishers, in ~~number~~quantity and location, to satisfy all applicable laws and rules, but no fewer than two (2) fire extinguishers;

~~(11)~~(13) Have hallways and corridors at least six ~~(6)~~feet ~~(6')~~ in width;

~~(12)~~(14) Have screens for all windows and doors used for ventilation;

~~(15)~~ Have screens or guards attached to the floor or wall to protect:

- ~~(A)~~ ~~fF~~loor furnaces;
- ~~(B)~~ ~~hH~~eaters;
- ~~(C)~~ ~~hH~~ot radiators;
- ~~(D)~~ ~~eE~~xposed water heaters;
- ~~(E)~~ ~~aA~~ir conditioners; and
- ~~(F)~~ ~~eE~~lectric fans;

- ~~(13)~~(16) \_\_\_\_\_ Have no lead-based paint;
- ~~(14)~~(17) \_\_\_\_\_ Have lighted “exit” signs at all exit locations;
- (18) \_\_\_\_\_ Have written instructions and diagrams noting emergency evacuation routes and shelters to be used in case of fire, severe weather, or other emergency, posted at least every twenty-five ~~(25)~~ feet (25’);
- (A) \_\_\_\_\_ ~~i~~In all stairwells;
- (B) \_\_\_\_\_ ~~i~~In and by all elevators; and
- (C) \_\_\_\_\_ ~~i~~In each room used by ~~beneficiaries~~clients;
- ~~(15)~~(19) \_\_\_\_\_ Have a copy of Title VI and VII of the Civil Rights ~~Law~~ Act of 1964 and all required legal notices prominently posted as required;
- ~~(16)~~(20) \_\_\_\_\_ Have an emergency power system to provide lighting and power to essential electrical devices throughout the ADDT, including without limitation, power to exit lighting and fire detection, fire alarm, and fire extinguishing systems;
- ~~(17)~~(21) \_\_\_\_\_ Have chemicals, toxic substances, and flammable substances stored in locked storage cabinets or closets;
- ~~(18)~~(22) \_\_\_\_\_ Have the ADDT’s telephone number, hours of operation, and hours of access, ~~(if applicable)~~, posted at all public entrances;
- ~~(19)~~(23) \_\_\_\_\_ Prohibit the possession of firearms or other weapons except by authorized law enforcement personnel; and
- (24) \_\_\_\_\_ Prohibit:
- (A) \_\_\_\_\_ ~~s~~Smoking;
- (B) \_\_\_\_\_ ~~u~~Use of tobacco products; and
- (C) \_\_\_\_\_ ~~t~~The consumption of:
- (i) \_\_\_\_\_ ~~p~~Prescription medication without a prescription;
- (ii) \_\_\_\_\_ ~~a~~Alcohol; and

**Subchapter 5. Enrollments and Exits.**

**501. Enrollments.**

- (a) An ADDT may enroll and provide services to a beneficiaryclient who is eligible to receive ADDT services.
- (b) An ADDT must document the enrollment of all beneficiariesclients to the ADDT.

**502. Exits.**

- (a) An ADDT may exit a beneficiaryclient from its program if the person becomes ineligible for ADDT services, chooses to enroll with another ADDT, or for any other lawful reason.
- (b) An ADDT must document the exit of all beneficiariesclients from its program.
- (c) An ADDT must provide reasonable assistance to all beneficiariesclients who are exiting its program, including without limitation to by:
  - (1) Assisting the beneficiaryclient in transferring to another ADDT or other service provider; and
  - (2) Providing copies of the beneficiaryclient's records to:
    - (A) The beneficiaryclient;
    - (B) The beneficiaryclient's legal custodian or guardian; and
    - (C) The ADDT or other service provider to which the beneficiaryclient transfers after exiting the program.

Subchapter 6. Program and Services.

601. Arrivals, and Departures, and Transportation.

(a) ~~(1)~~ — An ADDT must ensure that beneficiariesclients safely arrive to and depart from an ADDT \_\_\_\_\_ facility.

~~(2b)~~

~~(A1)~~ An ADDT must document the arrival and departure of each beneficiaryclient to — \_\_\_\_\_ and from an ADDT facility.

~~(B2)~~ Documentation of arrivals to and departures from an ADDT must include without limitation the:

~~(A)~~ beneficiaryClient's:

~~(i)~~ Name;

~~(ii)~~ Date of birth; and

~~(iii)~~ Date and time of arrival and departure;

~~(B)~~ Name of the person or entity that provided transportation; and

~~(C)~~ Method of transportation.

~~(c3)~~ ~~(A)~~ — A manager or designee of an ADDT must:

(1) Review the beneficiaryclient arrival and departure documentation each day and compare it with the ADDT's attendance record; and

(2) Sign and date the beneficiaryclient arrival and departure documentation verifying that all beneficiariesclients for the day safely arrived to and departed from the ADDT facility.

~~(d)~~ An ADDT must maintain beneficiaryclient arrival and departure documentation for one (1) year from the date of transportation.

~~(b)~~ — ~~The requirements in subdivisions (c) through (f) apply only if an ADDT elects to provide transportation services.~~

~~(1)~~ — ~~Transportation to which these requirements apply includes without limitation transportation provided to a beneficiary by any person or entity on behalf of the~~



~~ADDT and regardless of whether the person is an employee, or the transportation is a billed service; and~~

~~(2) Transportation to which these requirements apply also includes periodic transportation, including without limitation transportation provided at the request of a beneficiary's legal guardian or custodian to have a beneficiary occasionally dropped off or picked up due to a scheduling conflict with the legal guardian or custodian.~~

~~(c) All employees transporting beneficiaries or present in vehicles during the transportation of beneficiaries shall meet the following requirements before transporting beneficiaries:~~

~~(1) Be at least twenty one (21) years of age or the minimum age required by the ADDT's commercial automobile insurance, whichever is higher;~~

~~(2) Hold a current valid driver's license or commercial driver's license as required by state law; and~~

~~(3) Successfully complete a driver safety training course.~~

~~(d) (1) Each vehicle used to transport beneficiaries must:~~

~~(A) Be licensed and maintained in proper working condition, including without limitation as to air conditioning and heating systems; and~~

~~(B) Have a seating space and a specific appropriate restraint system for each beneficiary transported.~~

~~(2) (A) Any vehicle designed or used to transport more than seven (7) passengers and one (1) driver must have a safety alarm device.~~

~~(B) The safety alarm device must:~~

~~(i) Always be in working order and properly maintained;~~

~~(ii) Installed so that the driver is required to walk to the very back of the vehicle to reach the switch that deactivates the alarm;~~

~~(iii) Be installed in accordance with the device manufacturer's recommendations; and~~

~~(iv) Sound the alarm for at least one (1) minute after the activation of the safety alarm device.~~

- ~~(3) (A) An ADDT must maintain commercial insurance coverage for any vehicle used to transport beneficiaries.~~
- ~~(B) The commercial insurance coverage must include at least:~~
- ~~(i) \$100,000 combined single limit;~~
  - ~~(ii) \$100,000 for uninsured motorist;~~
  - ~~(iii) \$100,000 for under-insured motorist; and~~
  - ~~(iv) \$5,000 personal injury protection for each passenger based on the number of passengers the vehicle is manufactured to transport.~~
- ~~(C) An ADDT must maintain documentation of all required commercial insurance coverage.~~
- ~~(e) (1) An ADDT must maintain a roster of beneficiaries for each vehicle each day listing the driver, other persons, and name, age, date of birth, and emergency contact information for all beneficiaries that will be transported in that vehicle.~~
- ~~(A) The daily roster shall be used to check beneficiaries on and off the vehicle when they are picked up or dropped off at home, the ADDT, or other location.~~
  - ~~(B) The employee who conducts the walk through required by subdivision (f) must sign the vehicle roster once the employee confirms that all beneficiaries have exited the vehicle.~~
- ~~(2) (A) A manager or designee of an ADDT must:~~
- ~~(i) Review the daily roster each day and compare it with the ADDT's attendance record;~~
  - ~~(ii) Sign and date the daily roster verifying that all beneficiaries for the day safely arrived to and departed from home, the ADDT facility, or other location.~~
- ~~(B) An ADDT must maintain the daily roster for one (1) year from the date of transportation.~~
- ~~(f) (1) An employee must walk through a vehicle used to transport beneficiaries after each trip and physically inspect each seat after unloading to ensure that no beneficiaries are left on the vehicle.~~

~~(2) The walk-through inspection for any vehicles designed or used to transport more than seven (7) passengers and one (1) driver must be conducted in one (1) of the following ways:~~

~~(A) (i) An employee unloads all beneficiaries from the vehicle, walks or otherwise moves through the interior of the vehicle to ensure that no beneficiaries remain on board, and deactivates the safety alarm device.~~

~~(ii) This option can only be used if all beneficiaries are able to unload from the vehicle in less than one (1) minute.~~

~~(B) (i) An employee supervises the beneficiaries during unloading and a second employee immediately walks or otherwise moves through the interior of the vehicle to ensure that no beneficiaries remain on board and deactivates the safety alarm device.~~

~~(ii) The employee who deactivated the safety alarm device will remain near the safety alarm device deactivation switch until all beneficiaries have unloaded to ensure that no beneficiary is left on board.~~

~~(iii) This option will require at least two (2) employees, one (1) to supervise the beneficiaries and one (1) to remain near the safety alarm device deactivation switch.~~

~~(C) (i) An employee deactivates the safety alarm device and unloads all beneficiaries immediately upon arrival.~~

~~(ii) Immediately after unloading, an employee will start the vehicle and move it to a different location for final parking, which must reactivate the safety alarm device.~~

~~(iii) An employee deactivates the safety alarm device and walks or otherwise moves through the interior of the vehicle to ensure that no beneficiaries remain on board and deactivates the safety alarm device.~~

## 602. Medications.

(a)

(1) An ADDT must develop a medication management plan for all ~~beneficiaries~~clients with prescribed medication that may be administered at the ADDT.

- (2) A medication management plan must include without limitation:
  - (A) The name of each medication;
  - (B) The name of the prescribing physician or other health-care professional if the medication is by prescription;
  - (C) A description of each medication prescribed and any symptom or symptoms to be addressed by each medication;
  - ~~(D)~~ How each medication will be administered, including without limitation:
    - ~~(i)~~ Times of administration;
    - ~~(ii)~~ Doses;
    - ~~(iii)~~ Delivery; and
    - ~~(iv)~~ Persons who may lawfully administer each medication;
  - ~~(D)~~(E) How each medication will be charted;
  - ~~(E)~~(F) A list of the potential side effects caused by each medication; and
  - ~~(F)~~(G) The consent to the administration of each medication by the beneficiary/client or, if the beneficiary/client lacks capacity, by the beneficiary/client's legal guardian or custodian.

(b)

- (1) An ADDT must maintain a medication log detailing the administration of all \_\_\_\_\_ medication to a beneficiary/client, including without limitation prescribed medication and \_\_\_\_\_ over-the-counter medication.
- (2) Each medication log must be uniformly organized and document the following for each administration of a medication:
  - (A) The name and dosage of medication administered;
  - (B) The symptom that the medication was used to address;
  - (C) The method by which the medication was administered;
  - (D) The date and time the medication was administered;

- (E) The name of the employee who administered the medication or assisted in the administration of the medication;
  - (F) Any adverse reaction or other side effect from the medication;
  - (G) Any transfer of medication from its original container into individual dosage containers by the beneficiaryclient's legal guardian or custodian;
  - (H) Any error in administering the medication and the name of the supervisor to whom the error was reported; and
  - (I) The prescription and the name of the prescribing physician or other health care professional if the medication was not previously listed in the medication management plan.
- (3) Medication errors must be:
- (A) Immediately reported to a supervisor;
  - (B) Documented in the medication log; and
  - (C) Reported as required under all applicable laws and rules including without limitation the laws and rules governing controlled substances.
- (c) All medications stored for a beneficiaryclient by an ADDT must be:
- (1) Kept in the original medication container unless the beneficiaryclient's custodian or legal guardian transfers the medication into individual dosage containers;
  - (2) Labeled with the beneficiaryclient's name;
  - (3) Stored in an area, medication cart, or container that is always locked; and
  - (4) Returned to a beneficiaryclient's custodian or legal guardian, ~~or~~ destroyed or otherwise disposed of in accordance with applicable laws and rules, if the medication is no longer to be administered to a beneficiaryclient.
- (d) An ADDT must store all medications requiring cold storage, in a separate refrigerator that is used only for the purpose of storing medications.

**603. Behavior Management Plans.**

- (a) An ADDT may implement a written behavior management plan for a beneficiaryclient if a beneficiaryclient exhibits challenging behaviors on a chronic basis.

- (b) A behavior management plan:
  - (1) Must involve the fewest and shortest interventions possible; and
  - (2) Cannot punish or use interventions that are physically or emotionally painful, ~~or~~ frightening, or that put the beneficiaryclient at medical risk.
- (c)
  - (1)
    - (A) An ADDT must reevaluate behavior management plans at least quarterly.
    - (B) An ADDT must refer the beneficiaryclient to an appropriately licensed professional for re-evaluation if the behavior management plan is not achieving the desired results.
  - (2) An ADDT must regularly collect and review data regarding the use and effectiveness of all behavior management plans, including the use and effectiveness of restraints and other interventions.
  - (3) The collection and review of data regarding the use and effectiveness of behavior management plans must include at least the:
    - (A) ~~The d~~Date and time any intervention is used;
    - (B) ~~The d~~Duration of each intervention;
    - (C) ~~The e~~Employee or employees involved in each intervention; and
    - (D) ~~The e~~Events or circumstances that triggered the need for the intervention.

**604. General Nutrition and Food Service Requirements.**

- (a)
  - (1) An ADDT must ensure that a noon meal is available to each beneficiaryclient who:
    - (A) ~~+R~~Receives at least four (4) hours of adult developmental day treatment services in a day; and
    - (B) who is unable to provide ~~his or her~~their own meal on that date of service.



- (12) When a component of a beneficiaryclient's ITP is the beneficiaryclient providing ~~his or her~~their own meal, the ADDT may request the beneficiaryclient furnish the meal.
- (23) If a beneficiaryclient who is responsible for providing ~~his or her~~their own meal fails to do so, the ADDT must furnish a meal for that beneficiaryclient if ~~he or she~~they ~~receives~~receive more than four (4) hours of adult developmental day treatment services that day.
- (43) An ADDT may not charge a beneficiaryclient for any meal provided by the ADDT, regardless of whether a component of the beneficiaryclient's ITP is the beneficiaryclient providing ~~his or her~~their own meal.

(b)

- (1) Each ADDT must ensure that any meals, snacks, or other food services provided to ~~beneficiaries~~clients by the ADDT conform to United States Department of Agriculture guidelines ~~including~~ without limitation:

(A) ~~Portion size;~~

(B) ~~Department of Health ADH~~ requirements; and

(C) ~~Other applicable~~ laws and rules.

- (2) All food brought in from outside sources must be:

(A) From food service providers approved by Department of Health, ADH and transported per Department of Health ADH requirements;

(B) In individual, commercially pre-packaged containers; or

(C) Individual meals or snacks brought from home by a beneficiaryclient or a beneficiaryclient's family.

(3)

(A) A violation of United States Department of Agriculture guidelines, Department of Health ADH requirements, or other applicable laws or rules related to nutrition and food service constitutes a violation of these standards.

(B) In the event of a conflict between these standards and the requirements of United States U.S. Department of Agriculture guidelines, Department of Health ADH requirements, or other applicable laws or rules related to nutrition and food service, the stricter requirement shall apply.

(C) In the event of an irreconcilable conflict between these standards and the requirements of United States U.S. Department of Agriculture guidelines, Department of Health ADH requirements, or other applicable laws or rules related to nutrition and food service, these standards shall govern to the extent not governed by federal or state laws or rules.

(c) ~~(1)~~ — An ADDT must ensure:

~~(1)~~ ensure that F food provided to ~~beneficiaries~~clients ~~meets~~meet the specialized ~~\_\_\_\_\_~~ diet requirements of each ~~beneficiary~~client arising from medical conditions or other ~~\_\_\_\_\_~~ individualized needs including without limitation:

~~(A)~~ a Allergies;

~~(B)~~ d Diabetes; and

~~(C)~~ h Hypertension.

(2) ~~An ADDT must ensure that all F~~ food prepared on-site is prepared, cooked, served, and stored in a manner that protects against contamination and spoilage;

(3) ~~An ADDT must not use a P~~ perishable food items are not consumed after theirs expiration date;

(4) ~~An ADDT must keep a~~ All food service surfaces are clean and in sanitary condition;

(5) ~~An ADDT must serve a~~ All food is served on individual plates, bowls, or other dishes that can be sanitized or discarded;

(6) ~~An ADDT must ensure that A~~ all food scraps are placed in garbage cans with airtight lids and bag liners that are emptied as necessary and no less than once every per day;

(7) ~~An ADDT must store all f~~ Food is stored separately from:

~~(A)~~ m Medications;

~~(B)~~ m Medical items; ~~or~~ and

~~(C)~~ h Hazardous items;

(8) ~~(A) — An ADDT provider must ensure that all r~~ Refrigerators used for food storage ~~\_\_\_\_\_~~ are maintained at a temperature of forty-one ~~(41)~~ degrees Fahrenheit (41° F) or ~~—~~ below; and

- (B9) ~~An ADDT provider must ensure that all F~~freezers used for food storage are maintained at a temperature of zero ~~(0)~~-degrees Fahrenheit (0° F) or below.

**605. Transportation.**

(a) \_\_\_\_\_

(1) An ADDT may elect to provide transportation services to its clients.

(2) \_\_\_\_\_

(A) The requirements of this part apply to all transportation provided to a client for any reason by any person or entity on behalf of the ADDT, regardless of whether the transportation is a billed service.

(B) Notwithstanding the foregoing, if the transportation provided to a client is funded by another Medicaid program, then the transportation requirements applicable to the funding Medicaid program, and not these standards, shall apply.

(3) An ADDT electing to provide transportation services to clients must maintain an updated list of all vehicles used to transport clients that includes the following information for each vehicle:

(A) Manufacturer:

(i) Name;

(ii) Make;

(iii) Model; and

(iv) Model year;

(B) Vehicle identification number; and

(C) Type of vehicle (i.e. for example: sedan, 8-passenger van, 15-passenger van, or wheelchair van).

(4) Any vehicle used by an ADDT to transport clients must be available for inspection upon request.

(5) Reports or other documentation required to be maintained under this Section 605 must be made available for inspection upon request.

(6)

(A) An ADDT may use electronic records in addition to or in place of physical records to comply with these standards.

(B) An ADDT provider that uses electronic records must take reasonable steps to backup all electronic records and reconstruct its transportation records in the event of a breakdown in the ADDT's electronic records system.

(b)

(1) An ADDT electing to provide transportation services to clients must provide the level of attendant care on each vehicle that is necessary to ensure client safety.

(2)

(A) An inspection report must be completed for each trip that in which a vehicle is used by an ADDT to transport clients.

(B)

(i) Each inspection report must include a pre-trip and post-trip inspection that includes at a minimum the:

(a) Vehicle used to transport;

(b) Date of the trip;

(c) A pre-trip check box that is marked to demonstrate that a visual inspection of the exterior of the vehicle was completed prior to the start of the trip;

(d) A pre-trip check box that is marked to demonstrate that a visual inspection of the interior of the vehicle was completed prior to the start of the trip;

(e) A pre-trip check box that is marked to demonstrate that a visual inspection of the tires was completed prior to the start of the trip;

(f) A pre-trip check box that is marked to demonstrate that a visual inspection of the windshield was completed prior to the start of the trip;

(g) A post-trip check box that is marked to demonstrate that a visual inspection of the exterior of the vehicle was completed after final unloading;

(h) A post-trip check box that is marked to demonstrate that a visual inspection of the interior of the vehicle was completed after final unloading;

(i) A post-trip check box that is marked to demonstrate that a visual inspection of the tires was completed after final unloading;

(j) A post-trip check box that is marked to demonstrate that a visual inspection of the windshield was completed after final unloading;

(k) A section for listing and describing any defect or deficiency discovered or reported during the:

(I) Trip;

(II) Pre-trip inspection; or

(III) Post-trip inspection.

(ii) Each inspection report must include:

(a) The signature of the Employee that performed the pre-trip inspection;

(b) The signature of the Employee that performed the post-trip inspection;

(c) The time the pre-trip inspection was completed; and

(d) The time the post-trip inspection was completed.

(C) An ADDT must maintain all inspection reports for five (5) years from the date of transportation.

(3)

(A) A separate transportation log must be maintained, for each trip that in which a vehicle is used by an ADDT to transport a client, that and it must include:

(i) Each transported client's:

(a) Name;

(b) Age;

(c) Date of birth;

(d) Medicaid ID number;

(e) Exact address of pick up and drop off; and

(f) Exact time of pick up and drop off;

(ii) The driver of the vehicle;

(iii) Each attendant or any other persons transported; and

(iv) Odometer reading on the vehicle at the:

(a) Pick-up of the first client on the trip; and

(b) Drop-off of last client on the trip.

(B) The transportation log shall be used to check clients on and off the vehicle at pick-up and drop-off.

(C) The driver or attendant who conducts the walk-through required by subsection (b)(4) of this section must sign the transportation log once it is confirmed that all clients exited the vehicle.

(D) An ADDT must maintain all transportation logs for five (5) years from the date of transportation.

(4)



(A)

(i) Any vehicle with a maximum capacity of seven (7) or fewer passengers and one (1) driver, that is used by an ADDT to transport clients, must have the driver or an attendant walk through the vehicle and conduct a visual inspection of each seat on the vehicle upon arrival at the final unloading destination.

(ii) The driver or attendant who conducts the walk-through inspection upon arrival must sign the transportation log required to be maintained under 605(b)(3).

(B) Any vehicle, with a maximum capacity of more than seven (7) passengers and one (1) driver, that is used by an ADDT to transport clients, must have the driver or an attendant complete a walk-through inspection of each seat on the vehicle in one (1) of the following ways upon arrival at the final unloading destination:

(i)

(a) The driver or an attendant must:

(I) Unload all clients from the vehicle;

(II) Walk or otherwise move through the interior of the vehicle to ensure that no client remains on board; and

(III) Deactivate the vehicle's safety alarm device.

(b) This option can only be used if all clients are able to unload from the vehicle in less than one (1) minute.

(ii)

(a)

(I) An attendant supervises the clients while unloading;

(II) The driver remains on the vehicle during unloading to walk through the interior of the vehicle to ensure that no clients remain on board; and

(III) The driver deactivates the safety alarm device upon reaching the back of the vehicle.

(b) The individual who deactivates the safety alarm device must remain near the safety alarm device deactivation switch until all clients have unloaded, to ensure that no client is left on board.

(c) This option will require at least two (2) individuals, one (1) to supervise the clients exiting the vehicle and one (1) to remain near the safety alarm device deactivation switch.

(iii)

(a) The driver or an attendant deactivates the safety alarm device and unloads all clients immediately upon arrival.

(b) Immediately after unloading, the driver will start the vehicle and move it to a different location for final parking, which must reactivate the safety alarm device.

(c) Once parked the driver:

(I) Walks or otherwise moves through the interior of the vehicle to ensure that no clients remain on board; and

(II) Deactivates the safety alarm device.

(5) An ADDT providing transportation services to a client must maintain the client's emergency contact information within the vehicle during transport.

(c)

(1)

(A) Each driver of a vehicle transporting clients on behalf of an ADDT must meet each of the following requirements:

(i) Meet the higher of the following age requirements:

(a) Twenty-one (21) years of age; or

(b) The minimum age required by the applicable vehicle insurance;.

- (ii) Hold a current valid driver's license;
- (iii) If required by state law for the transporting vehicle, hold a commercial driver's license;
- (iv) Obtain and maintain in good standing the following credentials:
  - (a) CPR certification from the:
    - (I) American Heart Association;
    - (II) Medic First Aid; or
    - (III) American Red Cross; and
  - (b) First aid certification from the:
    - (I) American Heart Association;
    - (II) Medic First Aid; or
    - (III) American Red Cross; and
- (v) Have successfully completed training courses on the following:
  - (a) Defensive driving; and
  - (b) If applicable:
    - (I) Lift operation; and
    - (II) Wheelchair securement.
- (B) The following individuals are prohibited from driving a vehicle transporting ADDT clients:
  - (i) Any individual who has had a suspended or revoked driver's license for a moving violation within the last five (5) years.
  - (ii) Any individual who has been convicted of an alcohol, drug, or substance abuse offense within the last five (5) years.
  - (iii) Any individual who has received at least two (2) of any combination of the following citations within the prior twelve (12) months:

- (I) Citations for moving vehicle violations; and
  - (II) Citations for accidents where the individual was found to be at fault.
- (C) In addition to those requirements in Section 304, an ADDT must maintain the following documentation for each Employee who drives a vehicle transporting clients:
  - (i) A copy of an eEmployee's driving record for the previous three (3) years from the Arkansas State Police or Information Network of Arkansas that is updated annually;
  - (ii) Documentation of all reported complaints involving the eEmployee;
  - (iii) Documentation of all accidents or moving violations involving the Employee (i.e. for example: copies of tickets, or police reports, etc.); and
  - (iv) Documentation evidencing the completion of all required training and credentials.
- (2) Each attendant on a vehicle transporting clients on behalf of an ADDT must meet each of the following requirements:
  - (A) Be at least- eighteen (18) years of age;
  - (B) Have successfully completed training courses on the following:
    - (i) Defensive driving; and
    - (ii) If applicable:
      - (a) Lift operation; and
      - (b) Wheelchair securement.
  - (C) Obtain and maintain in good standing the following credentials:
    - (i) CPR certification from the:
      - (a) American Heart Association;
      - (b) Medic First Aid; or
      - (c) American Red Cross; and

- (ii) First aid certification from the:
      - (a) American Heart Association;
      - (b) Medic First Aid; or
      - (c) American Red Cross.
  - (3) Each driver and attendant in a vehicle used by an ADDT to provide transportation services to a client must:
    - (A) Wear or have visible an easily readable identification demonstrating they are Employees of the ADDT;
    - (B) Carry a valid driver's license or, if they are a non-driving attendant, other government issued identification; and
    - (C) Abide by all infection control directives or guidance issued by the Arkansas Department of Health.
  - (4)
    - (A) When picking up a client, a driver or attendant is required to:
      - (i) Identify and announce their presence at the entrance of the pick-up location if the client is not waiting curbside upon arrival;
      - (ii) Provide a client assistance, as necessary, from the pick-up location to the vehicle;
      - (iii) If necessary, assist a client in the process of:
        - (a) Seating;
        - (b) Fastening their seatbelt; and
        - (c) Otherwise safely securing the client prior to departure;
      - (iv) Assist any client in a wheelchair or who is mobility-limited with entering and exiting a vehicle;
      - (v) Ensure that clients in wheelchairs are properly secured in their wheelchair;

(vi) Ensure all wheelchairs are properly secured in the vehicle prior to departure; and

(vii) Ensure all folding wheelchairs and other mobility aides being transported are safely and securely stowed away on the vehicle prior to departure.

(B) When arriving at the client's drop-off location, a driver or attendant is required to:

(i) Provide a client assistance, as necessary, in:

(a) Exiting the vehicle; and/or

(b) Traveling from the vehicle to the entry of the client's drop off location; and

(ii) Ensure the client is safely transitioned at the drop off location in accordance with the client's needs.

(d)

(1) Any vehicle used to transport a client must meet the safety and mechanical operating and maintenance standards for the make and model of vehicle.

(2) Each vehicle used to transport a client must have:

(A) Up-to-date registration with the Arkansas Department of Finance and Administration; Office of Motor Vehicles; and

(B) All other licenses, permits, and certificates required by state and federal law.

(3)

(A) Commercial insurance coverage must be maintained on any vehicle used to transport a client.

(B) Commercial insurance must have the following minimum coverage amounts:

(i) One million dollars (\$1,000,000) combined single limit liability coverage;



(ii) One hundred thousand dollars (\$100,000) for uninsured motorist;

(iii) One hundred thousand dollars (\$100,000) for under-insured motorist; and

(iv) Five thousand dollars (\$5,000) personal injury protection for each passenger based on the number of passengers the vehicle is manufactured to transport.

(C) Each commercial insurance policy must name the Arkansas Department of Human Services as an additional insured and loss payee under the policy.

(D) All commercial insurance coverage must be with companies licensed and approved to do business with the State of Arkansas.

(E) An ADDT must maintain documentation evidencing that the required commercial insurance is in place for each vehicle used to transport a client.

(e)

(1) Each vehicle used to transport a client must have the following safety equipment on board:

(A) Fire extinguisher;

(B) First-aid kit;

(C) Reflective triangles;

(D) Flashlight; and

(E) Reflective safety vest.

(2) Each vehicle used to transport a client must be maintained in a sanitary and safe condition, which includes without limitation:

(A) A heating and air conditioning system in good working condition;

(B) Each client must have their own seating space with a functioning seat belt or other appropriate safety restraint in accordance with federal and state law and manufacturer's guidelines;

(C) Vehicle interiors must be free of:

- (i) Dirt;
- (ii) Oil;
- (iii) Grease;
- (iv) Litter;
- (v) Torn upholstery;
- (vi) Torn ceiling coverings;
- (vii) Damaged seats;
- (viii) Protruding sharp edges;
- (ix) Hazardous debris; and
- (x) Unsecured items;

(D)

- (i) Vehicles with an entry step-up of greater than twelve (12) inches must include a retractable step or step stool to aid in client boarding.
- (ii) A step stool must have four (4) legs with anti-skid tips on each leg.

(E) Vehicle exteriors must be clean and free of:

- (i) Broken:
  - (a) Windshields;
  - (b) Mirrors; and
  - (c) Windows; and
- (ii) Excessive:
  - (a) Grime;
  - (b) Dirt;

(c) Dents; and

(d) Damage.

(F)

(i) The floor of each vehicle must be covered with commercial anti-skid, ribbed flooring, or carpeting.

(ii) Any ribbed flooring must not interfere with wheelchair movement.

(3)

(A) Any vehicle with a maximum capacity of seven (7) or more passengers and one (1) driver that is used by an ADDT to transport clients must have a safety alarm device.

(B) The safety alarm device must:

(i) Always be in working order and properly maintained;

(ii) Be installed so that the driver is required to walk to the very back of the vehicle to reach the switch that deactivates the alarm;

(iii) Be installed in accordance with the device manufacturer's recommendations; and

(iv) Sound the alarm for at least one (1) minute after the activation of the safety alarm device.

(4)

(A) Any vehicle used by an ADDT to transport clients must have a camera system installed.

(B) The camera system must:

(i) Be in working order at all times that a vehicle is used to transport clients;

(ii) Be properly maintained;

(iii) Have at least 720p resolution camera(s);

(iv) Maintain daily footage for a minimum forty-five of (45) days;

(v) Include GPS tracking; and

(vi) Have camera(s) positioned so that all passenger activity on each vehicle is recorded.

(5) Each vehicle used to transport a client must prominently display:

(A) Provider name; and

(B) Provider contact information.

Subchapter 7. Incident and Accident Reporting.

701. Incidents to be Reported.

- (a) An ADDT must report all alleged, suspected, observed, or reported occurrences of any of the following events while a client is in the care or under the supervision of an ADDT:
- (1) Death of a beneficiaryclient;
  - (2) Serious injury to a beneficiaryclient;
  - (3) Adult or child maltreatment of a beneficiaryclient;
  - (4) Any event where an employee threatens or strikes a beneficiaryclient;
  - (5) Unauthorized use on a beneficiaryclient of restrictive intervention, including seclusion or physical, chemical, or mechanical restraint;
  - (6) Any situation when the whereabouts of a beneficiaryclient are unknown for more than two (2) hours;
  - (7) Any unanticipated situation when services to the beneficiaryclient are interrupted for more than two (2) hours;
  - (8) Events involving a risk of death, serious physical or psychological injury, or serious illness to a beneficiaryclient;
  - (9) Medication errors made by an ~~e~~Employee that cause or have the potential to cause death, serious injury, or serious illness to a beneficiaryclient;
  - (10) Any act or admission that jeopardizes the health, safety, or quality of life of a beneficiaryclient;
  - (11) Motor vehicle accidents involving a beneficiaryclient;
  - (12) A positive case of a beneficiaryclient or a staff member for any infectious disease that is the subject of a public health emergency declared by the:
    - (A)     -Governor;<sub>;</sub>
    - (B)     Department of ADHealth;<sub>;</sub> ~~the~~
    - (C)     President of the United States;<sub>;</sub> or ~~the~~

(D) ~~United States Department of Health and Human Services; or~~

(13) Any event that requires notification of the:

(A) ~~Police;~~

(B) ~~Fire department;~~ or

(C) ~~Coroner.~~

(b) Any ADDT may report any other occurrences impacting the health, safety, or quality of life of a beneficiaryclient.

## 702. Reporting Requirements.

(a) An ADDT must:

(1) Submit all reports of the following events within one (1) hour of the event:

(A) Death of a beneficiaryclient;

(B) Serious injury to a beneficiaryclient; or

(C) Any incident that an ADDT should reasonably know might be of interest to the public or the media.

(2) Submit reports of all other incidents within forty-eight (48) hours of the event.

(b) An ADDT must submit reports of all incidents to the Division of Provider Services and Quality AssuranceDPSQA as provided through the Division of Provider Services and Quality AssuranceDPSQA's website: <https://humanservices.arkansas.gov/about-dhs/dpsqa/>.

(c) Reporting under these standards does not relieve an ADDT of complying with any other applicable reporting or disclosure requirements under state or federal laws, rules, or regulations.

## 703. Notification to Guardians and Legal Custodians.

(a) An ADDT must notify the guardian or legal custodian of a beneficiaryclient of any reportable incident involving a beneficiaryclient, as well as any injury or accident involving a beneficiaryclient even if the injury or accident is not otherwise required to be reported in this Sectionsection.



- (b) An ADDT should maintain documentation evidencing notification required in subdivision subsection (a) of this section.

MARKK-UP

**Subchapter 8.        Enforcement.**

**801.    Monitoring.**

(a)

(1)    The Division of Provider Services and Quality Assurance~~DPSQA~~ shall monitor an ADDT to ensure compliance with these standards.

(2)

(A)    An ADDT must cooperate and comply with all monitoring, enforcement, \_\_\_\_\_ and any other regulatory or law enforcement activities performed or \_\_\_\_\_ requested by- the Division of Provider Services and Quality Assurance~~DPSQA~~ or law enforcement.

(B)    Cooperation required under these standards includes without limitation cooperation and compliance with respect to investigations, surveys, site visits, reviews, and other regulatory actions taken by the Division of Provider Services and Quality Assurance ~~DPSQA~~ or any third-party contracted by Department of Human Services~~DHS~~ to monitor, enforce, or take other regulatory action on behalf of:

(i)    ~~The Department~~HS;

(ii)   The Division of Provider Services and Quality Assurance~~DPSQA;~~  
or

(iii)   ~~DD~~The Division of Developmental Disabilities Services.

(a)(b) Monitoring includes without limitation:

- (1)    On-site surveys and other visits, including without limitation complaint surveys and initial site visits;
- (2)    On-site or remote file reviews;
- (3)    Written requests for documentation and records required under these standards;
- (4)    Written requests for information; and
- (5)    Investigations related to complaints received.

(c)    ~~DHS~~The department may contract with a third-party to monitor, enforce, or take other regulatory action on behalf of the:

- (1) Department;
- (2) Division of Provider Services and Quality Assurance; or
- (3) Division of Developmental Disabilities Services.

~~DHS, DPSQA, or DDS.~~

**802. Written Notice of Enforcement Action.**

- (a) ~~The Division of Provider Services and Quality Assurance DPSQA~~ shall provide written notice to the ADDT of all enforcement actions taken against the ADDT.
- (b) ~~The Division of Provider Services and Quality Assurance DPSQA~~ shall provide written notice to the ADDT by mailing the imposition of the enforcement action to the manager appointed by the ADDT, pursuant to Section 301.

**803. Remedies.**

(a)

- (1) ~~The Division of Provider Services and Quality Assurance DPSQA~~ shall not impose any remedies imposed by an enforcement action unless:
  - (A) The ADDT is given notice and an opportunity to be heard pursuant to this Section 802 and Subchapter 10; or
  - (B) ~~The Division of Provider Services and Quality Assurance DPSQA~~ determines that public health, safety, or welfare imperatively requires emergency action.
- (2) If ~~the Division of Provider Services and Quality Assurance DPSQA~~ imposes a remedy as an emergency action before the ADDT has notice and an opportunity to be heard, pursuant to subdivision (a)(1), ~~the Division of Provider Services and Quality Assurance DPSQA~~ shall:
  - (A) Provide immediate notice to the ADDT of the enforcement action; and
  - (B) Provide the ADDT with an opportunity to be heard pursuant to Subchapter 10.

~~(a)~~(b) The Division of Provider Services and Quality Assurance~~DPSQA~~ may impose on an ADDT any of the following enforcement actions for the ADDT's failure to comply with these standards:

- (1) Plan of correction;
- (2) Directed in-service training plan;
- (3) Moratorium on new admissions;
- (4) Transfer of ~~beneficiaries~~clients;
- (5) Monetary penalties;
- (6) Suspension of ADDT license;
- (7) Revocation of ADDT license; and
- (8) Any remedy authorized by law or rule including without limitation ~~section Ark. Code Ann. § 25-15-217 of the Arkansas Code.~~

~~(b)~~(c) The Division of Provider Services and Quality Assurance~~DPSQA~~ shall determine the imposition and severity of these enforcement remedies on a case-by-case basis using the following factors:

- (1) Frequency of non-compliance;
- (2) Number of non-compliance issues;
- ~~(3)~~ Impact of non-compliance on a ~~beneficiary~~client's:
  - ~~(A)~~ Health;
  - ~~(B)~~ Safety; or
  - ~~(C)~~ Well-being;

~~(3)~~(4) Responsiveness in correcting non-compliance;

~~(4)~~(5) Repeated non-compliance in the same or similar areas;

~~(5)~~(6) Non-compliance with previously or currently imposed enforcement remedies;

~~(6)~~(7) Non-compliance involving intentional fraud or dishonesty; and

~~(7)~~(8) Non-compliance involving violation of any law, rule, or other legal requirement.

(d)

- (1) The Division of Provider Services and Quality Assurance~~DPSQA~~ shall report any noncompliance, action, or inaction by the ADDT to appropriate agencies for investigation and further action.
- (2) The Division of Provider Services and Quality Assurance~~DPSQA~~ shall refer non-compliance involving Medicaid billing requirements to the Division of Medical Services and the ~~Arkansas Attorney General's~~ Medicaid Fraud Control Unit of the office of the Attorney General.

~~(e)~~(e) These enforcement remedies are not mutually exclusive and the Division of Provider Services and Quality Assurance~~DPSQA~~ may apply multiple remedies simultaneously ~~to if there is~~ a failure to comply with these standards.

~~(d)~~(f) The failure to comply with an enforcement remedy imposed by the Division of Provider Services and Quality Assurance~~DPSQA~~ constitutes a separate violation of these standards.

#### **804. Moratorium.**

- (a) The Division of Provider Services and Quality Assurance~~DPSQA~~ may prohibit an ADDT from accepting new ~~beneficiaries~~clients.
- (b) An ADDT prohibited from accepting new admissions may continue to provide services to existing ~~beneficiaries~~clients.

#### **805. Transfer of Beneficiaries~~Clients~~.**

- (a) The Division of Provider Services and Quality Assurance~~DPSQA~~ may require an ADDT to transfer a ~~beneficiary~~client to another ADDT if ~~DPSQA~~the division finds that the ADDT cannot adequately provide services to the ~~beneficiary~~client.
- (b) If directed by ~~DPSQA~~the division, an ADDT must continue providing services until the ~~beneficiary~~client is transferred to ~~his or her~~their new service provider of choice.
- (c) A transfer of a ~~beneficiary~~client may be permanent or for a specific term depending on the circumstances.

#### **806. Monetary Penalties.**

(a) ~~The Division of Provider Services and Quality Assurance~~DPSQA may impose on an ADDT a civil monetary penalty not to exceed five hundred dollars (\$500) for each violation of these standards.

(b)

(1) ~~DPSQA~~The division may file suit to collect a civil monetary penalty assessed pursuant to these        standards if the ADDT does not pay the civil monetary penalty within sixty (60)        days from the date ~~DPSQA~~the division provides written notice to the ADDT of the imposition        of the civil monetary penalty.

(2) ~~DPSQA~~The division may file suit in Pulaski County Circuit Court or the circuit court of any county in which the ADDT is located.

**807. Suspension and Revocation of ADDT License.**

(a)

(1) ~~The Division of Provider Services and Quality Assurance~~DPSQA may temporarily suspend an ADDT license if the ADDT fails to comply with these standards.

(2) If an ADDT's license is suspended, the ADDT must immediately stop providing ADDT services until ~~DPSQA~~the division reinstates its license.

(b)

(1) ~~DPSQA~~The division may permanently revoke an ADDT license if the ADDT fails to comply with these standards.

(2) If an ADDT's license is revoked, the ADDT must immediately stop providing ADDT services and comply with the permanent closure requirements in Section 901(a).



Subchapter 9. Closure.

901. Closure.

(a)

- (1) An ADDT license ends if an ADDT permanently closes, whether voluntarily or ~~—~~ involuntarily, and is effective on the date of the permanent closure as determined by ~~\_\_\_\_\_~~ the Division of Provider Services and Quality Assurance ~~DPSQA~~.
- (2) An ADDT that intends to permanently close, or does permanently close without warning, whether voluntarily or involuntarily, must immediately:
  - (A) Provide the custodian or legal guardian of each beneficiaryclient with written notice of the closure;
  - (B) Provide the custodian or legal guardian of each beneficiaryclient with written referrals to at least three (3) other appropriate service providers;
  - (C) Assist each beneficiaryclient and ~~his or her~~ their custodian or legal guardian in transferring services and copies of beneficiaryclient records to any new service providers;
  - (D) Assist each beneficiaryclient and ~~his or her~~ their custodian or legal guardian in transitioning to new service providers; and
  - (E) Arrange for the storage of beneficiaryclient service records to satisfy the requirements of Section 305.

(b)

- (1) An ADDT that intends to voluntarily close temporarily due to natural disaster, ~~—~~ ~~\_\_\_\_\_~~ pandemic, completion of needed repairs or renovations, or for similar ~~\_\_\_\_\_~~ circumstances may request to temporarily close its facility while maintaining its ~~\_\_\_\_\_~~ ADDT license for up to one (1) year from the date of the request.
- (2) An ADDT must comply with the requirements in ~~subdivision-subsection~~ (a)(2) of this section for notice, referrals, assistance, and storage of beneficiaryclient records if ~~DPSQA-the division~~ grants an ADDT's request for a temporary closure.
- (3)

(A) ~~DPSQA~~ The division may grant a temporary closure if the ADDT demonstrates that it is reasonably likely that it will be able to reopen after the temporary closure.

(B) ~~DPSQA~~ The division shall end an ADDT's temporary closure and direct that the ADDT permanently close if the ADDT fails to demonstrate that it is reasonably likely that it will be able to reopen after the temporary closure.

(4)

(A) ~~DPSQA~~ The division may end an ADDT's temporary closure if the ADDT demonstrates ~~that it is in full compliance with these standards.~~

(B) ~~DPSQA~~ The division shall end an ADDT's temporary closure and direct that the ADDT permanently close if the ADDT fails to become fully compliant with these standards within one (1) year from the date of the request.

Subchapter 10. Appeals.

1001. Reconsideration of Adverse Regulatory Actions.

(a)

- (1) An ADDT may ask for reconsideration of any adverse regulatory action taken by ~~the Division of Provider Services and Quality Assurance~~DPSQA by submitting a written request for reconsideration to:

Division of Provider ~~Services and Quality Assurance~~;  
Office of the Director  
~~Requests for Reconsideration of Adverse Regulatory Actions~~;  
~~P.O. Box 1437, Slot 427~~;  
~~Little Rock, Arkansas 72203~~.

- (2) The written request for reconsideration of an adverse regulatory action taken by the Division of Provider Services and Quality Assurance~~DPSQA~~ must be submitted by the ADDT and received by the Division of Provider Services and Quality Assurance~~DPSQA~~ within thirty (30) calendar days of the date the ADDT received written notice of the adverse regulatory action.

- (3) The written request for reconsideration of an adverse regulatory action taken by the Division of Provider Services and Quality Assurance~~DPSQA~~ must include without limitation:

(A) ~~The specific adverse regulatory action taken~~;

(B) ~~The date of the adverse regulatory action~~;

(C) ~~The name of ADDT against whom the adverse regulatory action was taken~~;

(D) ~~The address and contact information for the ADDT against whom the adverse regulatory action was taken~~; and

(E) ~~The legal and factual basis for reconsideration of the adverse regulatory action.~~

(b)

- (1) The Division of Provider Services and Quality Assurance~~DPSQA~~ shall review each timely received written request for reconsideration and ~~determine~~ whether to affirm or reverse the adverse regulatory action taken based ~~on~~ these standards.

- (2) The Division of Provider Services and Quality Assurance~~DPSQA~~ may request, at its discretion, additional information as needed to review the adverse regulatory action and determine whether the adverse regulatory action taken should be affirmed or reversed based on these standards.

(c)

- (1) The Division of Provider Services and Quality Assurance~~DPSQA~~ shall issue in writing its determination on reconsideration within thirty (30) ~~—~~days of receiving the written request for reconsideration or within thirty (30) days of receiving all information requested by the Division of Provider Services and Quality Assurance~~DPSQA~~ under ~~subdivision~~subsection (b)(2) of this section, ~~—~~whichever is later.
- (2) The Division of Provider Services and Quality Assurance~~DPSQA~~ shall issue its determination to the ADDT using the address and contact information provided in the request for reconsideration.

(d)

- (1) An applicant may ask for reconsideration of a determination by ~~DDS~~the Division of Developmental Disabilities Services that a county is not underserved by submitting a written request for reconsideration pursuant to the Division of Developmental Disabilities Services~~DDS~~ Policy 1076.
- (2) If a determination that a county is not underserved is reversed on reconsideration by DDS or on appeal by an agency or court with jurisdiction:
- (A) The applicant shall notify the Division of Provider Services and Quality Assurance~~DPSQA~~ of the reversal and submit a written request for reconsideration to the Division of Provider Services and Quality Assurance~~DPSQA~~ as provided in this section for any adverse regulatory action taken by the Division of Provider Services and Quality Assurance~~DPSQA~~ based on the initial determination; and
- (B) The Division of Provider Services and Quality Assurance~~DPSQA~~ shall review the written request for reconsideration as provided in this section.

~~(b)~~(e) The Division of Provider Services and Quality Assurance~~DPSQA~~ may also decide to reconsider any adverse regulatory action on its own accord any time it determines, in its discretion, that an adverse regulatory action is not consistent with these standards.

**1002. Appeal of Regulatory Actions.**

(a)

- (1) An ADDT may administratively appeal any adverse regulatory action to the ~~DHS~~ Office of Appeals and Hearings (OAH) of the Department of Human Services except for provider appeals related to the ~~—~~payment for Medicaid claims and services governed by the Medicaid Fairness Act, ~~—~~Arkansas Code ~~Ann.~~ § 20-77-1701 ~~— 20-77-~~1718, which shall be governed by ~~that Act~~ the Medicaid Fairness Act.
- (2) ~~OAH~~ The office shall conduct administrative appeals of adverse regulatory actions pursuant to DHS Policy 1098 and other applicable laws and rules.

~~(a)~~(b) An ADDT may appeal any adverse regulatory action or other adverse agency action to circuit court as allowed by the Arkansas Administrative Procedures Act, Arkansas Code ~~Ann.~~ § 25-15-201- ~~et seq~~ 220.

**Rules for the Division of Developmental Disabilities**

**Adult Developmental Day Treatment**

PROPOSED



**LAST UPDATED: August 1, 2022**



**Subchapter 1.        General.**

**101.    Authority.**

- (a)    These standards are promulgated under the authority of Ark. Code Ann. § 20-48-101 to -105, Ark. Code Ann. § 20-48-201 to -212, Ark. Code Ann. § 20-48-701 to -705, Ark. Code Ann. § 20-48-812, Ark. Code Ann. § 25-10-102, and Ark. Code Ann. § 25-15-217.
- (b)
- (1)    The Division of Provider Services and Quality Assurance (DPSQA) shall perform all regulatory functions regarding the licensure and monitoring of Adult Developmental Day Treatment programs, on behalf of the Division of Developmental Disabilities Services (DDS).
- (2)    The Division of Developmental Disabilities Services (DDS) shall determine whether and to what an extent a county is underserved.

**102.    Purpose.**

The purpose of these standards is to:

- (1)    Serve as the minimum standards for adult developmental day treatment programs and facilities; and
- (2)    Ensure that all clients receive all adult developmental day treatment services recommended by a physician for the maximum reduction of physical or mental disability and restoration of the client to the best functional level.

**103.    Definitions.**

As used in these standards:

- (1)    “ADDT” means an adult developmental day treatment program, which is a day treatment program prescribed by a physician that provides adult developmental day treatment services to adults with intellectual or developmental disabilities.
- (2)    “ADDT license” means a nontransferable license issued by the Division of Provider Services and Quality Assurance to an ADDT for a specific location that meets these standards.

- (3) “Adult developmental day treatment services” means services that are available under the Adult Developmental Day Treatment program for Medicaid clients as defined in Section II of the Adult Developmental Day Treatment Medicaid Manual.
- (4) “Adverse regulatory action” means a denial of an ADDT license, and any enforcement action taken by the Division of Provider Services and Quality Assurance, pursuant to Section 803 to 807.
- (5) “Applicant” means an applicant for an ADDT license.
- (6)
  - (A) “Change in ownership” means one (1) or more transactions within a twelve (12) month period that result in a change in greater than fifty percent (50%) of the financial interests, governing body, operational control, or other operational or ownership interests of the ADDT.
  - (B) “Change in ownership” does not include a change of less than fifty percent (50%) in the membership of the ADDT’s:
    - (i) Board of directors;
    - (ii) Board of trustees; or
    - (iii) Other governing body.
- (7) “Directed in-service training plan” means a plan of action that:
  - (A) Provides training to assist an ADDT in complying with these standards and correcting deficiencies;
  - (B) Includes the topics covered in the training and materials used in the training;
  - (C) Specifies the length of the training;
  - (D) Specifies the employees required to attend the training; and
  - (E) Is approved by the Division of Provider Services and Quality Assurance.
- (8)
  - (A) “Employee” means an employee, owner, independent contractor, driver, attendant, or other agent of an ADDT and includes without limitation:
    - (i) Full-time employees;

- (ii) Part-time employees;
  - (iii) Transportation contractors; and
  - (iv) Any other person who acts on behalf of an ADDT or has an ownership, financial, or voting interest in the ADDT.
- (B) “Employee” does not mean an independent contractor if:
  - (i) The independent contractor does not assist in the day-to-day operations of the ADDT; and
  - (ii) The independent contractor has no client contact.
- (9) “Irreconcilable conflict” means a conflict between two (2) standards where an ADDT cannot comply with both standards at the same time.
- (10) “ITP” means a client’s individual treatment plan, which is a written, individualized service plan for an ADDT client to improve the client’s condition.
- (11)
  - (A) “Marketing” means the accurate and honest advertisement of an ADDT that does not also constitute solicitation.
  - (B) “Marketing” includes without limitation:
    - (i) Advertising using traditional media;
    - (ii) Distributing brochures or other informational materials regarding the services offered by the ADDT;
    - (iii) Conducting tours of the ADDT to interested clients and their families;
    - (iv) Mentioning services offered by the ADDT in which the client or their family might have an interest; and
    - (v) Hosting informational gatherings during which the services offered by the ADDT are described.
- (12) “Medication error” means the:
  - (A) Loss of medication;
  - (B) Unavailability of medication;

- (C) Falsification of medication logs;
  - (D) Theft of medication;
  - (E) Missed doses of medication;
  - (F) Incorrect medications administered;
  - (G) Incorrect doses of medication;
  - (H) Incorrect time of administration;
  - (I) Incorrect method of administration; and
  - (J) Discovery of an unlocked medication container that is always supposed to be locked.
- (13) “Plan of correction” means a plan of action that:
- (A) Provides the steps an ADDT must take to correct noncompliance with these standards;
  - (B) Sets a timeframe for each specific action provided in the plan; and
  - (C) Is approved by the Division of Provider Services and Quality Assurance.
- (14) “Residence” means the county where a client is listed as residing in the Arkansas Medicaid Management Information System.
- (15) “Serious injury” means any injury to a client that:
- (A) May cause death;
  - (B) May result in substantial permanent impairment;
  - (C) Requires hospitalization; or
  - (D) Requires the attention of:
    - (i) An emergency medical technician;
    - (ii) A paramedic; or
    - (iii) An emergency room.

(16)

- (A) “Solicitation” means the initiation of contact with a client or their family by an ADDT when the client is currently receiving services from another provider and the ADDT is attempting to convince the client or their family to switch to or otherwise use the services of the ADDT that initiated the contact.
- (B) “Solicitation” includes without limitation the following acts to induce a client or their family by:
  - (i) Contacting a client or the family of a client that is currently receiving services from another provider;
  - (ii) Offering cash or gift incentives to a client or their family;
  - (iii) Offering free goods or services not available to other similarly situated clients or their families;
  - (iv) Making negative comments to a client or their family regarding the quality of services performed by another service provider;
  - (v) Promising to provide services in excess of those necessary;
  - (vi) Giving a client or their family the false impression, directly or indirectly, that the ADDT is the only service provider that can perform the services desired by the client or their family; or
  - (vii) Engaging in any activity that the Division of Provider Services and Quality Assurance reasonably determines to be “solicitation.”

(17) “Underserved county” means a county that is underserved regarding adult developmental day treatment services in accordance with Arkansas Code § 20-48-105.

**Subchapter 2.      Licensing.**

**201.    License Required.**

(a)

- (1) An ADDT must have an ADDT license that is issued by the Division of Provider Services and Quality Assurance, pursuant to these standards, for the address at which the ADDT will provide services.

- (2) An ADDT must comply with all requirements of these standards.
- (b)
  - (1) An ADDT license is specific to a single address.
  - (2) A separate ADDT license is required for each address even if the same person or entity has an ADDT at other addresses.
  - (3) An address may only have one (1) ADDT license attributed to it at any one (1) time.

**202. Licensure Application.**

- (a)
  - (1) To apply for an ADDT license, an applicant must submit a complete application to the Division of Provider Services and Quality Assurance.
  - (2) A complete application includes:
    - (A) Documentation demonstrating the applicant's entire ownership, including without limitation all the applicant's financial, governing body, and business interests;
    - (B) Documentation of the applicant's management, including without limitation the management structure and members of the management team;
    - (C) Documentation of the applicant's current contractors and the contractors that the applicant intends to use as part of operating the ADDT;
    - (D) Documentation of all required state and national criminal background checks for Employees and operators;
    - (E) Documentation of all required Child Maltreatment Central Registry checks and Adult and Long-term Care Facility Resident Maltreatment Central Registry checks for Employees and operators;
    - (F) Documentation demonstrating compliance with these standards; and
    - (G) All other documentation or other information requested by the division.
- (b) To apply to change the ownership of an existing ADDT, the ADDT must submit a complete application described in subsection (a)(2) of this section.



**203. Licensure Process.**

- (a) The Division of Provider Services and Quality Assurance may approve an application for an ADDT license and issue an ADDT license if:
- (1) The applicant submits a complete application under Section 202(a);
  - (2) The Division of Provider Services and Quality Assurance determines that the applicant has successfully passed all required criminal background and maltreatment checks.
  - (3) The Division of Provider Services and Quality Assurance determines that the applicant satisfies these standards; and
  - (4) The Division of Provider Services and Quality Assurance determines that one (1) of the following conditions are met:
    - (A) The Division of Developmental Disabilities Services has determined that the county in which the new ADDT would be located is an underserved county;
    - (B) The applicant has one (1) or more ADDT licensed locations in the same county in which the new ADDT would be located; or
    - (C) The applicant has one (1) or more ADDT licensed locations in a county, contiguous to the county in which the new ADDT would be located, and the existing location serves at least twenty (20) individuals who are eligible, enrolled, and participating in the existing location, but reside in the county in which the ADDT would be located.
- (b) The Division of Provider Services and Quality Assurance may approve an application to change the ownership of an existing ADDT and change the ownership of an existing ADDT license if:
- (1) The applicant submits a complete application under Section 202;
  - (2) The Division of Provider Services and Quality Assurance determines that all Employees and operators have successfully passed all required criminal background and maltreatment checks; and
  - (3) The Division of Provider Services and Quality Assurance determines that the applicant satisfies these standards.
- (c) The Division of Provider Services and Quality Assurance shall issue new ADDT licenses in accordance with the order of priority required by Arkansas Code § 20-48-105.

(d) ADDT licenses do not expire until terminated under these standards.

**204. Notice of Underserved Status.**

The Division of Developmental Disabilities Services shall provide written notice of any underserved determination made under Section 203(a)(3)(i) as required in Arkansas Code § 20-48-105.

PROPOSED

**Subchapter 3.        Administration.**

**301.    Organization and Ownership.**

- (a)    The ADDT must be authorized and in good standing to do business under the laws of the State of Arkansas.
  
- (b)
  - (1)    An ADDT must:
    - (A)    Appoint a single manager as the point of contact for all Division of Developmental Disabilities Services and Division of Provider Services and Quality Assurance matters; and
    - (B)    Provide the Division of Developmental Disabilities Services and Division of Provider Services and Quality Assurance, with updated contact information for that manager.
  - (2)    This manager must have authority over the ADDT, all ADDT employees, and is responsible for ensuring that the Division of Developmental Disabilities Services and Division of Provider Services and Quality Assurance requests, concerns, inquiries, and enforcement actions are addressed and resolved to the satisfaction of the Division of Developmental Disabilities Services and Division of Provider Services and Quality Assurance.
  
- (c)
  - (1)    An ADDT cannot transfer its ADDT license to any person or entity.
  - (2)    An ADDT cannot change its ownership unless the Division of Provider Services and Quality Assurance approves the application of the new ownership, pursuant to Sections 202 and 203.
  - (3)    An ADDT cannot change its name or otherwise operate under a different name than the name listed on the ADDT license without prior written notice to the Division of Provider Services and Quality Assurance.

**302.    Employees and Staffing Requirements.**

- (a)
  - (1)    An ADDT must appropriately supervise all clients based on each client's needs.

- (2) An ADDT must have enough Employees on site to supervise clients at the ADDT location.
- (b)
- (1) An ADDT must comply with all requirements applicable to Employees under these standards, including without limitation: drug screens, criminal background checks, and adult and child maltreatment checks.
  - (2) An ADDT must verify an Employee meets all requirements under these standards:
    - (A) Upon the request of DPSQA; or
    - (B) Whenever the ADDT receives information after hiring, if the information would create a reasonable belief that an Employee no longer meets all requirements under these standards.
- (c)
- (1) An ADDT must conduct criminal background checks for all Employees as required pursuant to Ark. Code Ann. § 20-38-101, *et seq.*
  - (2) An ADDT must conduct an Arkansas Child Maltreatment Central Registry check on each Employee prior to hiring and at least every two (2) years thereafter.
  - (3) An ADDT must conduct an Adult and Long-term Care Facility Resident Maltreatment Central Registry check on each Employee prior to hiring and at least every two (2) years thereafter.
  - (4) An ADDT must conduct a drug screen that tests for the use of illegal drugs on each Employee prior to hiring.
  - (5) An ADDT must conduct an Arkansas Sex Offender Central Registry search on each Employee prior to hiring and at least every two (2) years thereafter.
- (d) Employees must be at least eighteen (18) years of age.
- (e) An ADDT must maintain at least a one to ten (1:10) staff-to-client ratio at all times.
- (f)
- (1) An ADDT must document all scheduled and actual Employee staffing.
  - (2) The documentation required for Employee staffing includes without limitation employee:

- (A) Names;
- (B) Job title or credential;
- (C) Job duties; and
- (D) Typical working days and hours.

**303. Employee Training.**

- (a) All Employees involved in any way with services provided to clients, or who have routine contact with clients, must receive the following training before having contact with clients and must do so no later than thirty (30) days after beginning their employment:
  - (1) Basic health and safety practices;
  - (2) Infection control and infection control procedures;
  - (3) Identification and mitigation of unsafe environmental factors;
  - (4) Emergency and evacuation procedures required in Section 308;
  - (5) Identification and prevention of adult and child maltreatment;
  - (6) Mandated reporter requirements; and
  - (7) Reporting incidents and accidents as required in these standards.
- (b) Employees required to receive training, prescribed in subsection (a) of this section, must receive annual retraining on those topics at least once every twelve (12) months.

**304. Employee Records.**

- (a) An ADDT must maintain a personnel file for each Employee that includes:
  - (1) A detailed job description;
  - (2) All required criminal background checks;
  - (3) All required child maltreatment registry checks;
  - (4) All required adult maltreatment registry checks;
  - (5) All conducted drug screen results;

- (6) A signed statement that the Employee will comply with the ADDT's drug screen and drug use policies;
  - (7) A copy of a current state or federal identification;
  - (8) A copy of a valid state-issued driver's license, if driving is required in the job description, and documentation of completion of any required driver safety courses;
  - (9) Documentation demonstrating that the Employee received all training required in Section 303;
  - (10) Documentation demonstrating that the Employee obtained and maintained in good standing all professional licensures, certifications, or credentials required for the service that the employee is performing; and
  - (11) Documentation demonstrating that the Employee meets all continuing education, in-service, or other training requirements applicable under these standards, and any professional licensures, certifications, or credentials held by that Employee.
- (b)
- (1) An ADDT must ensure that each personnel record is kept confidential and available only to:
    - (A) Employees who need to know the information contained in the personnel record;
    - (B) Persons or entities who need to know the information contained in the personnel record;
    - (C) The Division of Provider Services and Quality Assurance and any governmental entity with jurisdiction or other authority to access the personnel record;
    - (D) The Employee; or
    - (E) Any other individual authorized in writing by the Employee.
  - (2)
    - (A) An ADDT must keep personnel records in a file cabinet or room that is always locked.
    - (B)

- (i) An ADDT may use electronic records in addition to or in place of physical records, to comply with these standards.
  - (ii) An ADDT provider that uses electronic records must take reasonable steps to backup all electronic records and reconstruct a personnel record in the event of a breakdown in the ADDT's electronic records system.
- (c) An ADDT must retain all Employee records for five (5) years from the date an Employee is no longer an Employee of the ADDT or, if longer, the final conclusion of all reviews, appeals, investigations, administrative actions, or judicial actions related to that Employee that are pending at the end of the five-year period.

**305. Client Service Records.**

- (a)
  - (1) An ADDT must maintain a separate, updated, and complete service record, for each client documenting the services provided to the client, and all other documentation required under these standards.
  - (2) Each client service record must be uniformly organized and readily available for review by the Division of Provider Services and Quality Assurance at the ADDT's location.
- (b) A client's service record must include a summary document at the front that includes:
  - (1) The client's:
    - (A) Full name;
    - (B) Address and county of residence;
    - (C) Telephone number and, if available, email address;
    - (D) Date of birth;
    - (E) Primary language;
    - (F) Diagnoses;
    - (G) Medications, dosage, and frequency, if applicable;
    - (H) Known allergies;



- (I) Entry date into the ADDT;
  - (J) Exit date from the ADDT;
  - (K) Medicaid number; and
  - (L) Commercial or private health insurance information or managed care organization information, if applicable;
- (2) Name, address, phone number, email address, and relationship of the client's custodian or legal guardian; and
  - (3) Name, address, and phone number of the client's primary care physician.
- (c) A client's service record must include at least the following information and documentation:
- (1) The client's:
    - (A) ITP;
    - (B) Behavioral management plan;
    - (C) Daily activity logs; and
    - (D) Medication management plan and medication logs;
  - (2) Copies of any assessments or evaluations completed on the client; and
  - (3) Copies of any orders that place the client in the custody of another person or entity.
- (d)
- (1) An ADDT must ensure that each client service record is kept confidential and available only to:
    - (A) Employees who need to know the information contained in the client's service record;
    - (B) Persons or entities who need to know the information contained in the client service record in order to provide services to the client;
    - (C) The division and any governmental entity with jurisdiction or other authority to access the client's service record;
    - (D) The client's legal guardian or custodian; and

(E) Any other individual authorized in writing by the legal guardian or custodian.

(2)

(A) An ADDT must keep client service records in a file cabinet or room that is always locked.

(B)

(i) An ADDT may use electronic records in addition to or in place of physical records to comply with these standards.

(ii) An ADDT provider that uses electronic records must take reasonable steps to backup all electronic records and reconstruct a client's service record in the event of a breakdown in the ADDT's electronic records system.

(e) An ADDT must retain all client service records for five (5) years from the date the client last exits from the ADDT or, if longer, the final conclusion of all reviews, appeals, investigations, administrative actions, or judicial actions related to the client that are pending at the end of the five-year period.

**306. Marketing and Solicitation.**

(a) An ADDT can market its services.

(b) An ADDT cannot solicit a client or their family.

**307. Third-party Service Agreements.**

(a) An ADDT may contract in writing with third-party vendors to provide services or otherwise satisfy requirements under these standards.

(b) An ADDT must ensure that all third-party vendors comply with these standards and all other applicable:

(1) Laws;

(2) Rules; and

(3) Regulations.

**308. Emergency Plans and Drills.**

(a)

(1) An ADDT must have a written emergency plan.

(2)

(A) The written emergency plan must provide the procedures to follow in the event of emergencies to safeguard the health and safety of clients and ensure continuity of services to the extent possible.

(B) A written emergency plan must address all foreseeable emergencies including without limitation:

(i) Fires;

(ii) Floods;

(iii) Tornados;

(iv) Utility disruptions;

(v) Bomb threats;

(vi) Active shooters;

(vii) Outbreaks of infectious disease; and

(viii) Public health emergencies.

(3) An ADDT must evaluate all written emergency plans at least annually and update as needed.

(b) The written emergency plan must include at least:

(1) Designated relocation sites and evacuation routes;

(2) Procedures for notifying legal guardians and custodians of relocation;

(3) Procedures for ensuring each client's safe return to the ADDT or their residence;

(4) Procedures to address the special needs of each client;

(5) Procedures to address interruptions in the delivery of ADDT services;

- (6) Procedures for reassigning employee duties in an emergency; and
  - (7) Procedures for annual training of employees regarding the emergency plan.
- (c)
- (1) An ADDT must conduct emergency fire drills and tornado drills, at least once a month, each and on separate days, and at different times of day.
  - (2) An ADDT must document all emergency drills completed and include at least:
    - (A) The date of the emergency drill;
    - (B) The type of emergency drill;
    - (C) The time of day the emergency drill was conducted;
    - (D) The number of clients participating in the emergency drill;
    - (E) The length of time taken to complete the emergency drill; and
    - (F) Notes regarding any aspects of the emergency procedure or drill that need improvement based on the performance of the emergency drill.
- (d) An ADDT must have an emergency alarm system in place that will alert all employees and clients when there is an emergency.

**309. Infection Control.**

- (a)
- (1) An ADDT must follow all applicable guidance and directives from the Arkansas Department of Health related to infection control including without limitation guidance and directives on:
    - (A) Preventing the spread of infectious diseases;
    - (B) Hand hygiene;
    - (C) Handling potentially infectious material;
    - (D) Use of personal protective equipment;
    - (E) Tuberculosis;

- (G) Blood borne pathogens; and
  - (H) Coronaviruses.
- (2) An ADDT must provide personal protective equipment for all employees and clients as may be required in the circumstances.
  - (3) Employees and clients must wash their hands with soap before eating, after toileting, and as otherwise appropriate to prevent the spread of infectious diseases.
- (b)
- (1) An ADDT cannot allow a client, employee, or any other person who has an infectious disease to enter an ADDT facility.
  - (2) A client who becomes ill while at an ADDT must be separated from other clients to the extent possible.
  - (3) The ADDT must notify a client's legal guardian or custodian if the client becomes ill while at an ADDT facility.

**310. Compliance with State and Federal Laws, Rules, and Other Standards.**

- (a) An ADDT must comply with all applicable state and federal laws and rules including without limitation:
  - (1) The Americans with Disabilities Act of 1990 (ADA);
  - (2) The Civil Rights Act of 1964;
  - (3) The Health Insurance Portability and Accounting Act of 1996 (HIPPA);
  - (4) The Privacy Act of 1974; and
  - (5) All applicable laws and rules governing the protection of medical, social, personal, financial, and electronically stored records.
- (b) An ADDT facility must comply with all:
  - (1) Building codes and local ordinances;
  - (2) Fire and safety inspections and requirements of the State Fire Marshal or local authorities;

- (3) Arkansas Department of Health requirements including without limitation requirements regarding water, plumbing, and sewage;
  - (4) Arkansas Department of Labor and Licensing requirements, including without limitation requirements regarding water heaters and boilers; and
  - (5) Other federal, state, or local requirements applicable to the HCBS community service location, property, and structures.
- (c) An ADDT provider must maintain documentation of compliance with applicable state, local, and federal:
- (1) Laws;
  - (2) Rules;
  - (3) Codes; and
  - (4) Standards.
- (d) A violation of any applicable state, local, or federal laws, rules, codes, or standards constitutes a violation of these standards.
- (e)
- (1) In the event of a conflict between these standards and other applicable state, local, or federal laws, rules, or standards, the stricter requirement shall apply.
  - (2) In the event of an irreconcilable conflict between these standards and other applicable state, local, or federal laws, rules, or standards these standards shall govern to the extent not governed by federal laws or rules or state law.

## Subchapter 4. Facility Requirements.

### 401. General Requirements.

An ADDT facility must:

- (1) Have a minimum of forty (40) square feet of program training area per client;
- (2) Be heated, air-conditioned, well-lighted, well-ventilated, and well-maintained at a comfortable temperature;
- (3) Be safe, clean, maintained, in good repair, and sanitary, including without limitation as to the facility's:
  - (A) Exterior;
  - (B) Surrounding property; and
  - (C) Interior floors and ceilings.
- (4) Be free of offensive odors and potentially hazardous objects including without limitation explosives and broken equipment;
- (5) Have drinking water available to clients and Employees;
- (6) Have an emergency alarm system throughout the facility to alert Employees and clients when there is an emergency;
- (7) Have at least one (1) toilet and one (1) sink for every fifteen (15) clients, with:
  - (A) Running hot and cold water;
  - (B) Toilet tissue;
  - (C) Liquid soap; and
  - (D) Paper towels or air dryers.
- (8) Have bathrooms that provide for individual privacy and are appropriate for all clients with regard to size and accessibility;
- (9) Have at least one (1) operable telephone on site that is available at all hours and reachable with a phone number, for outside callers;



- (10) Have working smoke and carbon monoxide detectors in all areas used by clients or Employees;
- (11) Have a first aid kit that includes at least the following:
  - (A) Adhesive band-aids of various sizes;
  - (B) Sterile gauze squares;
  - (C) Adhesive tape;
  - (D) Roll of gauze bandages;
  - (E) Antiseptic;
  - (F) Thermometer;
  - (G) Scissors;
  - (H) Disposable gloves; and
  - (I) Tweezers.
- (12) Have enough fire extinguishers, in quantity and location, to satisfy all applicable laws and rules, but no fewer than two (2) fire extinguishers;
- (13) Have hallways and corridors at least six feet (6') in width;
- (14) Have screens for all windows and doors used for ventilation;
- (15) Have screens or guards attached to the floor or wall to protect:
  - (A) Floor furnaces;
  - (B) Heaters;
  - (C) Hot radiators;
  - (D) Exposed water heaters;
  - (E) Air conditioners; and
  - (F) Electric fans.
- (16) Have no lead-based paint;

- (17) Have lighted “exit” signs at all exit locations;
- (18) Have written instructions and diagrams noting emergency evacuation routes and shelters to be used in case of fire, severe weather, or other emergency, posted at least every twenty-five feet (25’):
  - (A) In all stairwells;
  - (B) In and by all elevators; and
  - (C) In each room used by clients;
- (19) Have a copy of Title VI and VII of the Civil Rights Act of 1964 and all required legal notices prominently posted as required;
- (20) Have an emergency power system to provide lighting and power to essential electrical devices throughout the ADDT, including without limitation: power to exit lighting and fire detection, fire alarm, and fire extinguishing systems;
- (21) Have chemicals, toxic substances, and flammable substances stored in locked storage cabinets or closets;
- (22) Have the ADDT’s telephone number, hours of operation, and hours of access (if applicable) posted at all public entrances;
- (23) Prohibit the possession of firearms or other weapons except by authorized law enforcement personnel; and
- (24) Prohibit:
  - (A) Smoking;
  - (B) Use of tobacco products; and
  - (C) The consumption of:
    - (i) Prescription medication without a prescription;
    - (ii) Alcohol; and

**Subchapter 5. Enrollments and Exits.**

**501. Enrollments.**

- (a) An ADDT may enroll and provide services to a client who is eligible to receive ADDT services.
- (b) An ADDT must document the enrollment of all clients to the ADDT.

**502. Exits.**

- (a) An ADDT may exit a client from its program if the person becomes ineligible for ADDT services, chooses to enroll with another ADDT, or for any other lawful reason.
- (b) An ADDT must document the exit of all clients from its program.
- (c) An ADDT must provide reasonable assistance to all clients who are exiting its program, including without limitation to:
  - (1) Assisting the client in transferring to another ADDT or other service provider; and
  - (2) Providing copies of the client's records to:
    - (A) The client;
    - (B) The client's legal custodian or guardian; and
    - (C) The ADDT or other service provider to which the client transfers after exiting the program.

**Subchapter 6.            Program and Services.**

**601.    Arrivals and Departures.**

- (a) An ADDT must ensure that clients safely arrive to and depart from an ADDT facility.
- (b)
  - (1) An ADDT must document the arrival and departure of each client to and from an ADDT facility.
  - (2) Documentation of arrivals to and departures from an ADDT must include without limitation the:
    - (A) Client's:
      - (i) Name;
      - (ii) Date of birth; and
      - (iii) Date and time of arrival and departure;
    - (B) Name of the person or entity that provided transportation; and
    - (C) Method of transportation.
- (c) A manager or designee of an ADDT must:
  - (1) Review the client arrival and departure documentation each day and compare it with the ADDT's attendance record; and
  - (2) Sign and date the client arrival and departure documentation verifying that all clients for the day safely arrived to and departed from the ADDT facility.
- (d) An ADDT must maintain client arrival and departure documentation for one (1) year from the date of transportation.

**602.    Medications.**

- (a)
  - (1) An ADDT must develop a medication management plan for all clients with prescribed medication that may be administered at the ADDT.

- (2) A medication management plan must include without limitation:
  - (A) The name of each medication;
  - (B) The name of the prescribing physician or other healthcare professional if the medication is by prescription;
  - (C) A description of each medication prescribed and any symptom or symptoms to be addressed by each medication;
  - (D) How each medication will be administered, including without limitation:
    - (i) Times of administration;
    - (ii) Doses;
    - (iii) Delivery; and
    - (iv) Persons who may lawfully administer each medication;
  - (E) How each medication will be charted;
  - (F) A list of the potential side effects caused by each medication; and
  - (G) The consent to the administration of each medication by the client or, if the client lacks capacity, by the client's legal guardian or custodian.
- (b)
  - (1) An ADDT must maintain a medication log detailing the administration of all medication to a client, including without limitation prescribed medication and over-the-counter medication.
  - (2) Each medication log must be uniformly organized and document the following for each administration of a medication:
    - (A) The name and dosage of medication administered;
    - (B) The symptom that the medication was used to address;
    - (C) The method by which the medication was administered;
    - (D) The date and time the medication was administered;
    - (E) The name of the employee who administered the medication or assisted in the administration of the medication;

- (F) Any adverse reaction or other side effect from the medication;
  - (G) Any transfer of medication from its original container into individual dosage containers by the client's legal guardian or custodian;
  - (H) Any error in administering the medication and the name of the supervisor to whom the error was reported; and
  - (I) The prescription and the name of the prescribing physician or other healthcare professional if the medication was not previously listed in the medication management plan.
- (3) Medication errors must be:
- (A) Immediately reported to a supervisor;
  - (B) Documented in the medication log; and
  - (C) Reported as required under all applicable laws and rules including without limitation the laws and rules governing controlled substances.
- (c) All medications stored for a client by an ADDT must be:
- (1) Kept in the original medication container unless the client's custodian or legal guardian transfers the medication into individual dosage containers;
  - (2) Labeled with the client's name;
  - (3) Stored in an area, medication cart, or container that is always locked; and
  - (4) Returned to a client's custodian or legal guardian, destroyed or otherwise disposed of in accordance with applicable laws and rules, if the medication is no longer to be administered to a client.
- (d) An ADDT must store all medications requiring cold storage, in a separate refrigerator that is used only for the purpose of storing medications.

**603. Behavior Management Plans.**

- (a) An ADDT may implement a written behavior management plan for a client if a client exhibits challenging behaviors on a chronic basis.
- (b) A behavior management plan:

- (1) Must involve the fewest and shortest interventions possible; and
  - (2) Cannot punish or use interventions that are physically or emotionally painful, frightening, or that put the client at medical risk.
- (c)
- (1)
    - (A) An ADDT must reevaluate behavior management plans at least quarterly.
    - (B) An ADDT must refer the client to an appropriately licensed professional for reevaluation if the behavior management plan is not achieving the desired results.
  - (2) An ADDT must regularly collect and review data regarding the use and effectiveness of all behavior management plans, including the use and effectiveness of restraints and other interventions.
  - (3) The collection and review of data regarding the use and effectiveness of behavior management plans must include at least the:
    - (A) Date and time any intervention is used;
    - (B) Duration of each intervention;
    - (C) Employee or employees involved in each intervention; and
    - (D) Events or circumstances that triggered the need for the intervention.

**604. General Nutrition and Food Service Requirements.**

- (a)
- (1) An ADDT must ensure that a noon meal is available to each client who:
    - (A) Receives at least four (4) hours of adult developmental day treatment services in a day; and
    - (B) Is unable to provide their own meal on that date of service.
  - (2) When a component of a client's ITP is the client providing their own meal, the ADDT may request the client furnish the meal.



- (3) If a client who is responsible for providing their own meal fails to do so, the ADDT must furnish a meal for that client if they receive more than four (4) hours of adult developmental day treatment services that day.
  - (4) An ADDT may not charge a client for any meal provided by the ADDT, regardless of whether a component of the client's ITP is the client providing their own meal.
- (b)
- (1) Each ADDT must ensure that any meals, snacks, or other food services provided to clients by the ADDT conform to United States Department of Agriculture guidelines including without limitation:
    - (A) Portion size;
    - (B) Department of Health requirements; and
    - (C) Other applicable laws and rules.
  - (2) All food brought in from outside sources must be:
    - (A) From food service providers approved by Department of Health, and transported per Department of Health requirements;
    - (B) In individual, commercially prepackaged containers; or
    - (C) Individual meals or snacks brought from home by a client or a client's family.
  - (3)
    - (A) A violation of United States Department of Agriculture guidelines, Department of Health requirements, or other applicable laws or rules related to nutrition and food service constitutes a violation of these standards.
    - (B) In the event of a conflict between these standards and the requirements of United States Department of Agriculture guidelines, Department of Health requirements, or other applicable laws or rules related to nutrition and food service, the stricter requirement shall apply.
    - (C) In the event of an irreconcilable conflict between these standards and the requirements of United States Department of Agriculture guidelines, Department of Health requirements, or other applicable laws or rules related to nutrition and food service, these standards shall govern to the extent not governed by federal or state laws or rules.

- (c) An ADDT must ensure:
- (1) Food provided to clients meet the specialized diet requirements of each client arising from medical conditions or other individualized needs including without limitation:
    - (A) Allergies;
    - (B) Diabetes; and
    - (C) Hypertension.
  - (2) Food prepared on-site is prepared, cooked, served, and stored in a manner that protects against contamination and spoilage;
  - (3) Perishable food items are not consumed after their expiration date;
  - (4) All food service surfaces are clean and in sanitary condition;
  - (5) All food is served on individual plates, bowls, or other dishes that can be sanitized or discarded;
  - (6) All food scraps are placed in garbage cans with airtight lids and bag liners that are emptied as necessary and no less than once per day;
  - (7) Food is stored separately from:
    - (A) Medications;
    - (B) Medical items; and
    - (C) Hazardous items;
  - (8) Refrigerators used for food storage are maintained at a temperature of forty-one degrees Fahrenheit (41° F) or below; and
  - (9) Freezers used for food storage are maintained at a temperature of zero degrees Fahrenheit (0° F) or below.

**605. Transportation.**

- (a)
- (1) An ADDT may elect to provide transportation services to its clients.

- (2)
  - (A) The requirements of this part apply to all transportation provided to a client for any reason by any person or entity on behalf of the ADDT, regardless of whether the transportation is a billed service.
  - (B) Notwithstanding the foregoing, if the transportation provided to a client is funded by another Medicaid program, then the transportation requirements applicable to the funding Medicaid program, and not these standards, shall apply.
- (3) An ADDT electing to provide transportation services to clients must maintain an updated list of all vehicles used to transport clients that includes the following information for each vehicle:
  - (A) Manufacturer:
    - (i) Name;
    - (ii) Make;
    - (iii) Model; and
    - (iv) Model year;
  - (B) Vehicle identification number; and
  - (C) Type of vehicle (for example: sedan, 8-passenger van, 15-passenger van, or wheelchair van).
- (4) Any vehicle used by an ADDT to transport clients must be available for inspection upon request.
- (5) Reports or other documentation required to be maintained under this Section 605 must be made available for inspection upon request.
- (6)
  - (A) An ADDT may use electronic records in addition to or in place of physical records to comply with these standards.
  - (B) An ADDT provider that uses electronic records must take reasonable steps to backup all electronic records and reconstruct its transportation records in the event of a breakdown in the ADDT's electronic records system.

(b)

(1) An ADDT electing to provide transportation services to clients must provide the level of attendant care on each vehicle that is necessary to ensure client safety.

(2)

(A) An inspection report must be completed for each trip in which a vehicle is used by an ADDT to transport clients.

(B)

(i) Each inspection report must include a pre-trip and post-trip inspection that includes at a minimum the:

(a) Vehicle used to transport;

(b) Date of the trip;

(c) A pre-trip check box that is marked to demonstrate that a visual inspection of the exterior of the vehicle was completed prior to the start of the trip;

(d) A pre-trip check box that is marked to demonstrate that a visual inspection of the interior of the vehicle was completed prior to the start of the trip;

(e) A pre-trip check box that is marked to demonstrate that a visual inspection of the tires was completed prior to the start of the trip;

(f) A pre-trip check box that is marked to demonstrate that a visual inspection of the windshield was completed prior to the start of the trip;

(g) A post-trip check box that is marked to demonstrate that a visual inspection of the exterior of the vehicle was completed after final unloading;

(h) A post-trip check box that is marked to demonstrate that a visual inspection of the interior of the vehicle was completed after final unloading;

- (i) A post-trip check box that is marked to demonstrate that a visual inspection of the tires was completed after final unloading;
    - (j) A post-trip check box that is marked to demonstrate that a visual inspection of the windshield was completed after final unloading;
    - (k) A section for listing and describing any defect or deficiency discovered or reported during the:
      - (I) Trip;
      - (II) Pre-trip inspection; or
      - (III) Post-trip inspection.
  - (ii) Each inspection report must include:
    - (a) The signature of the Employee that performed the pre-trip inspection;
    - (b) The signature of the Employee that performed the post-trip inspection;
    - (c) The time the pre-trip inspection was completed; and
    - (d) The time the post-trip inspection was completed.
  - (C) An ADDT must maintain all inspection reports for five (5) years from the date of transportation.
- (3)
- (A) A separate transportation log must be maintained, for each trip in which a vehicle is used by an ADDT to transport a client, and it must include:
    - (i) Each transported client's:
      - (a) Name;
      - (b) Age;

- (c) Date of birth;
        - (d) Medicaid ID number;
        - (e) Exact address of pick up and drop off; and
        - (f) Exact time of pick up and drop off;
      - (ii) The driver of the vehicle;
      - (iii) Each attendant or any other persons transported; and
      - (iv) Odometer reading on the vehicle at the:
        - (a) Pick-up of the first client on the trip; and
        - (b) Drop-off of last client on the trip.
  - (B) The transportation log shall be used to check clients on and off the vehicle at pick-up and drop-off.
  - (C) The driver or attendant who conducts the walk-through required by subsection (b)(4) of this section must sign the transportation log once it is confirmed that all clients exited the vehicle.
  - (D) An ADDT must maintain all transportation logs for five (5) years from the date of transportation.

(4)

(A)

- (i) Any vehicle with a maximum capacity of seven (7) or fewer passengers and one (1) driver, that is used by an ADDT to transport clients, must have the driver or an attendant walk through the vehicle and conduct a visual inspection of each seat on the vehicle upon arrival at the final unloading destination.
- (ii) The driver or attendant who conducts the walk-through inspection upon arrival must sign the transportation log required to be maintained under 605(b)(3).

(B) Any vehicle, with a maximum capacity of more than seven (7) passengers and one (1) driver, that is used by an ADDT to transport clients, must have the driver or an attendant complete a walk-through inspection of each seat on the vehicle in one (1) of the following ways upon arrival at the final unloading destination:

(i)

(a) The driver or an attendant must:

(I) Unload all clients from the vehicle;

(II) Walk or otherwise move through the interior of the vehicle to ensure that no client remains on board; and

(III) Deactivate the vehicle's safety alarm device.

(b) This option can only be used if all clients are able to unload from the vehicle in less than one (1) minute.

(ii)

(a)

(I) An attendant supervises the clients while unloading;

(II) The driver remains on the vehicle during unloading to walk through the interior of the vehicle to ensure that no clients remain on board; and

(III) The driver deactivates the safety alarm device upon reaching the back of the vehicle.

(b) The individual who deactivates the safety alarm device must remain near the safety alarm device deactivation switch until all clients have unloaded, to ensure that no client is left on board.

(c) This option will require at least two (2) individuals, one (1) to supervise the clients exiting the vehicle and one (1) to remain near the safety alarm device deactivation switch.



(iii)

- (a) The driver or an attendant deactivates the safety alarm device and unloads all clients immediately upon arrival.
- (b) Immediately after unloading, the driver will start the vehicle and move it to a different location for final parking, which must reactivate the safety alarm device.
- (c) Once parked the driver:
  - (I) Walks or otherwise moves through the interior of the vehicle to ensure that no clients remain on board; and
  - (II) Deactivates the safety alarm device.

(5) An ADDT providing transportation services to a client must maintain the client's emergency contact information within the vehicle during transport.

(c)

(1)

(A) Each driver of a vehicle transporting clients on behalf of an ADDT must meet each of the following requirements:

(i) Meet the higher of the following age requirements:

(a) Twenty-one (21) years of age; or

(b) The minimum age required by the applicable vehicle insurance.

(ii) Hold a current valid driver's license;

(iii) If required by state law for the transporting vehicle, hold a commercial driver's license;

(iv) Obtain and maintain in good standing the following credentials:

(a) CPR certification from the:

(I) American Heart Association;

(II) Medic First Aid; or

- (III) American Red Cross; and
  - (b) First aid certification from the:
    - (I) American Heart Association;
    - (II) Medic First Aid; or
    - (III) American Red Cross; and
  - (v) Have successfully completed training courses on the following:
    - (a) Defensive driving; and
    - (b) If applicable:
      - (I) Lift operation; and
      - (II) Wheelchair securement.
- (B) The following individuals are prohibited from driving a vehicle transporting ADDT clients:
  - (i) Any individual who has had a suspended or revoked driver's license for a moving violation within the last five (5) years.
  - (ii) Any individual who has been convicted of an alcohol, drug, or substance abuse offense within the last five (5) years.
  - (iii) Any individual who has received at least two (2) of any combination of the following citations within the prior twelve (12) months:
    - (I) Citations for moving vehicle violations; and
    - (II) Citations for accidents where the individual was found to be at fault.
- (C) In addition to those requirements in Section 304, an ADDT must maintain the following documentation for each Employee who drives a vehicle transporting clients:
  - (i) A copy of an employee's driving record for the previous three (3) years from the Arkansas State Police or Information Network of Arkansas that is updated annually;

- (ii) Documentation of all reported complaints involving the employee;
  - (iii) Documentation of all accidents or moving violations involving the employee (for example: copies of tickets or police reports); and
  - (iv) Documentation evidencing the completion of all required training and credentials.
- (2) Each attendant on a vehicle transporting clients on behalf of an ADDT must meet each of the following requirements:
- (A) Be at least eighteen (18) years of age;
  - (B) Have successfully completed training courses on the following:
    - (i) Defensive driving; and
    - (ii) If applicable:
      - (a) Lift operation; and
      - (b) Wheelchair securement.
  - (C) Obtain and maintain in good standing the following credentials:
    - (i) CPR certification from the:
      - (a) American Heart Association;
      - (b) Medic First Aid; or
      - (c) American Red Cross; and
    - (ii) First aid certification from the:
      - (a) American Heart Association;
      - (b) Medic First Aid; or
      - (c) American Red Cross.
- (3) Each driver and attendant in a vehicle used by an ADDT to provide transportation services to a client must:
- (A) Wear or have visible an easily readable identification demonstrating they are Employees of the ADDT;

- (B) Carry a valid driver's license or, if they are a non-driving attendant, other government issued identification; and
- (C) Abide by all infection control directives or guidance issued by the Arkansas Department of Health.

(4)

- (A) When picking up a client, a driver or attendant is required to:
  - (i) Identify and announce their presence at the entrance of the pick-up location if the client is not waiting curbside upon arrival;
  - (ii) Provide a client assistance, as necessary, from the pick-up location to the vehicle;
  - (iii) If necessary, assist a client in the process of:
    - (a) Seating;
    - (b) Fastening their seatbelt; and
    - (c) Otherwise safely securing the client prior to departure.
  - (iv) Assist any client in a wheelchair or who is mobility-limited with entering and exiting a vehicle;
  - (v) Ensure that clients in wheelchairs are properly secured in their wheelchair;
  - (vi) Ensure all wheelchairs are properly secured in the vehicle prior to departure; and
  - (vii) Ensure all folding wheelchairs and other mobility aides being transported are safely and securely stowed away on the vehicle prior to departure.
- (B) When arriving at the client's drop-off location, a driver or attendant is required to:
  - (i) Provide a client assistance, as necessary, in:
    - (a) Exiting the vehicle; or



- (D) All commercial insurance coverage must be with companies licensed and approved to do business with the State of Arkansas.
- (E) An ADDT must maintain documentation evidencing that the required commercial insurance is in place for each vehicle used to transport a client.

(e)

(1) Each vehicle used to transport a client must have the following safety equipment on board:

- (A) Fire extinguisher;
- (B) First-aid kit;
- (C) Reflective triangles;
- (D) Flashlight; and
- (E) Reflective safety vest.

(2) Each vehicle used to transport a client must be maintained in a sanitary and safe condition, which includes without limitation:

- (A) A heating and air conditioning system in good working condition.
- (B) Each client must have their own seating space with a functioning seat belt or other appropriate safety restraint in accordance with federal and state law and manufacturer's guidelines.

(C) Vehicle interiors must be free of:

- (i) Dirt;
- (ii) Oil;
- (iii) Grease;
- (iv) Litter;
- (v) Torn upholstery;
- (vi) Torn ceiling coverings;

- (vii) Damaged seats;
- (viii) Protruding sharp edges;
- (ix) Hazardous debris; and
- (x) Unsecured items.

(D)

- (i) Vehicles with an entry step-up of greater than twelve (12) inches must include a retractable step or step stool to aid in client boarding.
- (ii) A step stool must have four (4) legs with anti-skid tips on each leg.

(E) Vehicle exteriors must be clean and free of:

- (i) Broken:
  - (a) Windshields;
  - (b) Mirrors; and
  - (c) Windows;
- (ii) Excessive:
  - (a) Grime;
  - (b) Dirt;
  - (c) Dents; and
  - (d) Damage.

(F)

- (i) The floor of each vehicle must be covered with commercial anti-skid, ribbed flooring, or carpeting.
- (ii) Any ribbed flooring must not interfere with wheelchair movement.

(3)

- (A) Any vehicle with a maximum capacity of seven (7) or more passengers and one (1) driver that is used by an ADDT to transport clients must have a safety alarm device.
- (B) The safety alarm device must:
  - (i) Always be in working order and properly maintained;
  - (ii) Be installed so that the driver is required to walk to the very back of the vehicle to reach the switch that deactivates the alarm;
  - (iii) Be installed in accordance with the device manufacturer's recommendations; and
  - (iv) Sound the alarm for at least one (1) minute after the activation of the safety alarm device.

(4)

- (A) Any vehicle used by an ADDT to transport clients must have a camera system installed.
- (B) The camera system must:
  - (i) Be in working order at all times that a vehicle is used to transport clients;
  - (ii) Be properly maintained;
  - (iii) Have at least 720p resolution camera(s);
  - (iv) Maintain daily footage for a minimum of forty-five (45) days;
  - (v) Include GPS tracking; and
  - (vi) Have camera(s) positioned so that all passenger activity on each vehicle is recorded.

(5) Each vehicle used to transport a client must prominently display:

- (A) Provider name; and



(B) Provider contact information.

PROPOSED

**Subchapter 7.        Incident and Accident Reporting.**

**701.    Incidents to be Reported.**

- (a)    An ADDT must report all alleged, suspected, observed, or reported occurrences of any of the following events while a client is in the care or under the supervision of an ADDT:
- (1)    Death of a client;
  - (2)    Serious injury to a client;
  - (3)    Adult or child maltreatment of a client;
  - (4)    Any event where an employee threatens or strikes a client;
  - (5)    Unauthorized use on a client of restrictive intervention, including seclusion or physical, chemical, or mechanical restraint;
  - (6)    Any situation when the whereabouts of a client are unknown for more than two (2) hours;
  - (7)    Any unanticipated situation when services to the client are interrupted for more than two (2) hours;
  - (8)    Events involving a risk of death, serious physical or psychological injury, or serious illness to a client;
  - (9)    Medication errors made by an Employee that cause or have the potential to cause death, serious injury, or serious illness to a client;
  - (10)   Any act or admission that jeopardizes the health, safety, or quality of life of a client;
  - (11)   Motor vehicle accidents involving a client;
  - (12)   A positive case of a client or a staff member for any infectious disease that is the subject of a public health emergency declared by the:
    - (A)    Governor;
    - (B)    Department of Health;
    - (C)    President of the United States; or
    - (D)    United States Department of Health and Human Services.

- (13) Any event that requires notification of the:
  - (A) Police;
  - (B) Fire department; or
  - (C) Coroner.
- (b) Any ADDT may report any other occurrences impacting the health, safety, or quality of life of a client.

**702. Reporting Requirements.**

- (a) An ADDT must:
  - (1) Submit all reports of the following events within one (1) hour of the event:
    - (A) Death of a client;
    - (B) Serious injury to a client; or
    - (C) Any incident that an ADDT should reasonably know might be of interest to the public or the media.
  - (2) Submit reports of all other incidents within forty-eight (48) hours of the event.
- (b) An ADDT must submit reports of all incidents to the Division of Provider Services and Quality Assurance as provided through the Division of Provider Services and Quality Assurance's website: <https://humanservices.arkansas.gov/about-dhs/dpsqa/>.
- (c) Reporting under these standards does not relieve an ADDT of complying with any other applicable reporting or disclosure requirements under state or federal laws, rules, or regulations.

**703. Notification to Guardians and Legal Custodians.**

- (a) An ADDT must notify the guardian or legal custodian of a client of any reportable incident involving a client, as well as any injury or accident involving a client even if the injury or accident is not otherwise required to be reported in this section.
- (b) An ADDT should maintain documentation evidencing notification required in subsection (a) of this section.

**Subchapter 8.        Enforcement.**

**801.    Monitoring.**

(a)

(1)    The Division of Provider Services and Quality Assurance shall monitor an ADDT to ensure compliance with these standards.

(2)

(A)    An ADDT must cooperate and comply with all monitoring, enforcement, and any other regulatory or law enforcement activities performed or requested by the Division of Provider Services and Quality Assurance or law enforcement.

(B)    Cooperation required under these standards includes without limitation cooperation and compliance with respect to investigations, surveys, site visits, reviews, and other regulatory actions taken by the Division of Provider Services and Quality Assurance or any third party contracted by Department of Human Services to monitor, enforce, or take other regulatory action on behalf of:

(i)    The department;

(ii)   The Division of Provider Services and Quality Assurance; or

(iii)  The Division of Developmental Disabilities Services.

(b)    Monitoring includes without limitation:

(1)    On-site surveys and other visits, including without limitation complaint surveys and initial site visits;

(2)    On-site or remote file reviews;

(3)    Written requests for documentation and records required under these standards;

(4)    Written requests for information; and

(5)    Investigations related to complaints received.

(c)    The department may contract with a third party to monitor, enforce, or take other regulatory action on behalf of the:

- (1) Department;
- (2) Division of Provider Services and Quality Assurance; or
- (3) Division of Developmental Disabilities Services.

**802. Written Notice of Enforcement Action.**

- (a) The Division of Provider Services and Quality Assurance shall provide written notice to the ADDT of all enforcement actions taken against the ADDT.
- (b) The Division of Provider Services and Quality Assurance shall provide written notice to the ADDT by mailing the imposition of the enforcement action to the manager appointed by the ADDT, pursuant to Section 301.

**803. Remedies.**

- (a)
  - (1) The Division of Provider Services and Quality Assurance shall not impose any remedies imposed by an enforcement action unless:
    - (A) The ADDT is given notice and an opportunity to be heard pursuant to this Section 802 and Subchapter 10; or
    - (B) The Division of Provider Services and Quality Assurance determines that public health, safety, or welfare imperatively requires emergency action.
  - (2) If the Division of Provider Services and Quality Assurance imposes a remedy as an emergency action before the ADDT has notice and an opportunity to be heard, pursuant to subdivision (a)(1), the Division of Provider Services and Quality Assurance shall:
    - (A) Provide immediate notice to the ADDT of the enforcement action; and
    - (B) Provide the ADDT with an opportunity to be heard pursuant to Subchapter 10.
- (b) The Division of Provider Services and Quality Assurance may impose on an ADDT any of the following enforcement actions for the ADDT's failure to comply with these standards:
  - (1) Plan of correction;

- (2) Directed in-service training plan;
  - (3) Moratorium on new admissions;
  - (4) Transfer of clients;
  - (5) Monetary penalties;
  - (6) Suspension of ADDT license;
  - (7) Revocation of ADDT license; and
  - (8) Any remedy authorized by law or rule including without limitation Ark. Code Ann. § 25-15-217.
- (c) The Division of Provider Services and Quality Assurance shall determine the imposition and severity of these enforcement remedies on a case-by-case basis using the following factors:
- (1) Frequency of noncompliance;
  - (2) Number of noncompliance issues;
  - (3) Impact of noncompliance on a client's:
    - (A) Health;
    - (B) Safety; or
    - (C) Well-being.
  - (4) Responsiveness in correcting noncompliance;
  - (5) Repeated noncompliance in the same or similar areas;
  - (6) Noncompliance with previously or currently imposed enforcement remedies;
  - (7) Noncompliance involving intentional fraud or dishonesty; and
  - (8) Noncompliance involving violation of any law, rule, or other legal requirement.
- (d)
- (1) The Division of Provider Services and Quality Assurance shall report any noncompliance, action, or inaction by the ADDT to appropriate agencies for investigation and further action.

- (2) The Division of Provider Services and Quality Assurance shall refer noncompliance involving Medicaid billing requirements to the Division of Medical Services and the Medicaid Fraud Control Unit of the office of the Attorney General.
- (e) These enforcement remedies are not mutually exclusive and the Division of Provider Services and Quality Assurance may apply multiple remedies simultaneously if there is a failure to comply with these standards.
- (f) The failure to comply with an enforcement remedy imposed by the Division of Provider Services and Quality Assurance constitutes a separate violation of these standards.

**804. Moratorium.**

- (a) The Division of Provider Services and Quality Assurance may prohibit an ADDT from accepting new clients.
- (b) An ADDT prohibited from accepting new admissions may continue to provide services to existing clients.

**805. Transfer of Clients.**

- (a) The Division of Provider Services and Quality Assurance may require an ADDT to transfer a client to another ADDT if the division finds that the ADDT cannot adequately provide services to the client.
- (b) If directed by the division, an ADDT must continue providing services until the client is transferred to their new service provider of choice.
- (c) A transfer of a client may be permanent or for a specific term depending on the circumstances.

**806. Monetary Penalties.**

- (a) The Division of Provider Services and Quality Assurance may impose on an ADDT a civil monetary penalty not to exceed five hundred dollars (\$500) for each violation of these standards.
- (b)
  - (1) The division may file suit to collect a civil monetary penalty assessed pursuant to these standards if the ADDT does not pay the civil monetary penalty within sixty

(60) days from the date the division provides written notice to the ADDT of the imposition of the civil monetary penalty.

- (2) The division may file suit in Pulaski County Circuit Court or the circuit court of any county in which the ADDT is located.

**807. Suspension and Revocation of ADDT License.**

(a)

- (1) The Division of Provider Services and Quality Assurance may temporarily suspend an ADDT license if the ADDT fails to comply with these standards.
- (2) If an ADDT's license is suspended, the ADDT must immediately stop providing ADDT services until the division reinstates its license.

(b)

- (1) The division may permanently revoke an ADDT license if the ADDT fails to comply with these standards.
- (2) If an ADDT's license is revoked, the ADDT must immediately stop providing ADDT services and comply with the permanent closure requirements in Section 901(a).



**Subchapter 9.        Closure.**

**901.    Closure.**

(a)

- (1) An ADDT license ends if an ADDT permanently closes, whether voluntarily or involuntarily, and is effective on the date of the permanent closure as determined by the Division of Provider Services and Quality Assurance.
- (2) An ADDT that intends to permanently close, or does permanently close without warning, whether voluntarily or involuntarily, must immediately:
  - (A) Provide the custodian or legal guardian of each client with written notice of the closure;
  - (B) Provide the custodian or legal guardian of each client with written referrals to at least three (3) other appropriate service providers;
  - (C) Assist each client and their custodian or legal guardian in transferring services and copies of client records to any new service providers;
  - (D) Assist each client and their custodian or legal guardian in transitioning to new service providers; and
  - (E) Arrange for the storage of client service records to satisfy the requirements of Section 305.

(b)

- (1) An ADDT that intends to voluntarily close temporarily due to natural disaster, pandemic, completion of needed repairs or renovations, or for similar circumstances may request to temporarily close its facility while maintaining its ADDT license for up to one (1) year from the date of the request.
- (2) An ADDT must comply with the requirements in subsection (a)(2) of this section for notice, referrals, assistance, and storage of client records if the division grants an ADDT's request for a temporary closure.
- (3)
  - (A) The division may grant a temporary closure if the ADDT demonstrates that it is reasonably likely that it will be able to reopen after the temporary closure.

(B) The division shall end an ADDT's temporary closure and direct that the ADDT permanently close if the ADDT fails to demonstrate that it is reasonably likely that it will be able to reopen after the temporary closure.

(4)

(A) The division may end an ADDT's temporary closure if the ADDT demonstrates that it is in full compliance with these standards.

(B) The division shall end an ADDT's temporary closure and direct that the ADDT permanently close if the ADDT fails to become fully compliant with these standards within one (1) year from the date of the request.

PROPOSED

**Subchapter 10.      Appeals.**

**1001. Reconsideration of Adverse Regulatory Actions.**

(a)

- (1) An ADDT may ask for reconsideration of any adverse regulatory action taken by the Division of Provider Services and Quality Assurance by submitting a written request for reconsideration to:

Division of Provider Services and Quality Assurance  
Office of the Director  
Requests for Reconsideration of Adverse Regulatory Actions  
P.O. Box 1437, Slot 427  
Little Rock, Arkansas 72203

- (2) The written request for reconsideration of an adverse regulatory action taken by the Division of Provider Services and Quality Assurance must be submitted by the ADDT and received by the Division of Provider Services and Quality Assurance within thirty (30) calendar days of the date the ADDT received written notice of the adverse regulatory action.
- (3) The written request for reconsideration of an adverse regulatory action taken by the Division of Provider Services and Quality Assurance must include without limitation:
  - (A) The specific adverse regulatory action taken;
  - (B) The date of the adverse regulatory action;
  - (C) The name of ADDT against whom the adverse regulatory action was taken;
  - (D) The address and contact information for the ADDT against whom the adverse regulatory action was taken; and
  - (E) The legal and factual basis for reconsideration of the adverse regulatory action.

(b)

- (1) The Division of Provider Services and Quality Assurance shall review each timely received written request for reconsideration and determine whether to affirm or reverse the adverse regulatory action taken based on these standards.

- (2) The Division of Provider Services and Quality Assurance may request, at its discretion, additional information as needed to review the adverse regulatory action and determine whether the adverse regulatory action taken should be affirmed or reversed based on these standards.
- (c)
  - (1) The Division of Provider Services and Quality Assurance shall issue in writing its determination on reconsideration within thirty (30) days of receiving the written request for reconsideration or within thirty (30) days of receiving all information requested by the Division of Provider Services and Quality Assurance under subsection (b)(2) of this section, whichever is later.
  - (2) The Division of Provider Services and Quality Assurance shall issue its determination to the ADDT using the address and contact information provided in the request for reconsideration.
- (d)
  - (1) An applicant may ask for reconsideration of a determination by the Division of Developmental Disabilities Services that a county is not underserved by submitting a written request for reconsideration pursuant to the Division of Developmental Disabilities Services Policy 1076.
  - (2) If a determination that a county is not underserved is reversed on reconsideration by DDS or on appeal by an agency or court with jurisdiction:
    - (A) The applicant shall notify the Division of Provider Services and Quality Assurance of the reversal and submit a written request for reconsideration to the Division of Provider Services and Quality Assurance as provided in this section for any adverse regulatory action taken by the Division of Provider Services and Quality Assurance based on the initial determination; and
    - (B) The Division of Provider Services and Quality Assurance shall review the written request for reconsideration as provided in this section.
- (e) The Division of Provider Services and Quality Assurance may also decide to reconsider any adverse regulatory action on its own accord any time it determines, in its discretion, that an adverse regulatory action is not consistent with these standards.

**1002. Appeal of Regulatory Actions.**

(a)

(1) An ADDT may administratively appeal any adverse regulatory action to the Office of Appeals and Hearings of the Department of Human Services except for provider appeals related to the payment for Medicaid claims and services governed by the Medicaid Fairness Act, Arkansas Code § 20-77-1701 — 20-77-1718, which shall be governed by the Medicaid Fairness Act.

(2) The office shall conduct administrative appeals of adverse regulatory actions pursuant to DHS Policy 1098 and other applicable laws and rules.

(b) An ADDT may appeal any adverse regulatory action or other adverse agency action to circuit court as allowed by the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

PROPOSED

**Rules for the Division of Developmental Disabilities**  
**Early Intervention Day Treatment**



**LAST UPDATED: ~~January~~August 1, 2021**

**Subchapter 1.        General.**

**101.   Authority.**

(a)    These standards are promulgated under the authority of Ark. Code Ann. § 20-48-201 to -212, Ark. Code Ann. § 20-48-1101 to -1108, Ark. Code Ann. § 25-10-102, and Ark. Code Ann. § 25-15-217.

(b)

(1)    The Division of Provider Services and Quality Assurance (DPSQA) shall perform all regulatory functions regarding the licensure and monitoring of Early Intervention Day Treatment programs on behalf of the Division of Developmental Disabilities Services.

(2)    The Division of Developmental Disabilities Services (DDS) shall determine whether and to what ~~an~~ extent a county is underserved.

(c)

(1)    The Division of Child Care and Early Childhood Education (DCCECE) shall perform all regulatory functions regarding the licensure and monitoring of child care centers.

(2)    DPSQA may perform regulatory functions regarding the monitoring of child-care centers that are licensed as Early Intervention Day Treatment programs on behalf of DCCECE.

**102.   Purpose.**

The purpose of these standards is to:

(a)    Serve as the minimum standards for early intervention day treatment programs and facilities; and

(b)    Ensure that all ~~beneficiaries~~clients receive all early intervention day treatment services recommended by a physician for the maximum reduction of physical or mental disability and restoration of the ~~beneficiary~~client to the best functional level.

**103.   Definitions.**

As used in these standards:

- (1) “Academic medical center” means a medical center located in Arkansas that consists of a medical school and its primary teaching hospitals and clinical programs.
- (2) “Adverse regulatory action” means a denial of an EIDT ~~license~~license, and any enforcement action taken by the Division of Provider Services and Quality Assurance~~DPSQA~~ pursuant to Section 803 to 807.
- (3) “Applicant” means an applicant for an EIDT license.
- (4) “Child-care center” means a child-care center licensed as a child-care center by the Division of Child Care and Early Childhood Education~~DCCECE~~ pursuant to the Minimum Licensing Standards for Child-Care Centers.
- (5) “~~Child-care~~Childcare center license” means a license to operate a ~~child care~~childcare center issued by the Division of Child Care and Early Childhood Education~~DCCECE~~ pursuant to the Minimum Licensing Standards for Child-Care Centers.

(6)

(~~1A~~) “Change in ownership” means one (1) or more transactions within a twelve (12) month period that ~~result~~results in a change in greater than fifty percent (50%) of the financial interests, governing body, operational control, or other operational or ownership interests of the EIDT.

(~~2B~~) “Change in ownership” does not include a change of less than fifty percent (50%) in the membership of the EIDT’s:

(i) ~~b~~Board of directors;

(ii) ~~b~~Board of trustees; or

(iii) ~~e~~Other governing body.

~~(6)~~(7) “Directed in-service training plan” means a plan of action that:

- (A) Provides training to assist an EIDT in complying with these standards and correcting deficiencies;
- (B) Includes the topics covered in the training and materials used in the training;
- (C) Specifies the length of the training;
- (D) Specifies the staff required to attend the training; and



(E) Is approved by the Division of Provider Services and Quality Assurance~~DPSQA~~.

~~(7)~~(8) “Early intervention day treatment” means diagnostic, screening, evaluative, preventative, therapeutic, palliative, and rehabilitative and habilitative, including speech, occupational, and physical therapies and any medical or remedial services recommended by a physician for the maximum reduction of physical or mental disabilities and the restoration of the child to the best possible functional level.

(9) “ECDS” means an early childhood developmental specialist, which is an employee:

(A) ~~r~~Responsible for the development of beneficiary~~client~~ individual treatment plans, (referred to as “ITPs”), and the supervision of habilitative services delivery to beneficiaries~~clients~~; and

(B) ~~w~~Who satisfies at least one (1) of the following criteria:

(i) Is licensed as a:

(a) ~~s~~Speech therapist;

(b) ~~o~~Occupational therapist;

(c) ~~p~~Physical therapist; or

(d) ~~d~~Developmental therapist;~~or~~.

(ii) Has a bachelor’s degree and at least one (1) of the following:

(a) An ~~E~~early ~~C~~childhood or ~~E~~early ~~C~~childhood ~~S~~special ~~E~~education certificate;

(b) Current child development associate’s certificate;

(c) Current birth to pre-K credential; or

(d) Documented experience working with children with special needs and twelve (12) hours of completed college courses in early childhood, child development, special education, elementary education, or child and family studies.

~~(8)~~(10) “Early intervention day treatment services” means services that are available under the ~~E~~early ~~I~~intervention ~~D~~day ~~T~~treatment program for Medicaid beneficiaries~~clients~~ as defined in Section II of the Early Intervention Day Treatment Medicaid Manual.

(11) “EIDT” means an early intervention day treatment program, which is a pediatric day treatment program run by one (1) or more ECDS that provides early intervention day treatment service prescribed by a physician to children with:

(A) ~~i~~ Intellectual and developmental disabilities;

(B) ~~d~~ Developmental delays; or

(C) ~~a~~ A medical condition that puts them at risk for developmental delay.

~~(9)~~(12) “EIDT license” means a non-transferable license issued by the Division of Provider Services and Quality Assurance~~DPSQA~~ to an EIDT for a specific location that meets these standards.

(13)

~~(4)~~(A) “Employee” means an employee, owner, independent contractor, driver, attendant, or other agent of an EIDT and includes without limitation:

(i) ~~f~~ Full-time employees;

(ii) ~~p~~ Part-time employees;

(iii) ~~t~~ Transportation contractors; and

(iv) ~~a~~ Any other person who acts on behalf of an EIDT or has an ownership, financial, or voting interest in the EIDT.

~~(2)~~(B) “Employee” does not mean an independent contractor if:

(i) The independent contractor does not assist in the day-to-day operations of the EIDT; ~~and or~~

(ii) The independent contractor has no beneficiary/client contact.”

~~(10)~~(14) “First Connections” means the Division of Developmental Disabilities Services ~~DDS~~ program that administers, monitors, and carries out all activities and responsibilities for the State of Arkansas under Part C of the Individuals with Disabilities Education Act to ensure appropriate early intervention services are available to all infants and toddlers from birth to thirty-six (36) months of age who are suspected of having a developmental delay (and their families).

~~(11)~~(15) “First Connections Central Intake Unit” means the Division of Developmental Disabilities Services ~~DDS~~ unit in the First Connections program

that serves as the program's single referral point of entry to minimize duplication and expedite service delivery.

~~(12)~~(16) "Irreconcilable conflict" means a conflict between two (2) standards where an EIDT cannot comply with both standards at the same time.

~~(13)~~(17) "ITP" means a beneficiaryclient's individual treatment plan, which is a written, individualized service plan for an EIDT beneficiaryclient to improve the EIDT beneficiaryclient's condition.

~~(14)~~(18) "Local ~~E~~education ~~A~~gency" means the school district or education service cooperative that is offering preschool services to the area where the beneficiaryclient resides.

(19)

~~(1A)~~ "Marketing" means the accurate and honest advertisement of an EIDT that does not also constitute solicitation.

~~(2B)~~ "Marketing" includes without limitation:

(i) Advertising using traditional media;

(ii) Distributing brochures or other informational materials regarding the services offered by the EIDT;

(iii) Conducting tours of the EIDT to interested beneficiariesclients and their families;

(iv) Mentioning services offered by the EIDT in which the beneficiaryclient or ~~his or her~~their family might have an interest; ~~and/or~~

(v) Hosting informational gatherings during which the services offered by the EIDT are described.

(20) "Medication error" means the:

(A) ~~H~~Loss of medication;<sub>;</sub>

(B) ~~U~~Unavailability of medication;<sub>;</sub>

(C) ~~F~~Falsification of medication logs;<sub>;</sub>

(D) ~~T~~Theft of medication;<sub>;</sub>

(E) ~~m~~ Missed doses of medication;<sup>5</sup>

(F) ~~i~~ Incorrect medications administered;<sup>5</sup>

(G) ~~i~~ Incorrect doses of medication;<sup>5</sup>

(H) ~~i~~ Incorrect time of administration;<sup>5</sup>

(I) ~~i~~ Incorrect method of administration;<sup>5</sup> and

(J) ~~the d~~ Discovery of an unlocked medication container that is always supposed to be locked.

~~(15)~~(21) “Plan of correction” means a plan of action that:

(A) Provides the steps an EIDT must take to correct noncompliance with these standards;

(B) Sets a timeframe for each specific action provided in the plan; and

(C) Is approved by the Division of Provider Services and Quality Assurance ~~DPSQA~~.

~~(16)~~(22) “Residence” means the county where a beneficiary ~~client~~ is listed as residing in the Arkansas Medicaid Management Information System.

~~(17)~~(23) “Serious injury” means any injury to a beneficiary ~~client~~ that:

(A) May cause death;

(B) May result in substantial permanent impairment;

(C) ~~Requires hospitalization~~ ~~Requires the attention of an emergency medical technician, a paramedic, or a doctor;~~ or

(D) Requires the attention of:

(i) An emergency medical technician;

(ii) A paramedic; or

(iii) An emergency room ~~Requires hospitalization.~~

(24)

(A1) “Solicitation” means the initiation of contact with a beneficiaryclient or his or hertheir family by an EIDT when the beneficiaryclient is currently receiving services from another provider and the EIDT is attempting to convince the beneficiaryclient or his or hertheir family to switch to or otherwise use the services of the ADDT EIDT that initiated the contact.

(B2) “Solicitation” includes without limitation the following acts to induce a beneficiaryclient or his or hertheir family by:

(i)      Contacting the family of a beneficiaryclient that is currently receiving services from another provider;

(ii)      Offering cash or gift incentives to a beneficiaryclient or his or hertheir family;

(iii)      Offering free goods or services not available to other similarly situated beneficiariesclients or their families;

(iv)      Making negative comments to a beneficiaryclient or his or hertheir family regarding the quality of services performed by another service provider;

(v)      Promising to provide services in excess of those necessary;

(vi)      Giving a beneficiaryclient or his or hertheir family the false impression, directly or indirectly, that the EIDT is the only service provider that can perform the services desired by the beneficiaryclient or his or hertheir family; or

(vii)      Engaging in any activity that the Division of Provider Services and Quality AssuranceDPSQA reasonably determines to be “solicitation.”

~~(18)~~(25) “Student observer” means a student visiting an EIDT on a one-time or periodic basis to observe classroom activities or other similar activities that do not involve direct contact with beneficiariesclients.

~~(19)~~(26) “Underserved county” means a county that is underserved regarding early intervention day treatment services.

Subchapter 2.        Licensing.

201.    License Required.

(a)

(1)    An EIDT must have an EIDT license issued by the Division of Provider Services and Quality Assurance, DPSQA pursuant to these standards, for the locationaddress at which the EIDT will provide services.

(2)    An EIDT must comply with all requirements of these standards.

(b)

(1)    An EIDT license is specific to a single locationaddress.

(2)    A separate EIDT license is required for each locationaddress, even if the same person or entity has an EIDT at other locationsaddresses.

(3)    An locationaddress may only have one (1) EIDT license attributed to it at any one (1) time.

(c)    An EIDT may be operated through an academic medical center program if the program:

(1)    Specializes in developmental pediatrics; and

(2)    Is staffed and operated by the academic medical center under the direction of a board-certified or board-eligible developmental pediatrician;

(d)

(1)    An EIDT must have a child-care center license in good standing for the EIDT's location unless the EIDT is operating as an academic medical center.

(2)

(A)    An EIDT must comply with all requirements of the applicable Minimum Licensing Standards for Child-Care Centers;

(B)    A violation of the applicable Minimum Licensing Standards for Child Care Centers constitutes a violation of these standards.

(e)

(1)    In the event of a conflict between these standards and the Minimum Licensing

~~S~~standards for ~~C~~child-~~C~~care ~~C~~centers, the stricter requirement shall apply.

- (2) In the event of an irreconcilable conflict between these standards and the ~~M~~minimum ~~L~~icensing ~~S~~standards for ~~C~~child-~~C~~care ~~C~~centers, these standards shall govern to the extent not governed by federal laws or rules, or state law.

## **202. Licensure Application.**

- (a) (1) To apply for an EIDT license, an applicant must submit a complete application to the Division of Provider Services and Quality Assurance DPSQA.
- (2) A complete application includes:
- (A) Documentation demonstrating the applicant's entire ownership, including without limitation all the applicant's financial, governing body, and business interests;
  - (B) Documentation of the applicant's management, including without limitation the management structure and members of the management team;
  - (C) Documentation of the applicant's current contractors and the contractors that the applicant intends to use as part of operating the EIDT;
  - (D) Documentation of all required state and national criminal background checks for employees and operators;
  - (E) Documentation of all required Child Maltreatment Central Registry checks and Adult and Long-term Care Facility Resident Maltreatment Registry checks for ~~e~~Employees and operators;
  - (F) Documentation demonstrating compliance with these standards; and
  - (G) All other documentation or other information requested by the division DPSQA.
- (b) To apply to change the ownership of an existing EIDT, the EIDT must submit a complete application described in Section 202 subsection (a)(2) of this section.

## **203. Licensure Process.**

- (a) The Division of Provider Services and Quality Assurance DPSQA may approve an application for an EIDT license and issue an EIDT license if:
- (1) ~~The a~~Applicant submits a complete application under Section 202(a);

- (2) The Division of Provider Services and Quality Assurance~~DPSQA~~ determines that the applicant has successfully passed all required criminal background and maltreatment checks.
- (3) The Division of Provider Services and Quality Assurance~~DPSQA~~ determines that the applicant satisfies these standards; and
- (4) The Division of Provider Services and Quality Assurance~~DPSQA~~ determines that one (1) of the following conditions are met:
  - (A) The Division of Developmental Disabilities Services~~DDS~~ has determined that the county in which the new EIDT would be located is an underserved county;
  - (B) The applicant has one (1) or more EIDT licensed locations in the same county in which the new EIDT would be located; or
  - (C) The applicant has one (1) or more EIDT licensed locations in a county contiguous to the county in which the new EIDT would be ~~located~~located, and the existing location serves at least thirty (30) children who are eligible, enrolled, and participating in the existing location, but reside in the county in which the EIDT would be located.
- (b) The Division of Provider Services and Quality Assurance~~DPSQA~~ may approve an application to change the ownership of an existing EIDT and change the ownership of an existing EIDT license if:
  - (1) The applicant submits a complete application under Section 202;
  - (2) The Division of Provider Services and Quality Assurance~~DPSQA~~ determines that all employees and operators have successfully passed all required criminal background and maltreatment checks; and
  - (3) The Division of Provider Services and Quality Assurance~~DPSQA~~ determines that the applicant satisfies these standards.
- (c) The Division of Provider Services and Quality Assurance~~DPSQA~~ shall issue new EIDT licenses in accordance with the order of priority required by Arkansas Code § section-20-48-1105~~of the Arkansas Code~~.
- (d) EIDT licenses do not expire until terminated under these standards.

**204. Notice of Underserved Status.**



The Division of Developmental Disabilities Services~~DDS~~ shall provide written notice of any underserved determination made under Section 203(a), as required in Ark.Code Ann. § -20-48-1106.

MARK-UP

Subchapter 3. Administration.

301. Organization and Ownership.

(a) The EIDT must be authorized and in good standing to do business under the laws of the State of Arkansas.

(b)

(1) An EIDT must:

(A) ~~a~~ Appoint a single manager as the point of contact for all Division of Developmental Disabilities Services ~~DDS~~ and Division of Provider Services and Quality Assurance ~~DPSQA~~ matters; and

(B) ~~p~~ Provide the Division of Developmental Disabilities Services ~~DDS~~ and Division of Provider Services and Quality Assurance ~~DPSQA~~ with updated contact information for that manager.

(2) This manager must have authority over the EIDT, and all EIDT employees, and must ensure that the Division of Developmental Disabilities Services ~~DDS~~ and Division of Provider Services and Quality Assurance ~~DPSQA~~ requests, concerns, inquiries, and enforcement actions are addressed and resolved to the satisfaction of the Division of Developmental Disabilities Services ~~DDS~~ and Division of Provider Services and Quality Assurance ~~DPSQA~~.

(c)

(1) An EIDT cannot transfer its EIDT license to any person or entity.

(2) An EIDT cannot change its ownership unless the Division of Provider Services and Quality Assurance ~~DPSQA~~ approves the application of the new ownership pursuant to Sections 202 and 203.

(3) An EIDT cannot change its name or otherwise operate under a different name than the name listed on the EIDT license without prior written approval from the Division of Provider Services and Quality Assurance ~~DPSQA~~.

302. Employees and Staffing Requirements.

(a)

(1) An EIDT must appropriately supervise all beneficiaries ~~clients~~ based on each beneficiary ~~client~~'s

needs.

- (2) An EIDT must have enough employees on-site to supervise ~~beneficiaries~~clients at the EIDT location.

(b)

- (1) An EIDT must comply with all requirements applicable to employees under these standards and all requirements applicable to employees of child-care centers, including without limitation drug screens, criminal background checks, and adult and child maltreatment checks.

- (2) An EIDT must verify an employee still meets all requirements under these standards:

(A) ~~u~~Upon the request of the Division of Provider Services and Quality Assurance~~DPSQA~~; or

(B) ~~w~~Whenever the EIDT receives information after hiring that would create a reasonable belief that the eEmployee no longer meets all requirements under these standards~~including without limitation requirements related to criminal background checks and adult and child maltreatment checks.~~

(c)

- (1) An EIDT must conduct ~~child maltreatment, adult maltreatment and~~ criminal background checks for all ~~e~~Employees as required by law and applicable ~~M~~minimum ~~L~~icensing ~~S~~standards for ~~C~~child-Care ~~C~~centers.

- (2) ~~Except as provided in this section, all EIDT employees, contractors, sub-contractors, interns, volunteers, and trainees, as well as all other persons who have routine contact with beneficiaries within the EIDT or who provide services within the EIDT, must successfully pass all required criminal background checks and adult and child maltreatment checks~~ An EIDT must conduct an Arkansas Child Maltreatment Central Registry check on each Employee prior to hiring and at least every two (2) years thereafter.

- (3) An EIDT must conduct an Arkansas Adult and Long-term Care Facility Resident Maltreatment Central Registry check on each Employee prior to hiring and at least every two (2) years thereafter.

- (4) An EIDT must conduct a drug screen that tests for the use of illegal drugs- on each Employee prior to hiring.

- (5) An EIDT must conduct an Arkansas Sex Offender Central Registry search on each Employee prior to hiring and at least every two (2) years thereafter.

(d)

- (1) Employees must be sixteen (16) years of age or older.
- (2) Employees under eighteen (18) years of age must be:
  - (A) Directly and visually supervised by an adult employee when in direct contact with beneficiariesclients; and
  - (B) Enrolled in high school or GED curriculum.
- (3) Student observers:
  - (A) Cannot be counted toward staff-to-beneficiaryclient ratios;
  - (B) Cannot have disciplinary control over an EIDT beneficiaryclient;
  - (C) Cannot be left alone with a beneficiaryclient; and
  - (D) Are not required to have criminal background, child maltreatment, or adult maltreatment checks.
- ~~(4) A beneficiary's custodian or legal guardian is not required to have criminal background, child maltreatment, or adult maltreatment check if the custodian or legal guardian only volunteers on a field trip and is not left alone with any beneficiary.~~

(e)

- (1) Except as provided in subsection (e)(2) below of this section, the EIDT must provide at least the following minimum staff-to-beneficiaryclient ratio for all beneficiariesclients:

Age Group	Ratio
0 to 18 months	1:4
18 to 36 months	1:6
3 to 4 years	1:8
4 years and above	1:9

- (2) The EIDT may reduce the staff-to-beneficiaryclient ratio by up to fifty percent (50%) during naptime for beneficiariesclients who are two and one-half (2 ½) years of age and older, if at least seventy-five percent (75%) of the staff-to-beneficiaryclient ratio is maintained throughout the EIDT facility.

- (f) (1) An EIDT must document all scheduled and actual ~~e~~Employee staffing.
- (2) The documentation required for ~~e~~Employee staffing includes without limitation employee:
  - (A) ~~Names;~~
  - (B) ~~Job title or credential;~~
  - (C) ~~shift role~~Job duties; and
  - (D) ~~shift days;~~ andTypical working days and hours.
  - (E) ~~shift times.~~

**303. Employee Training.**

- (a) All ~~e~~Employees involved in any way with services provided to ~~beneficiaries~~clients, or who have routine contact with ~~beneficiaries~~clients, must receive the following training, before having contact with ~~beneficiaries~~clients and no later than thirty (30) days after beginning employment:
  - (1) Basic health and safety practices;
  - (2) Infection control and infection control procedures;
  - (3) Identification and mitigation of unsafe environmental factors;
  - (4) Emergency and evacuation procedures ~~required in Section 308;~~
  - (5) Identification and prevention of adult and child maltreatment;
  - (6) Mandated reporter requirements; and
  - (7) Reporting incidents and accidents as required in these standards.
- (b) Employees required to receive training prescribed in sub~~section~~division (a) of this section must receive annual re-training on those topics at least once every twelve (12) months.

**304. Employee Records.**

- (a) An EIDT must maintain a personnel file for each employee that includes:
  - (1) A detailed job description;

- (2) All required criminal background checks;
- (3) All required Child Maltreatment Central Registry checks;
- (4) All required Adult and Long-term Care Facility Resident Maltreatment Central Registry checks;
- (5) All conducted drug screen results;
- (6) A ~~S~~igned statement that e~~E~~mployee will comply with the EIDT's drug screen and drug use policies;
- (7) A ~~C~~opy of current state or federal identification;
- (8) A ~~C~~opy of valid state-issued driver's license, if driving is required in the job description;
- (9) Documentation demonstrating that the e~~E~~mployee received all training required in Section 303;
- (10) Documentation demonstrating that the e~~E~~mployee obtained and maintained in good standing all professional licensures, certifications, or credentials ~~for the employee or the service the employee is performing that are~~ required for the employee or the service the employee is performing; and
- (11) Documentation demonstrating that the e~~E~~mployee meets all continuing education, in-service, or other training requirements applicable ~~to that employee~~ under these standards and any professional licensures, certifications, or credentials held by that e~~e~~Employee.

(b)

- (1) An EIDT must ensure that each personnel record is kept confidential and available only to:
  - (A) Employees who need to know the information contained in the personnel record;
  - (B) Persons or entities who need to know the information contained in the personnel record;
  - (C) The Division of Provider Services and Quality Assurance~~DPSQA~~ and any governmental entity with jurisdiction or other authority to access the personnel record;

- (D) The employee; and
- (E) Any other individual authorized in writing by the employee.

(2)

- (A) An EIDT must keep personnel records in a file cabinet or room that is always locked.
- (B)
  - (i) An EIDT may use electronic records in addition to or in place of physical records to comply with these standards.
  - (ii) An EIDT provider that uses electronic records must take reasonable steps to backup all electronic records and reconstruct a personnel record in the event of a breakdown in the EIDT's electronic records system.

~~(b)(c)~~ An EIDT must retain all eEmployee records for five (5) years from the date an eEmployee is no longer an eEmployee of the EIDT or, if longer, the final conclusion of all reviews, appeals, investigations, administrative actions, or judicial actions related to that eEmployee that are pending at the end of the five-year period.

### 305. BeneficiaryClient Service Records.

(a)

- (1) An EIDT must maintain a separate, updated, and complete service record for each beneficiaryclient documenting the services provided to the beneficiaryclient, and all other documentation required under these standards.
  - (2) Each beneficiaryclient service record must be uniformly organized and readily available for review by the Division of Provider Services and Quality Assurance DPSQA at the EIDT's location.
- (b) A beneficiaryclient's service record must include a summary document at the front that includes:
- (1) The beneficiaryclient's:
    - (A) ~~F~~Full name;
    - (B) ~~The beneficiary's a~~Address and county of residence;

~~(C) The beneficiary's t~~Telephone number and, if available, email address;

~~(D) The beneficiary's d~~Date of birth;

~~(E) The beneficiary's p~~Primary language;

~~(F) The beneficiary's d~~Diagnoses;

~~(G) The beneficiary's m~~Medications, dosage, and frequency, if applicable;

~~(H) The beneficiary's k~~Known allergies;

~~(I) The beneficiary's e~~Entry date into the EIDT;

~~(J) The beneficiary's e~~Exit date from the EIDT;

~~(K) The beneficiary's~~ Medicaid ~~N~~number;

~~(L) The beneficiary's e~~Commercial or private health insurance information or managed care organization information, if applicable;

~~(1)(2) The n~~Name, address, phone number, email address, and relationship of the beneficiaryclient's custodian or legal guardian; and

~~(2)(3) The n~~Name, address, and phone number of the beneficiaryclient's primary care physician.

(c) A beneficiaryclient's service record must include at least the following information and documentation:

~~(1)~~ The beneficiaryclient's:

~~(A)~~ ITP;

~~(B)~~ The beneficiary's ~~b~~Behavioral management plan;

~~(C)~~ The beneficiary's ~~d~~Daily activity logs; and

~~(D)~~ The beneficiary's ~~m~~Medication management plan and medication logs;

~~(1)(2)~~ Copies of any assessments or evaluations completed on the beneficiaryclient; and

~~(2)(3)~~ Copies of any orders that place the beneficiaryclient in the custody of another person or entity.



- (d)
  - (1) An EIDT must ensure that each beneficiaryclient service record is kept confidential and available only to:
    - (A) Employees who need to know the information contained in the beneficiaryclient's service record;
    - (B) Persons or entities who need to know the information contained in the beneficiaryclient service record in order to provide services to the beneficiaryclient;
    - (C) ~~DPSQA~~ The division and any governmental entity with jurisdiction or other authority to access the beneficiaryclient's service record;
    - (D) The beneficiaryclient's legal guardian or custodian; and
    - (E) Any other individual authorized in writing by the legal guardian or custodian.
  - (2)
    - (A) An EIDT must keep beneficiaryclient service records in a file cabinet or room that is always locked.
    - (B)
      - (i) An EIDT may use electronic records in addition to or in place of physical records to comply with these standards.
      - (ii) An EIDT provider that uses electronic records must take reasonable steps to backup all electronic records and reconstruct a beneficiaryclient's service record in the event of a breakdown in the EIDT's electronic records system.
- (e) An EIDT must retain all beneficiaryclient service records for five (5) years from the date the beneficiaryclient last exits from the EIDT or, if longer, the final conclusion of all reviews, appeals, investigations, administrative actions, or judicial actions related to the beneficiaryclient that are pending at the end of the five-year period.

**306. Marketing and Solicitation.**

- (a) An EIDT can market its services.

- (b) An EIDT cannot solicit a ~~beneficiary~~client or ~~his or her~~their family.

**307. Third-party Service Agreements.**

- (a) An EIDT may contract in writing with third-party vendors to provide services or otherwise satisfy requirements under these standards.

- (b) An EIDT must ensure that all third-party vendors comply with these standards and all other applicable:

(1) ~~L~~aws;

(2) ~~R~~ules; and

(3) ~~R~~egulations.

**Subchapter 4.            Facility Requirements.**

**401.    General Requirements.**

(a)    An EIDT facility must:

- (1)    Be heated, air-conditioned, well-~~lighted~~lit, well-ventilated, and well-maintained at a comfortable temperature;
- ~~(2)~~    Be safe, clean, maintained, in good repair, and sanitary, including without limitation as to the facility's:
  - ~~(A)~~    eExterior;<sub>;</sub>
  - ~~(B)~~    surrounding property;<sub>;</sub> and
  - ~~(C)~~    interior floors and ceilings;<sub>;</sub>
- ~~(2)~~~~(3)~~    Be free of offensive odors and potentially hazardous objects including without limitation explosives and broken equipment;
- ~~(3)~~~~(4)~~    Have drinking water available to ~~beneficiaries~~clients and ~~eE~~Employees;
- ~~(4)~~~~(5)~~    Have an emergency alarm system throughout the facility to alert ~~eE~~Employees and ~~beneficiaries~~clients when there is an emergency;
- ~~(6)~~    Have at least one (1) toilet and one (1) sink for every fifteen (15) ~~beneficiaries~~clients, with:
  - ~~(A)~~    running hot and cold water;<sub>;</sub>
  - ~~(B)~~    toilet tissue;<sub>;</sub>
  - ~~(C)~~    Liquid soap;<sub>;</sub> and
  - ~~(D)~~    paper towels or air dryers;<sub>;</sub>
- ~~(5)~~~~(7)~~    Have bathrooms that provide for individual privacy and are appropriate for all ~~beneficiaries~~clients with regard to size and accessibility;
- ~~(6)~~~~(8)~~    Have at least one (1) operable telephone on site that is available at all hours and reachable with a phone number for outside callers;
- ~~(7)~~~~(9)~~    Have working smoke and carbon monoxide detectors in all areas used by ~~beneficiaries~~clients or ~~ee~~Employees;

~~(8)~~(10) Have a first aid kit that includes at least the following:

- (A) Adhesive band-aids of various sizes;
- (B) Sterile gauze squares;
- (C) Adhesive tape;
- (D) Roll of gauze bandages;
- (E) Antiseptic;
- (F) Thermometer;
- (G) Scissors;
- (H) Disposable gloves; and
- (I) Tweezers;

~~(9)~~(11) Have enough fire extinguishers in number and location to satisfy all applicable laws and rules, but no fewer than two (2) fire extinguishers;

~~(10)~~(12) Have hallways and corridors at least six ~~(6)~~ feet (6') in width;

~~(11)~~(13) Have screens for all windows and doors used for ventilation;

(14) Have screens or guards attached to the floor or wall to protect:

- ~~(A)~~ (A) Floor furnaces;
- ~~(B)~~ (B) Heaters;
- ~~(C)~~ (C) Hot radiators;
- ~~(D)~~ (D) Exposed water heaters;
- ~~(E)~~ (E) Air conditioners; and
- ~~(F)~~ (F) Electric fans;

~~(12)~~(15) Have no lead-based paint;

~~(13)~~(16) Have lighted "exit" signs at all exit locations;

~~(17)~~ Have written instructions and diagrams noting emergency evacuation routes and shelters to be used in case of fire, severe weather, or other emergency, posted at least every twenty-five ~~(25)~~-feet ~~(25')~~,<sup>22</sup>:

~~(A)~~ ~~I~~n all stairwells;

~~(B)~~ ~~I~~n and by all elevators; and

~~(C)~~ ~~I~~n each room used by ~~beneficiaries~~~~clients~~;

~~(14)~~~~(18)~~ Have a copy of Title VI and VII of the Civil Rights ~~Law-Act~~ of 1964, and all required legal notices, prominently posted as required;

~~(15)~~~~(19)~~ Have an emergency power system to provide lighting and power to essential electrical devices throughout the EIDT, including without limitation power to exit lighting and fire detection, fire alarm, and fire extinguishing systems;

~~(16)~~~~(20)~~ Have chemicals, toxic substances, and flammable substances stored in locked storage cabinets or closets;

~~(17)~~~~(21)~~ Have the EIDT's telephone, hours of operation, and hours of access, (if applicable); posted at all public entrances;

~~(18)~~~~(22)~~ Prohibit the possession of firearms or other weapons except by authorized law enforcement personnel; and

~~(23)~~ Prohibit:

~~(A)~~ ~~s~~Smoking;

~~(B)~~ ~~u~~Use of tobacco products; and

~~(C)~~ ~~t~~The consumption of:

~~(i)~~ ~~p~~Prescription medication without a prescription;

~~(ii)~~ ~~a~~Alcohol; and

~~(iii)~~ ~~i~~llegal drugs.

**Subchapter 5. Enrollments, Exits, and Referrals.**

**501. Enrollments.**

- (a) An EIDT may enroll and provide services to a beneficiaryclient who is eligible to receive EIDT services.
- (b) An EIDT must document the enrollment of all beneficiariesclients to the EIDT.

**502. Exits.**

- (a) An EIDT may exit a beneficiaryclient from its program if the person becomes ineligible for EIDT services, chooses to enroll with another EIDT, or for any other lawful reason.
- (b) An EIDT must document the exit of all beneficiariesclients from its program.
- (c) An EIDT must provide reasonable assistance to all beneficiariesclients exiting its program, including without limitation to by:
  - (1) Assisting the beneficiaryclient in transferring to another EIDT or other service provider; and
  - (2) Providing copies of such a beneficiaryclient's records to the:
    - (A) the beneficiaryClient;
    - (B) the beneficiaryClient's legal custodian or guardian; and
    - (C) the EIDT or other service provider to which the beneficiaryclient transfers after exiting the program.

**503. Referrals to the First Connections Program.**

- (a)
  - (1) An EIDT must, within two (2) working days of first contact, refer to the First Connections program all infants and toddlers from birth to thirty-six (36) months of age for whom there is a diagnosis or suspicion of a developmental delay or disability.
  - (2) The referral must be made to the First Connections Central Intake Unit.

- (b) Each EIDT is responsible for documenting that a proper and timely referral to First Connections has been made, pursuant to these standards.

**504. Referrals to Local Education Agencies.**

(a)

- (1) Each EIDT must, within two (2) working days of first contact, refer to the appropriate Local Education Agency each beneficiaryclient:
- (A) Who is at least three (3) years old of age;
- (B) Who has not entered Kindergarten; and
- (C) For whom there is a diagnosis or suspicion of a developmental delay or disability.
- (2) For beneficiariesclients who turn three (3) years of age while receiving services at the EIDT, the referral must be made at least ninety (90) days prior to the beneficiaryclient's third birthday.
- (3) If the beneficiaryclient begins services less than ninety (90) days prior to their third birthday, the referral should be made within two (2) working days of first contact.
- (4) The referral must be made to the Local Education Agency where that beneficiaryclient resides.

- (b) Each EIDT is responsible for documenting that a proper and timely referral to the appropriate Local Education Agency has been made, pursuant to these standards.

**505. Appropriate Referrals for BeneficiariesClients Failing to Qualify.**

(a)

- An EIDT must provide the custodian or legal guardian of a beneficiaryclient with appropriate information and referrals to other available services if:
- (1) The EIDT assists the beneficiaryclient with obtaining a developmental screen or performs a comprehensive developmental evaluation as part of the process of determining the beneficiaryclient's eligibility for EIDT services; and
- (2) The developmental screen or comprehensive developmental evaluation indicates the beneficiaryclient is not eligible to receive EIDT services.

- (b) Other available services include without limitation any ~~e~~Early ~~h~~Head ~~s~~Start, ~~H~~head ~~s~~Start, and home-visiting programs.
- (c) Each EIDT is responsible for maintaining documentation evidencing that a reasonable attempt was made to provide the referrals, materials, and information described in subsection (a) of this section, to the ~~beneficiary~~client's custodian or legal guardian.

MARKKUP



Subchapter 6. Program and Services.

601. Arrivals, and Departures, and Transportation.

(a) ~~(1)~~—An EIDT must ensure that beneficiaryclients safely arrive to and depart from an EIDT facility.

(b)—

(A1) An EIDT must document the arrival and departure of each beneficiaryclient to and from an EIDT facility.

(2) Documentation of arrivals to and departures from an EIDT must include without limitation the: beneficiary

(A) Client's:

(i) Name;

(ii) Date of birth; and

(iii) Date and time of arrival and departure;

(B) Name of the person or entity that provided transportation; and

(C) Method of transportation.

(c)(A) A manager or designee of an EIDT must:

(1) Review the beneficiaryclient's arrival and departure documentation each day and compare it with the EIDT's attendance record; and

(2) Sign and date the beneficiaryclient arrival and departure documentation verifying that all beneficiaryclients for the day safely arrived to and departed from the EIDT facility.

(Bd) An EIDT must maintain beneficiaryclient arrival and departure documentation for one (1) year from the date of transportation.

~~(b)~~—~~An EIDT that elects to provide transportation services to any beneficiary must comply with all vehicle and other transportation requirements in the Minimum Licensing Standards for Child Care Centers, including without limitation when the transportation is provided to a~~

~~beneficiary by any person or entity on behalf of the EIDT and regardless of whether the person is an employee, or the transportation is a billed service.~~

**602. Medications.**

(a)

(1) An EIDT must develop a medication management plan for all beneficiariesclients with prescribed medication that may be administered at the EIDT.

(2) A medication management plan must include without limitation:

(A) The name of each medication;

(B) The name of the prescribing physician or other health-care professional if the medication is by prescription;

(C) A description of each medication prescribed and any symptom or symptoms to be addressed by each medication; and

(D) How each medication will be administered, including without limitation:

(i) ~~Times of administration;~~

(ii) ~~Doses;~~

(iii) ~~Delivery;~~ and

(iv) ~~Persons that may lawfully administer each medication;~~

~~(D)~~(E) How each medication will be charted;

~~(E)~~(F) A list of the potential side effects caused by each medication; and

~~(F)~~(G) The consent to the administration of each medication by the beneficiaryclient or, if the person-client lacks capacity to consent, by the beneficiaryclient's legal guardian or custodian.

(b)

(1) An EIDT must maintain a medication log detailing the administration of all medication to a beneficiaryclient, including without limitation, prescribed medicationmedication, and over-the-counter medications.

- (2) Each medication log must be uniformly organized and document the following for each administration of a medication:
  - (A) The name and dosage of medication administered;
  - (B) The symptom for which the medication was used to address;
  - (C) The method the medication was administered;
  - (D) The date and time the medication was administered;
  - (E) The name of the employee who administered the medication or assisted in the administration of the medication;
  - (F) Any adverse reaction or other side effect from the medication;
  - (G) Any transfer of medication from its original container into individual dosage containers by the beneficiaryclient's custodian or legal guardian;
  - (H) Any error in administering the medication and the name of the supervisor to which the error was reported; and
  - (I) The prescription and the name of the prescribing physician or other health care professional if the medication was not previously listed in the medication management plan.
- (3) Medication errors must be:
  - (A) Immediately reported to a supervisor;
  - (B) Documented in the medication log; and
  - (C) Reported as required under all applicable laws and rules including without limitation the laws and rules governing controlled substances.

(a)(c) All medications stored for a beneficiaryclient by an EIDT must be:

- (1) Kept in the original medication container unless the beneficiaryclient's custodian or legal guardian transfers the medication into individual dosage containers;
- (2) Labeled with the beneficiaryclient's name;
- (3) Stored in an area, medication cart, or container that is always locked; and

- (4) Returned to a beneficiaryclient's custodian or legal guardian, destroyed, or otherwise disposed of in accordance with applicable laws and rules, if the medication is no longer to be administered to a beneficiaryclient.

~~(b)~~(d) An EIDT must store all medications requiring cold storage in a separate refrigerator that is used only for purpose of storing medications.

### 603. Behavior Management Plans.

- (a) An EIDT may implement a written behavior management plan for a beneficiaryclient if a beneficiaryclient exhibits challenging behaviors on a chronic basis.
- (b) A behavior management plan:
  - (1) Must be approved by an ECDS;
  - (2) Must involve the fewest and shortest interventions possible; and
  - (3) Cannot punish or use interventions that are physically or emotionally painful, ~~or frightening, or~~ frightening nor put the beneficiaryclient at medical risk.
- (c)
  - (1)
    - (A) An EIDT must reevaluate behavior management plans at least quarterly.
    - (B) An EIDT must refer the beneficiaryclient to an appropriately licensed professional for re-evaluation if the behavior management plan is not achieving the desired results.
  - (2) An EIDT must regularly collect and review data regarding the use and effectiveness of all behavior management plans.
  - (3) The collection and review of data regarding the use and effectiveness of behavior management plans must include at least the:
    - (A) ~~The d~~ Date and time any intervention is used;
    - (B) ~~The d~~ Duration of each intervention;
    - (C) ~~The e~~ Employee or employees involved in each intervention; and
    - (D) ~~The e~~ Event or circumstances that triggered the need for the intervention.

**604. Transportation.**

(a)

(1) An EIDT may elect to provide transportation services to its clients.

(2)

(A) The requirements of this part apply to all transportation provided to a client for any reason by any person or entity on behalf of the EIDT regardless of whether the transportation is a billed service.

(B) Notwithstanding the foregoing, if the transportation provided to a client is a covered by another Medicaid program, then the transportation requirements applicable to the funding Medicaid program, and not these standards, shall apply.

(3) An EIDT electing to provide transportation services to clients must maintain an updated list of all vehicles used to transport clients that includes the following information for each vehicle:

(A) Manufacturer:

(i) Name;

(ii) Make;

(iii) Model; and

(iv) Model year;

(B) Vehicle identification number; and

(C) Type of vehicle (i.e. for example: a sedan, 8-passenger van, 15-passenger van, or wheelchair van).

(4) Any vehicle used by an EIDT to transport clients must be available for inspection upon request.

(5) Reports or other documentation required to be maintained under this Section 604 must be made available for inspection upon request.

(6)

(A) An EIDT may use electronic records in addition to or in place of physical records to comply with these standards.

(B) An EIDT provider that uses electronic records must take reasonable steps to backup all electronic records and reconstruct its transportation records in the event of a breakdown in the EIDT's electronic records system.

(b)

(1)

(A) An EIDT electing to provide transportation services must provide the level of attendant care on each vehicle that is necessary to ensure client safety.

(B)

i. Notwithstanding the foregoing, a three to one (3:1) minimum client to attendant ratio is required for clients under three (3) years of age-, on any vehicle used by an EIDT for transportation.

ii. The driver may be counted towards the minimum client to attendant ratio for these purposes, but under no circumstances can the driver be the only adult on a vehicle transporting one or more clients under (3) years of age.

(2)

(A) An inspection report must be completed for each trip in which a vehicle is used by an EIDT to transport clients.

(B)

(i) Each inspection report must include a pre-trip and post-trip inspection that includes at a minimum the:

(a) Vehicle used to transport;

(b) Date of the trip;

(c) A pre-trip check box that is marked to demonstrate that a visual inspection of the exterior of the vehicle was completed prior to the start of the trip;

(d) A pre-trip check box that is marked to demonstrate a visual inspection of the interior of the vehicle was completed prior to the start of the trip;

(e) A pre-trip check box that is marked to demonstrate that a visual inspection of the tires was completed prior to the start of the trip;

(f) A pre-trip check box that is marked to demonstrate that a visual inspection of the windshield was completed prior to the start of the trip;

(g) A post-trip check box that is marked to demonstrate that a visual inspection of the exterior of the vehicle was completed after final unloading;

(h) A post-trip check box that is marked to demonstrate that a visual inspection of the interior of the vehicle was completed after final unloading;

(i) A post-trip check box that is marked to demonstrate that a visual inspection of the tires was completed after final unloading;

(j) A post-trip check box that is marked to demonstrate that a visual inspection of the windshield was completed after final unloading; and

(k) A section for listing and describing any defect or deficiency discovered or reported during the:

(I) Trip;

(II) Pre-trip inspection; or

(III) Post-trip inspection.

(ii) Each inspection report must include:

(a) The signature of the Employee that performed the pre-trip inspection;

(b) The signature of the Employee that performed the post-trip inspection;

(c) The time the pre-trip inspection was completed; and

(d) The time the post-trip inspection was completed.

(C) An EIDT must maintain all inspection reports for five (5) years from the date of transportation.

(3)

(A) A separate transportation log must be maintained for each trip in which that a vehicle is used by an EIDT to transport a client, and that log must include:

(i) Each transported client's:

(a) Name;

(b) Age;

(c) Date of birth;

(d) Medicaid ID number;

(e) Exact address of pick up and drop off; and

(f) Exact time of pick up and drop off.

(ii) The driver of the vehicle;

(iii) Each attendant or any other persons transported; and

(iv) The odometer reading on the vehicle at the:

(a) Pick-up of the first client on the trip; and

(b) Drop-off of last client on the trip.

(B) The transportation log shall be used to check clients on and off the vehicle at pick-up and drop-off.



(C) The driver or attendant who conducts the walk-through required by subsection (b)(4) of this section must sign the transportation log once it is confirmed that all clients exited the vehicle.

(D) An EIDT must maintain all transportation logs for five (5) years from the date of transportation.

(4)

(A)

(i) Any vehicle, with a maximum capacity of seven (7) or fewer passengers and one (1) driver, that is used by an EIDT to transport clients, must have the driver or an attendant walk through the vehicle and conduct a visual inspection of each seat on the vehicle upon arrival at the final unloading destination.

(ii) The driver or attendant who conducts the walk-through inspection upon arrival must sign the transportation log required to be maintained under 604(a)(4).

(B) Any vehicle, with a maximum capacity of more than seven (7) passengers and one (1) driver, that is used by an EIDT to transport clients, must have the driver or an attendant complete a walk-through inspection of each seat on the vehicle in one (1) of the following ways upon arrival at the final unloading destination:

(i)

(a) The driver or an attendant must:

(I) Unload all clients from the vehicle;

(II) Walk or otherwise move through the interior of the vehicle to ensure that no client remains on board; and

(III) Deactivate the vehicle's safety alarm device.

(b) This option can only be used if all clients are able to unload from the vehicle in less than one (1) minute.

(ii)

(a)

(I) An attendant supervises the clients while unloading;

(II) The driver remains on the vehicle during unloading, to walk through the interior of the vehicle to ensure that no clients remain on board; and

(III) The driver deactivates the safety alarm device upon reaching the back of the vehicle.

(b) The individual who deactivates the safety alarm device must remain near the safety alarm device deactivation switch until all clients have unloaded, to ensure that no client is left on board.

(c) This option will require at least two (2) individuals, one (1) to supervise the clients exiting the vehicle and one (1) to remain near the safety alarm device deactivation switch.

(iii)

(a) The driver or an attendant deactivates the safety alarm device and unloads all clients immediately upon arrival.

(b) Immediately after unloading, the driver will start the vehicle and move it to a different location for final parking, which must reactivate the safety alarm device.

(c) Once parked the driver:

(I) Walks or otherwise moves through the interior of the vehicle to ensure that no clients remain on board; and

(II) Deactivates the safety alarm device.

(5) An EIDT, providing transportation services to a client, must maintain the client's emergency contact information within the vehicle during transport.

(c)

(1)

- (A) Each driver of a vehicle, that is transporting clients on behalf of an EIDT, must meet each of the following requirements:
- (i) Meet the higher of the following age requirements:
    - (a) Twenty-one (21) years of age; or
    - (b) The minimum age required by the applicable vehicle insurance;
  - (ii) Hold a current valid driver's license;
  - (iii) If required by state law for the transporting vehicle, hold a commercial driver's license;
  - (iv) Obtain and maintain in good standing the following credentials:
    - (a) CPR certification from the:
      - (I) American Heart Association;
      - (II) Medic First Aid; or
      - (III) American Red Cross; and
    - (b) First aid certification from the:
      - (I) American Heart Association;
      - (II) Medic First Aid; or
      - (III) American Red Cross; and
  - (v) Have successfully completed training courses on the following:
    - (a) Defensive driving;
    - (b) Child passenger safety; and
    - (c) If applicable:
      - (I) Lift operation; and
      - (II) Wheelchair securement.

(B) The following individuals are prohibited from driving a vehicle transporting EIDT clients:

(i) Any individual who has had a suspended or revoked driver's license for a moving violation within the last five (5) years.

(ii) Any individual who has been convicted of an alcohol, drug, or substance abuse offense within the last five (5) years.

(iii) Any individual who has received at least two (2) of any combination of the following citations within the prior twelve (12) months:

(I) Citations for moving vehicle violations; and

(II) Citations for accidents where the individual was found to be at fault.

(C) In addition to those requirements in Section 304, an EIDT must maintain the following documentation for each Employee who drives a vehicle transporting clients:

(i) A copy of Employee's driving record for the previous three (3) years from the Arkansas State Police or Information Network of Arkansas that is updated annually;

(ii) Documentation of all reported complaints involving the Employee;

(iii) Documentation of all accidents or moving violations involving the Employee (i.e. for example: copies of tickets, police reports, etc.); and

(iv) Documentation evidencing the completion of all required training and credentials.

(2) Each attendant, onto an vehicle transporting clients on behalf of an EIDT, must meet each of the following requirements:

(A) Be at least eighteen (18) years of age;

(B) Have successfully completed training courses on the following:

(i) Defensive driving;

(ii) Child passenger safety; and

(iii) If applicable:

- (a) Lift operation; and
    - (b) Wheelchair securement.
  - (C) Obtain and maintain in good standing the following credentials:
    - (i) CPR certification from the:
      - (a) American Heart Association;
      - (b) Medic First Aid; or
      - (c) American Red Cross; and
    - (ii) First aid certification from the:
      - (a) American Heart Association;
      - (b) Medic First Aid; or
      - (c) American Red Cross.
- (3) Each driver and attendant, in a vehicle that is used by an EIDT to provide transportation services to a client, must:
  - (A) Wear or have visible an easily readable identification demonstrating they are Employees of the EIDT;
  - (B) Carry a valid driver's license or, if a non-driving attendant, other government issued identification; and
  - (C) Abide by all infection control directives or guidance issued by the Arkansas Department of Health.
- (4)
  - (A) When picking up a client, a driver or attendant is required to:
    - (i) Identify and announce their presence at the entrance of the pick-up location if the client is not waiting curbside upon arrival;
    - (ii) Provide a client assistance to a client, as necessary, from the pick-up location to the vehicle;
    - (iii) If necessary, assist a client in the process of:

(a) Seating;

(b) Fastening their seatbelt; and

(c) Otherwise safely securing the client prior to departure;

(iv) Assist any client in a wheelchair, or who is mobility-limited, with entering and exiting a vehicle;

(v) Ensure that clients in wheelchairs are properly secured in their wheelchair;

(vi) Ensure all wheelchairs are properly secured in the vehicle prior to departure; and

(vii) Ensure all folding wheelchairs and other mobility aides being transported are safely and securely stowed away on the vehicle prior to departure.

(B) When arriving at the client's drop-off location, a driver or attendant is required to:

(i) Provide a client with assistance, as necessary, in:

(a) Exiting the vehicle; and

(b) Traveling from the vehicle to the entry of the client's drop off location; and

(ii) Ensure the client is safely transitioned at the drop off location in accordance with the client's needs.

(d)

(1) Any vehicle used to transport a client must meet the safety and mechanical operating and maintenance standards for the make and model of vehicle.

(2) Each vehicle used to transport a client must have:

(A) Up-to-date registration with the Arkansas Department of Finance and Administration; Office of Motor Vehicles; and

(B) All other licenses, permits, and certificates required by state and federal law.

(3)

(A) Commercial insurance coverage must be maintained on any vehicle that is used to transport a client.

(B) Commercial insurance must have the following minimum coverage amounts:

(i) One million dollars (\$1,000,000) combined single-limit liability coverage;

(ii) One hundred thousand dollars (\$100,000) for uninsured motorist;

(iii) One hundred thousand dollars (\$100,000) for under-insured motorist; and

(iv) Five thousand dollars (\$5,000) personal injury protection for each passenger based on the number of passengers the vehicle is manufactured to transport.

(C) Each commercial insurance policy must name the Arkansas Department of Human Services as an additional insured and loss payee under the policy.

(D) All commercial insurance coverage must be with companies licensed and approved to do business with the State of Arkansas.

(E)—An EIDT must maintain documentation evidencing that the required commercial insurance is in place for each vehicle that is used to transport a client.

(e)

1.—Each vehicle used to transport a client must have the following safety equipment on board:;

—

(A) Fire extinguisher;

(A)

(B) (B) First-aid kit;

(C) Reflective triangles

—(C) Reflective triangles;

—(D) Flashlight; and

(D)€

(E) ~~(E)~~ Reflective safety vest.

(2)——Each vehicle used to transport a client must be maintained in a sanitary and safe condition, which includes without limitation:

(A) A heating and air conditioning system that is in good working condition;

(B)

(i) Each client must have their own seating space with a functioning seat belt or other appropriate safety restraint in accordance with federal and state law and manufacturer’s guidelines.

(ii) Each client under six (6) years of age or weighing less than sixty (60) pounds must be restrained in a child passenger seat secured in accordance with the manufacturer’s guidelines.

(C) Vehicle interiors must be free of:

(i) Dirt;

(ii) Oil;

(iii) Grease;

(iv) Litter;

(v) Torn upholstery;

(vi) Torn ceiling coverings;

(vii) Damaged seats;

(viii) Protruding sharp edges;

(ix) Hazardous debris; and

(x) Unsecured items;.

(D)



(i) Vehicles with an entry step-up of greater than twelve (12) inches must include a retractable step or step stool to aid in client boarding.

(ii) A step stool must have four (4) legs with anti-skid tips on each leg.

(E) Vehicle exteriors must be clean and free of:

(i) Broken:

(a) Windshields;

(b) Mirrors; and

(c) Windows; and.

(ii) Excessive:

(a) Grime;

(b) Dirt;

(c) Dents; and

(d) Damage.

(F)

(i) The floor of each vehicle must be covered with commercial anti-skid, ribbed flooring, or carpeting.

(ii) Any ribbed flooring must not interfere with wheelchair movement.

(3)

(A) Any vehicle with a maximum capacity of seven (7) or more passengers and one (1) driver, that is used by an EIDT to transport clients, must have a safety alarm device.

(B) The safety alarm device must:

(i) Always be in working order and properly maintained;

- (ii) Be installed so that the driver is required to walk to the very back of the vehicle to reach the switch that deactivates the alarm;
- (iii) Be installed in accordance with the device manufacturer's recommendations; and
- (iv) Sound the alarm for at least one (1) minute after the activation of the safety alarm device.

(4)

(A) Any vehicle used by an EIDT to transport clients must have a camera system installed.

(B) The camera system must:

- (i) Be in working order at all times that a vehicle is used to transport clients;
- (ii) Be properly maintained;
- (iii) Have at least 720p resolution camera(s);
- (iv) Maintain daily footage for a minimum of forty-five (45) days;
- (v) Include GPS tracking; and
- (vi) Have camera(s) positioned so that all passenger activity on each vehicle is recorded.

(5) Each vehicle used to transport a client must prominently display:

(A) Provider name; and

(B) Provider contact information.

Subchapter 7. Incident and Accident Reporting.

701. Incidents to be Reported.

- (a) An EIDT must report all alleged, suspected, observed, or reported occurrences of any of the following events while a client is in the care or under the supervision of an EIDT:
- (1) Death of a beneficiaryclient;
  - (2) Serious injury to a beneficiaryclient;
  - (3) Adult or child maltreatment of a beneficiaryclient;
  - (4) Any event where an employee threatens or strikes a beneficiaryclient;
  - (5) Unauthorized use on a beneficiaryclient of restrictive intervention, including seclusion or physical, chemical, or mechanical restraint;
  - (6) Any situation when the whereabouts of a beneficiaryclient are unknown for more than two (2) hours;
  - (7) Any unanticipated situation when services to the beneficiaryclient are interrupted for more than two (2) hours;
  - (8) Events involving a risk of death, serious physical or psychological injury, or serious illness to a beneficiaryclient;
  - (9) Medication errors made by an ~~e~~Employee that cause or have the potential to cause death, serious injury, or serious illness to a beneficiaryclient;
  - (10) Any act or admission that jeopardizes the health, safety, or quality of life of a beneficiaryclient;
  - (11) Motor vehicle accidents involving a beneficiaryclient;
  - (12) A positive case of a beneficiaryclient or a staff member for any infectious disease that is the subject of a public health emergency declared by the:
    - (A)     -Governor;<sub>5</sub>
    - (B)     Arkansas ~~D~~Department of Health;<sub>5</sub> ~~the~~
    - (C)     President of the United States;<sub>2</sub> or ~~the~~
    - (D)     United States Department of Health and Human Services;<sub>1</sub> ~~or~~

(13) Any event that requires notification of the:

~~(A) Police;~~

~~(B) Fire department;~~ or

~~(C) Coroner.~~

(b) Any EIDT may report any other occurrences impacting the health, safety, or quality of life of a beneficiaryclient.

#### **702. Reporting Requirements.**

(a) An EIDT must:

(1) Submit all reports of the following events, within one (1) hour of the event:

(A) Death of a beneficiaryclient;

(B) Serious injury to a beneficiaryclient; or

(C) Any incident that an EIDT should reasonably know might be of interest to the public or the media.

(2) Submit reports of all other incidents within forty-eight (48) hours of the event.

(b) An EIDT must submit reports of all incidents, to the Division of Provider Services and Quality AssuranceDPSQA as provided through the divisionDPSQA's website: <https://humanservices.arkansas.gov/about-dhs/dpsqa/>.

(c) Reporting under these standards does not relieve an EIDT of complying with any other applicable reporting or disclosure requirements under state or federal laws, rules, or regulations.

#### **703. Notification to Guardians and Legal Custodians.**

(a) An EIDT must notify the guardian, or legal custodian of a beneficiaryclient, of any reportable incident involving a beneficiaryclient, as well as any injury or accident involving a beneficiaryclient (even if the injury or accident is not otherwise required to be reported in this Section).

(b) An EIDT should maintain documentation evidencing notification required in subdivision subsection (a) of this section.

Subchapter 8. **Enforcement.**

801. **Monitoring.**

(a)

(1) The Division of Provider Services and Quality Assurance~~DPSQA~~ shall monitor an EIDT to ensure compliance with these standards.

(2)

(A) An EIDT must cooperate and comply with all monitoring, enforcement, and any other regulatory or law enforcement activities performed or requested by the Division of Provider Services and Quality Assurance~~DPSQA~~ or law enforcement.

~~(B)~~—Cooperation required under these standards includes without limitation

(B) cooperation and compliance, with respect to investigations surveys, site visits, reviews, and other regulatory actions taken by the Division of Provider Services and Quality Assurance~~DPSQA~~ or any third-party contracted by the Department of Human Services to monitor, enforce, or take other regulatory action on behalf of the:

(i) Department~~HS~~;

(ii) Division of Provider Services and Quality Assurance~~DPSQA~~; or

(iii) Division of Developmental Disabilities Services.

~~(a)~~(b) Monitoring includes without limitation:

(1) On-site surveys and other visits including without limitation, complaint surveys and initial site visits;

(2) On-site or remote file reviews;

(3) Written requests for documentation and records required under these standards;

(4) Written requests for information; and

(5) Investigations related to complaints received.

(c) ~~DHS~~ The department may contract with a third-party to monitor, enforce, or take other regulatory action on behalf of the:

~~(1) DH~~ Department;

(2) Division of Provider Services and Quality Assurance ~~DPSQA~~; or

(3) Division of Developmental Disabilities Services ~~DDS~~.

## 802. Written Notice of Enforcement Action.

(a) The Division of Provider Services and Quality Assurance ~~DPSQA~~ shall provide written notice to the EIDT of all enforcement actions taken against the EIDT.

(b) The division ~~DPSQA~~ shall provide written notice to the EIDT by mailing the imposition of the enforcement action to the manager that is appointed by the EIDT, pursuant to Section 301.

## 803. Remedies.

(a)

(1) The Division of Provider Services and Quality Assurance ~~DPSQA~~ shall not impose any remedies imposed by an enforcement action unless:

(A) The EIDT is given notice and an opportunity to be heard, pursuant to this Section 802 and Subchapter 10 of these standards; or

(B) The Division of Provider Services and Quality Assurance ~~DPSQA~~ determines that public health, safety, or welfare imperatively requires emergency action;

(2) If the Division of Provider Services and Quality Assurance ~~DPSQA~~ imposes a remedy as an emergency action before the EIDT has notice and an opportunity to be heard, pursuant to subdivision-subsection (a)(1) of this section, the Division of Provider Services and Quality Assurance ~~DPSQA~~ shall:

(A) Provide immediate notice to the EIDT of the enforcement action; and

(B) Provide the EIDT with an opportunity to be heard pursuant to Subchapter 10.

~~(a)~~(b) The Division of Provider Services and Quality Assurance~~DPSQA~~ may impose on an EIDT any of the following enforcement actions for the EIDT's failure to comply with these standards:

- (1) Plan of correction;
- (2) Directed in-service training plan;
- (3) Moratorium on new admissions;
- (4) Transfer of ~~beneficiaries~~clients;
- (5) Monetary penalties;
- (6) Suspension of EIDT license;
- (7) Revocation of EIDT license; ~~and/or~~
- (8) Any remedy authorized by law or rule including without limitation section Ark. Code Ann. § 25-15-217~~of the Arkansas Code~~.

~~(b)~~(c) The Division of Provider Services and Quality Assurance~~DPSQA~~ shall determine the imposition and severity of these enforcement remedies on a case-by-case basis using the following factors:

- (1) Frequency of non-compliance;
- (2) Number of non-compliance issues;
- ~~(3)~~ Impact of non-compliance on a ~~beneficiary~~client's:
  - ~~(A)~~ Health;
  - ~~(B)~~ Safety; or
  - ~~(C)~~ Well-being.

~~(3)~~(4) Responsiveness in correcting non-compliance;

~~(4)~~(5) Repeated non-compliance in the same or similar areas;

~~(5)~~(6) Non-compliance with previously or currently imposed enforcement remedies;

~~(6)~~(7) Non-compliance involving intentional fraud or dishonesty; and

~~(7)~~(8) Non-compliance involving a violation of any law, rule, or other legal requirement.

(d)

- (1) The Division of Provider Services and Quality Assurance~~DPSQA~~ shall report any noncompliance, action, or inaction by the EIDT<sub>2</sub> to appropriate agencies for investigation and further action.
- (2) The Division of Provider Services and Quality Assurance~~DPSQA~~ shall refer non-compliance involving Medicaid billing requirements<sub>2</sub> to the Division of Medical Services and the ~~Arkansas Attorney General's~~ Medicaid Fraud Control Unit<sub>2</sub>.

~~(e)~~(e) These enforcement remedies are not mutually exclusive and the Division of Provider Services and Quality Assurance~~DPSQA~~ may apply multiple remedies simultaneously to a failure to comply with these standards.

~~(d)~~(f) The failure to comply with an enforcement remedy<sub>2</sub> imposed by the Division of Provider Services and Quality Assurance~~DPSQA~~ constitutes a separate violation of these standards.

#### **804. Moratorium.**

- (a) The Division of Provider Services and Quality Assurance~~DPSQA~~ may prohibit an EIDT from accepting new ~~beneficiaries~~clients.
- (b) An EIDT prohibited from accepting new admissions may continue to provide services to existing ~~beneficiaries~~clients.

#### **805. Transfer of Beneficiaries~~Clients~~.**

- (a) The Division of Provider Services and Quality Assurance~~DPSQA~~ may require that an EIDT ~~to~~ transfer a ~~beneficiary~~client to another EIDT<sub>2</sub> if ~~DPSQA~~the division finds that the EIDT cannot adequately provide services to the ~~beneficiary~~client.
- (b) If directed by ~~DPSQA~~the division, an EIDT must continue providing services until the ~~beneficiary~~client is transferred to ~~his or her~~their new service provider of choice.
- (c) A transfer of a ~~beneficiary~~client may be permanent<sub>2</sub> or for a specific term<sub>2</sub> depending on the circumstances.

#### **806. Monetary Penalties.**



(a) The Division of Provider Services and Quality Assurance~~DPSQA~~ may impose on an EIDT a civil monetary penalty, not to exceed five hundred dollars (\$500) for each violation of these standards.

(b)

(1) ~~DPSQA~~The division may file suit to collect a civil monetary penalty assessed pursuant to these standards, if the EIDT does not pay the civil monetary penalty within sixty (60) days from the date ~~DPSQA~~the division provides written notice to the EIDT of the imposition of the civil monetary penalty.

(2) ~~DPSQA~~The division may file suit in Pulaski County Circuit Court or the circuit court of any county in which the EIDT is located.

#### **807. Suspension and Revocation of EIDT License.**

(a)

(1) The Division of Provider Services and Quality Assurance~~DPSQA~~ may temporarily suspend an EIDT license if the EIDT fails to comply with these standards.

(2) If an EIDT's license is suspended, the EIDT must immediately stop providing EIDT services until ~~DPSQA~~the division reinstates its license.

(b)

(1) The division~~DPSQA~~ may permanently revoke an EIDT license if the EIDT fails to comply with these standards.

(2) If an EIDT's license is revoked, the EIDT must immediately stop providing EIDT services and comply with the permanent closure requirements in Section 901(a).

Subchapter 9. Closure.

901. Closure.

(a)

- (1) An EIDT license ends if an EIDT permanently closes, whether voluntarily or involuntarily, and the license is effective on the date of the permanent closure as determined by the Division of Provider Services and Quality Assurance DPSQA.
- (2) An EIDT that intends to permanently close, or does permanently close without warning, whether voluntarily or involuntarily, must immediately:
  - (A) Provide the custodian or legal guardian of each beneficiaryclient with written notice of the closure;
  - (B) Provide the custodian or legal guardian of each beneficiaryclient with written referrals to at least three (3) other appropriate service providers;
  - (C) Assist each beneficiaryclient and his or her their custodian or legal guardian in transferring services and copies of beneficiaryclient records to any new service providers;
  - (D) Assist each beneficiaryclient and his or her their custodian or legal guardian in transitioning to new service providers; and
  - (E) Arrange for the storage of beneficiaryclient service records to satisfy the requirements of Section 305.

(b)

- (1) An EIDT, that intends to voluntarily close temporarily due to natural disaster, pandemic, completion of needed repairs or renovations, or for similar circumstances, may request to temporarily close its facility while maintaining its EIDT license for up to one (1) year from the date of the request.
- (2) An EIDT must comply with requirements in subdivision-subsection (a)(2)-s of this section requirements—for notice, referrals, assistance, and storage of beneficiaryclient records if DPSQA—the division grants an EIDT’s request for a temporary closure.
- (3)

(A) ~~DPSQA~~ The division may grant a temporary closure if the EIDT demonstrates that it is reasonably likely ~~that it will be able~~ to reopen after the temporary closure.

(B) ~~DPSQA~~ The division shall end an EIDT's temporary closure and direct that the EIDT to permanently close if the EIDT fails to demonstrate that it is reasonably likely that it will be able to reopen after the temporary closure.

(4)

(A) ~~DPSQA~~ The division may end an EIDT's temporary closure if the EIDT demonstrates that it is in full compliance with these standards.

(B) ~~DPSQA~~ The division shall end an EIDT's temporary closure, and direct that the EIDT permanently close, if the EIDT fails to become fully compliant with these standards within one (1) year from the date of the request.

Subchapter 10. Appeals.

1001. Reconsideration of Adverse Regulatory Actions.

(a)

- (1) An EIDT may ask for reconsideration of any adverse regulatory action taken by the Division of Provider Services and Quality Assurance~~DPSQA~~ by submitting a written request for reconsideration to:

Division of Provider Services and Quality Assurance;  
Office of the Director;  
Requests for Reconsideration of Adverse Regulatory Actions;  
P.O. Box 1437, Slot 427;  
Little Rock, Arkansas 72203.

- (2) The written request for reconsideration<sub>2</sub> of an adverse regulatory action taken by the Division of Provider Services and Quality Assurance~~DPSQA~~ must be submitted by the EIDT and received by the Division of Provider Services and Quality Assurance~~DPSQA~~ within thirty (30) calendar days of the date that the EIDT received written notice of the adverse regulatory action.

- (3) The written request for reconsideration of an adverse regulatory action<sub>2</sub> taken by the Division of Provider Services and Quality Assurance~~DPSQA~~ must include without limitation the:

(A) ~~s~~Specific adverse regulatory action taken;<sub>2</sub>

(B) ~~the d~~Date of the adverse regulatory action;<sub>2</sub> ~~the~~

(C) ~~n~~Name of the EIDT against whom the adverse regulatory action was taken;<sub>2</sub> ~~the~~

(D) ~~a~~Address and contact information for the EIDT against whom the adverse regulatory action was taken;<sub>2</sub> and ~~the~~

(E) ~~A l~~Legal and factual basis for the reconsideration of the adverse regulatory action.

(b)

- (1) The Division of Provider Services and Quality Assurance~~DPSQA~~ shall review each<sub>2</sub> timely received<sub>2</sub> written request for reconsideration<sub>2</sub> and determine whether to affirm or reverse the adverse regulatory action taken<sub>2</sub> based on these standards.

- (2) The Division of Provider Services and Quality Assurance~~DPSQA~~ may request, at its discretion, additional information as needed to review the adverse regulatory action and determine whether the adverse regulatory action taken should be affirmed or reversed based on these standards.

(c)

- (1) The Division of Provider Services and Quality Assurance~~DPSQA~~ shall issue in writing its determination on reconsideration within thirty (30) days of receiving the written request for reconsideration or within thirty (30) days of receiving all information requested by DPSQA under ~~subdivision subsection~~ (b)(2) of this section, whichever is later.
- (2) The Division of Provider Services and Quality Assurance~~DPSQA~~ shall issue its determination to the EIDT using the address and contact information provided in the request for reconsideration.

(d)

- (1) An applicant may ask for reconsideration of a determination by DDS, to ensure that a county is not underserved, by submitting a written request for reconsideration pursuant to ~~DDS~~ Division of Developmental Disabilities Services Policy 1076.
- (2) If a determination that a county is not underserved is reversed on reconsideration by the Division of Developmental Disabilities Services~~DDS~~ or on appeal by an agency or court with jurisdiction:
  - (i) The applicant shall notify the Division of Provider Services and Quality Assurance~~DPSQA~~ of the reversal and submit a written request for reconsideration to the Division of Provider Services and Quality Assurance~~DPSQA~~ as provided in this section, for any adverse regulatory action taken by the Division of Provider Services and Quality Assurance~~DPSQA~~ based on the initial determination; and
  - (ii) The Division of Provider Services and Quality Assurance~~DPSQA~~ shall review the written request for reconsideration as provided in this section.

~~(b)~~(e) The Division of Provider Services and Quality Assurance~~DPSQA~~ may also decide to reconsider any adverse regulatory action, on its own accord, any time it determines, in its discretion, that an adverse regulatory action is not consistent with these standards.

**1002. Appeal of Regulatory Actions.**

(a)

(1) An EIDT may administratively appeal any adverse regulatory action, to the ~~DHS~~ Office of Appeals and Hearings ~~(OAH) of the; Department of Human Services,~~ except for provider appeals related to the payment for Medicaid claims and services governed by the Medicaid Fairness Act, Ark~~ansas-~~ Code ~~Ann-~~ § 20-77-1701 ~~to-~~1718, which shall be governed by that ~~A~~act.

(2) ~~OAH~~The office shall conduct administrative appeals of adverse regulatory actions pursuant to DHS Policy 1098 and other applicable laws and rules.

~~(a)~~(b) An EIDT may appeal any adverse regulatory action or other adverse agency action to circuit court as allowed by the Arkansas Administrative Procedures Act, Ark-ansas Code ~~Ann-~~ § 25-15-201 ~~to-~~220et seq.

**Rules for the Division of Developmental Disabilities**

**Early Intervention Day Treatment**

PROPOSED



**LAST UPDATED: August 1, 2022**

**Subchapter 1.        General.**

**101.    Authority.**

- (a)    These standards are promulgated under the authority of Ark. Code Ann. § 20-48-201 to -212, Ark. Code Ann. § 20-48-1101 to -1108, Ark. Code Ann. § 25-10-102, and Ark. Code Ann. § 25-15-217.
  
- (b)

  - (1)    The Division of Provider Services and Quality Assurance (DPSQA) shall perform all regulatory functions regarding the licensure and monitoring of Early Intervention Day Treatment programs on behalf of the Division of Developmental Disabilities Services.
  - (2)    The Division of Developmental Disabilities Services (DDS) shall determine whether and to what extent a county is underserved.

- (c)

  - (1)    The Division of Child Care and Early Childhood Education (DCCECE) shall perform all regulatory functions regarding the licensure and monitoring of childcare centers.
  - (2)    DPSQA may perform regulatory functions regarding the monitoring of childcare centers that are licensed as Early Intervention Day Treatment programs on behalf of DCCECE.

**102.    Purpose.**

The purpose of these standards is to:

- (a)    Serve as the minimum standards for early intervention day treatment programs and facilities; and
- (b)    Ensure that all clients receive all early intervention day treatment services recommended by a physician for the maximum reduction of physical or mental disability and restoration of the client to the best functional level.

**103.    Definitions.**

As used in these standards:



- (1) “Academic medical center” means a medical center located in Arkansas that consists of a medical school and its primary teaching hospitals and clinical programs.
- (2) “Adverse regulatory action” means a denial of an EIDT license, and any enforcement action taken by the Division of Provider Services and Quality Assurance pursuant to Section 803 to 807.
- (3) “Applicant” means an applicant for an EIDT license.
- (4) “Childcare center” means a childcare center licensed as a childcare center by the Division of Child Care and Early Childhood Education, pursuant to the minimum licensing standards for childcare centers.
- (5) “Childcare center license” means a license to operate a childcare center issued by the Division of Child Care and Early Childhood Education, pursuant to the minimum licensing standards for childcare centers.
- (6)
  - (A) “Change in ownership” means one (1) or more transactions within a twelve (12) month period that results in a change in greater than fifty percent (50%) of the financial interests, governing body, operational control, or other operational or ownership interests of the EIDT.
  - (B) “Change in ownership” does not include a change of less than fifty percent (50%) in the membership of the EIDT’s:
    - (i) Board of directors;
    - (ii) Board of trustees; or
    - (iii) Other governing body.
- (7) “Directed in-service training plan” means a plan of action that:
  - (A) Provides training to assist an EIDT in complying with these standards and correcting deficiencies;
  - (B) Includes the topics covered in the training and materials used in the training;
  - (C) Specifies the length of the training;
  - (D) Specifies the staff required to attend the training; and
  - (E) Is approved by the Division of Provider Services and Quality Assurance.

- (8) “Early intervention day treatment” means diagnostic, screening, evaluative, preventative, therapeutic, palliative, and rehabilitative and habilitative, including speech, occupational, and physical therapies and any medical or remedial services recommended by a physician for the maximum reduction of physical or mental disabilities and the restoration of the child to the best possible functional level.
- (9) “ECDS” means an early childhood developmental specialist, which is an employee:
- (A) Responsible for the development of client individual treatment plans, referred to as ITPs, and the supervision of habilitative services delivery to clients; and
  - (B) Who satisfies at least one (1) of the following criteria:
    - (i) Is licensed as a:
      - (a) Speech therapist;
      - (b) Occupational therapist;
      - (c) Physical therapist; or
      - (d) Developmental therapist.
    - (ii) Has a bachelor’s degree and at least one (1) of the following:
      - (a) An early childhood or early childhood special education certificate;
      - (b) Current child development associate’s certificate;
      - (c) Current birth to pre-K credential; or
      - (d) Documented experience working with children with special needs and twelve (12) hours of completed college courses in early childhood, child development, special education, elementary education, or child and family studies.
- (10) “Early intervention day treatment services” means services that are available under the early intervention day treatment program for Medicaid clients as defined in Section II of the Early Intervention Day Treatment Medicaid Manual.
- (11) “EIDT” means an early intervention day treatment program, which is a pediatric day treatment program run by one (1) or more ECDS that provides early intervention day treatment service prescribed by a physician to children with:

- (A) Intellectual and developmental disabilities;
  - (B) Developmental delays; or
  - (C) A medical condition that puts them at risk for developmental delay.
- (12) “EIDT license” means a non-transferable license issued by the Division of Provider Services and Quality Assurance to an EIDT for a specific location that meets these standards.
- (13)
- (A) “Employee” means an employee, owner, independent contractor, driver, attendant, or other agent of an EIDT and includes without limitation:
    - (i) Full-time employees;
    - (ii) Part-time employees;
    - (iii) Transportation contractors; and
    - (iv) Any other person who acts on behalf of an EIDT or has an ownership, financial, or voting interest in the EIDT.
  - (B) “Employee” does not mean an independent contractor if:
    - (i) The independent contractor does not assist in the day-to-day operations of the EIDT; or
    - (ii) The independent contractor has no client contact.”
- (14) “First Connections” means the Division of Developmental Disabilities Services program that administers, monitors, and carries out all activities and responsibilities for the State of Arkansas under Part C of the Individuals with Disabilities Education Act to ensure appropriate early intervention services are available to all infants and toddlers from birth to thirty-six (36) months of age who are suspected of having a developmental delay (and their families).
- (15) “First Connections Central Intake Unit” means the Division of Developmental Disabilities Services unit in the First Connections program that serves as the program’s single referral point of entry to minimize duplication and expedite service delivery.
- (16) “Irreconcilable conflict” means a conflict between two (2) standards where an EIDT cannot comply with both standards at the same time.

- (17) “ITP” means a client’s individual treatment plan, which is a written, individualized service plan for an EIDT client to improve the EIDT client’s condition.
- (18) “Local education agency” means the school district or education service cooperative that is offering preschool services to the area where the client resides.
- (19)
- (A) “Marketing” means the accurate and honest advertisement of an EIDT that does not also constitute solicitation.
  - (B) “Marketing” includes without limitation:
    - (i) Advertising using traditional media;
    - (ii) Distributing brochures or other informational materials regarding the services offered by the EIDT;
    - (iii) Conducting tours of the EIDT to interested clients and their families;
    - (iv) Mentioning services offered by the EIDT in which the client or their family might have an interest; and
    - (v) Hosting informational gatherings during which the services offered by the EIDT are described.
- (20) “Medication error” means the:
- (A) Loss of medication;
  - (B) Unavailability of medication;
  - (C) Falsification of medication logs;
  - (D) Theft of medication;
  - (E) Missed doses of medication;
  - (F) Incorrect medications administered;
  - (G) Incorrect doses of medication;
  - (H) Incorrect time of administration;
  - (I) Incorrect method of administration; and

- (J) Discovery of an unlocked medication container that is always supposed to be locked.
- (21) “Plan of correction” means a plan of action that:
- (A) Provides the steps an EIDT must take to correct noncompliance with these standards;
  - (B) Sets a timeframe for each specific action provided in the plan; and
  - (C) Is approved by the Division of Provider Services and Quality Assurance.
- (22) “Residence” means the county where a client is listed as residing in the Arkansas Medicaid Management Information System.
- (23) “Serious injury” means any injury to a client that:
- (A) May cause death;
  - (B) May result in substantial permanent impairment;
  - (C) Requires hospitalization; or
  - (D) Requires the attention of:
    - (i) An emergency medical technician;
    - (ii) A paramedic; or
    - (iii) An emergency room.
- (24)
- (A) “Solicitation” means the initiation of contact with a client or their family by an EIDT when the client is currently receiving services from another provider and the EIDT is attempting to convince the client or their family to switch to or otherwise use the services of the EIDT that initiated the contact.
  - (B) “Solicitation” includes without limitation the following acts to induce a client or their family by:
    - (i) Contacting the family of a client that is currently receiving services from another provider;
    - (ii) Offering cash or gift incentives to a client or their family;

- (iii) Offering free goods or services not available to other similarly situated clients or their families;
  - (iv) Making negative comments to a client or their family regarding the quality of services performed by another service provider;
  - (v) Promising to provide services in excess of those necessary;
  - (vi) Giving a client or their family the false impression, directly or indirectly, that the EIDT is the only service provider that can perform the services desired by the client or their family; or
  - (vii) Engaging in any activity that the Division of Provider Services and Quality Assurance reasonably determines to be “solicitation.”
- (25) “Student observer” means a student visiting an EIDT on a one-time or periodic basis to observe classroom activities or other similar activities that do not involve direct contact with clients.
- (26) “Underserved county” means a county that is underserved regarding early intervention day treatment services.

**Subchapter 2.        Licensing.**

**201.   License Required.**

- (a)
  - (1) An EIDT must have an EIDT license issued by the Division of Provider Services and Quality Assurance, pursuant to these standards, for the address at which the EIDT will provide services.
  - (2) An EIDT must comply with all requirements of these standards.
- (b)
  - (1) An EIDT license is specific to a single address.
  - (2) A separate EIDT license is required for each address, even if the same person or entity has an EIDT at other addresses.
  - (3) An address may only have one (1) EIDT license attributed to it at any one (1) time.
- (c) An EIDT may be operated through an academic medical center program if the program:
  - (1) Specializes in developmental pediatrics; and
  - (2) Is staffed and operated by the academic medical center under the direction of a board-certified or board-eligible developmental pediatrician.
- (d)
  - (1) An EIDT must have a childcare center license in good standing for the EIDT's location unless the EIDT is operating as an academic medical center.
  - (2)
    - (A) An EIDT must comply with all requirements of the applicable minimum licensing standards for childcare centers;
    - (B) A violation of the applicable minimum licensing standards for childcare centers constitutes a violation of these standards.
- (e)
  - (1) In the event of a conflict between these standards and the minimum licensing standards for childcare centers, the stricter requirement shall apply.

- (2) In the event of an irreconcilable conflict between these standards and the minimum licensing standards for childcare centers, these standards shall govern to the extent not governed by federal laws or rules, or state law.

**202. Licensure Application.**

- (a)
  - (1) To apply for an EIDT license, an applicant must submit a complete application to the Division of Provider Services and Quality Assurance.
  - (2) A complete application includes:
    - (A) Documentation demonstrating the applicant's entire ownership, including without limitation all the applicant's financial, governing body, and business interests;
    - (B) Documentation of the applicant's management, including without limitation the management structure and members of the management team;
    - (C) Documentation of the applicant's current contractors and the contractors that the applicant intends to use as part of operating the EIDT;
    - (D) Documentation of all required state and national criminal background checks for employees and operators;
    - (E) Documentation of all required Child Maltreatment Central Registry checks and Adult and Long-term Care Facility Resident Maltreatment Registry checks for employees and operators;
    - (F) Documentation demonstrating compliance with these standards; and
    - (G) All other documentation or other information requested by the division.
- (b) To apply to change the ownership of an existing EIDT, the EIDT must submit a complete application described in subsection (a) of this section.

**203. Licensure Process.**

- (a) The Division of Provider Services and Quality Assurance may approve an application for an EIDT license and issue an EIDT license if:
  - (1) Applicant submits a complete application under Section 202(a);



- (2) The Division of Provider Services and Quality Assurance determines that the applicant has successfully passed all required criminal background and maltreatment checks.
  - (3) The Division of Provider Services and Quality Assurance determines that the applicant satisfies these standards; and
  - (4) The Division of Provider Services and Quality Assurance determines that one (1) of the following conditions are met:
    - (A) The Division of Developmental Disabilities Services has determined that the county in which the new EIDT would be located is an underserved county;
    - (B) The applicant has one (1) or more EIDT licensed locations in the same county in which the new EIDT would be located; or
    - (C) The applicant has one (1) or more EIDT licensed locations in a county contiguous to the county in which the new EIDT would be located, and the existing location serves at least thirty (30) children who are eligible, enrolled, and participating in the existing location, but reside in the county in which the EIDT would be located.
- (b) The Division of Provider Services and Quality Assurance may approve an application to change the ownership of an existing EIDT and change the ownership of an existing EIDT license if:
- (1) The applicant submits a complete application under Section 202;
  - (2) The Division of Provider Services and Quality Assurance determines that all employees and operators have successfully passed all required criminal background and maltreatment checks; and
  - (3) The Division of Provider Services and Quality Assurance determines that the applicant satisfies these standards.
- (c) The Division of Provider Services and Quality Assurance shall issue new EIDT licenses in accordance with the order of priority required by Arkansas Code § 20-48-1105.
- (d) EIDT licenses do not expire until terminated under these standards.

**204. Notice of Underserved Status.**

The Division of Developmental Disabilities Services shall provide written notice of any underserved determination made under Section 203(a), as required in Ark. Code Ann. § 20-48-1106.

PROPOSED

**Subchapter 3.        Administration.**

**301.    Organization and Ownership.**

- (a)    The EIDT must be authorized and in good standing to do business under the laws of the State of Arkansas.
  
- (b)
  - (1)    An EIDT must:
    - (A)    Appoint a single manager as the point of contact for all Division of Developmental Disabilities Services and Division of Provider Services and Quality Assurance matters; and
    - (B)    Provide the Division of Developmental Disabilities Services and Division of Provider Services and Quality Assurance with updated contact information for that manager.
  - (2)    This manager must have authority over the EIDT and all EIDT employees and must ensure that the Division of Developmental Disabilities Services and Division of Provider Services and Quality Assurance requests, concerns, inquiries, and enforcement actions are addressed and resolved to the satisfaction of the Division of Developmental Disabilities Services and Division of Provider Services and Quality Assurance .
  
- (c)
  - (1)    An EIDT cannot transfer its EIDT license to any person or entity.
  - (2)    An EIDT cannot change its ownership unless the Division of Provider Services and Quality Assurance approves the application of the new ownership pursuant to Sections 202 and 203.
  - (3)    An EIDT cannot change its name or otherwise operate under a different name than the name listed on the EIDT license without prior written approval from the Division of Provider Services and Quality Assurance.

**302.    Employees and Staffing Requirements.**

- (a)
  - (1)    An EIDT must appropriately supervise all clients based on each client's needs.

- (2) An EIDT must have enough employees on-site to supervise clients at the EIDT location.
- (b)
- (1) An EIDT must comply with all requirements applicable to employees under these standards and all requirements applicable to employees of childcare centers, including without limitation drug screens, criminal background checks, and adult and child maltreatment checks.
  - (2) An EIDT must verify an employee still meets all requirements under these standards:
    - (A) Upon the request of the Division of Provider Services and Quality Assurance; or
    - (B) Whenever the EIDT receives information after hiring that would create a reasonable belief that the Employee no longer meets all requirements under these standards.
- (c)
- (1) An EIDT must conduct criminal background checks for all Employees as required by law and applicable minimum licensing standards for childcare centers.
  - (2) An EIDT must conduct an Arkansas Child Maltreatment Central Registry check on each Employee prior to hiring and at least every two (2) years thereafter.
  - (3) An EIDT must conduct an Arkansas Adult and Long-term Care Facility Resident Maltreatment Central Registry check on each Employee prior to hiring and at least every two (2) years thereafter.
  - (4) An EIDT must conduct a drug screen that tests for the use of illegal drugs on each Employee prior to hiring.
  - (5) An EIDT must conduct an Arkansas Sex Offender Central Registry search on each employee prior to hiring and at least every two (2) years thereafter.
- (d)
- (1) Employees must be sixteen (16) years of age or older.
  - (2) Employees under eighteen (18) years of age must be:

- (A) Directly and visually supervised by an adult employee when in direct contact with clients; and
  - (B) Enrolled in high school or GED curriculum.
- (3) Student observers:
- (A) Cannot be counted toward staff-to-client ratios;
  - (B) Cannot have disciplinary control over an EIDT client;
  - (C) Cannot be left alone with a client; and
  - (D) Are not required to have criminal background, child maltreatment, or adult maltreatment checks.
- (e)
- (1) Except as provided in subsection (e)(2) of this section, the EIDT must provide at least the following minimum staff-to-client ratio for all clients:

<b>Age Group</b>	<b>Ratio</b>
0 to 18 months	1:4
18 to 36 months	1:6
3 to 4 years	1:8
4 years and above	1:9

- (2) The EIDT may reduce the staff-to-client ratio by up to fifty percent (50%) during naptime for clients who are two and one-half (2 ½) years of age and older, if at least seventy-five percent (75%) of the staff-to-client ratio is maintained throughout the EIDT facility.
- (f)
- (1) An EIDT must document all scheduled and actual Employee staffing.
- (2) The documentation required for Employee staffing includes without limitation employee:
- (A) Names;
  - (B) Job title or credential;
  - (C) Job duties; and
  - (D) Typical working days and hours.

**303. Employee Training.**

- (a) All Employees involved in any way with services provided to clients, or who have routine contact with clients, must receive the following training, before having contact with clients and no later than thirty (30) days after beginning employment:
- (1) Basic health and safety practices;
  - (2) Infection control and infection control procedures;
  - (3) Identification and mitigation of unsafe environmental factors;
  - (4) Emergency and evacuation procedures;
  - (5) Identification and prevention of adult and child maltreatment;
  - (6) Mandated reporter requirements; and
  - (7) Reporting incidents and accidents as required in these standards.
- (b) Employees required to receive training prescribed in subsection (a) of this section must receive annual retraining on those topics at least once every twelve (12) months.

**304. Employee Records.**

- (a) An EIDT must maintain a personnel file for each employee that includes:
- (1) A detailed job description;
  - (2) All required criminal background checks;
  - (3) All required Child Maltreatment Central Registry checks;
  - (4) All required Adult and Long-term Care Facility Resident Maltreatment Central Registry checks;
  - (5) All conducted drug screen results;
  - (6) A signed statement that Employee will comply with the EIDT's drug screen and drug use policies;
  - (7) A copy of current state or federal identification;
  - (8) A copy of valid state-issued driver's license if driving is required in the job description;

- (9) Documentation demonstrating that the Employee received all training required in Section 303;
  - (10) Documentation demonstrating that the Employee obtained and maintained in good standing all professional licensures, certifications, or credentials required for the employee or the service the employee is performing; and
  - (11) Documentation demonstrating that the Employee meets all continuing education, in-service, or other training requirements applicable under these standards and any professional licensures, certifications, or credentials held by that employee.
- (b)
- (1) An EIDT must ensure that each personnel record is kept confidential and available only to:
    - (A) Employees who need to know the information contained in the personnel record;
    - (B) Persons or entities who need to know the information contained in the personnel record;
    - (C) The Division of Provider Services and Quality Assurance and any governmental entity with jurisdiction or other authority to access the personnel record;
    - (D) The employee; and
    - (E) Any other individual authorized in writing by the employee.
  - (2)
    - (A) An EIDT must keep personnel records in a file cabinet or room that is always locked.
    - (B)
      - (i) An EIDT may use electronic records in addition to or in place of physical records to comply with these standards.
      - (ii) An EIDT provider that uses electronic records must take reasonable steps to backup all electronic records and reconstruct a personnel record in the event of a breakdown in the EIDT's electronic records system.

- (c) An EIDT must retain all Employee records for five (5) years from the date an Employee is no longer an Employee of the EIDT or, if longer, the final conclusion of all reviews, appeals, investigations, administrative actions, or judicial actions related to that employee that are pending at the end of the five-year period.

**305. Client Service Records.**

- (a)
  - (1) An EIDT must maintain a separate, updated, and complete service record for each client documenting the services provided to the client, and all other documentation required under these standards.
  - (2) Each client service record must be uniformly organized and readily available for review by the Division of Provider Services and Quality Assurance at the EIDT's location.
- (b) A client's service record must include a summary document at the front that includes:
  - (1) The client's:
    - (A) Full name;
    - (B) Address and county of residence;
    - (C) Telephone number and, if available, email address;
    - (D) Date of birth;
    - (E) Primary language;
    - (F) Diagnoses;
    - (G) Medications, dosage, and frequency, if applicable;
    - (H) Known allergies;
    - (I) Entry date into the EIDT;
    - (J) Exit date from the EIDT;
    - (K) Medicaid number;
    - (L) Commercial or private health insurance information or managed care organization information, if applicable;



- (2) Name, address, phone number, email address, and relationship of the client's custodian or legal guardian; and
  - (3) Name, address, and phone number of the client's primary care physician.
- (c) A client's service record must include at least the following information and documentation:
- (1) The client's:
    - (A) ITP;
    - (B) Behavioral management plan;
    - (C) Daily activity logs; and
    - (D) Medication management plan and medication logs;
  - (2) Copies of any assessments or evaluations completed on the client; and
  - (3) Copies of any orders that place the client in the custody of another person or entity.
- (d)
- (1) An EIDT must ensure that each client service record is kept confidential and available only to:
    - (A) Employees who need to know the information contained in the client's service record;
    - (B) Persons or entities who need to know the information contained in the client service record in order to provide services to the client;
    - (C) The division and any governmental entity with jurisdiction or other authority to access the client's service record;
    - (D) The client's legal guardian or custodian; and
    - (E) Any other individual authorized in writing by the legal guardian or custodian.
  - (2)
    - (A) An EIDT must keep client service records in a file cabinet or room

that is always locked.

(B)

- (i) An EIDT may use electronic records in addition to or in place of physical records to comply with these standards.
  - (ii) An EIDT provider that uses electronic records must take reasonable steps to backup all electronic records and reconstruct a client's service record in the event of a breakdown in the EIDT's electronic records system.
- (e) An EIDT must retain all client service records for five (5) years from the date the client last exits from the EIDT or, if longer, the final conclusion of all reviews, appeals, investigations, administrative actions, or judicial actions related to the client that are pending at the end of the five-year period.

**306. Marketing and Solicitation.**

- (a) An EIDT can market its services.
- (b) An EIDT cannot solicit a client or their family.

**307. Third-party Service Agreements.**

- (a) An EIDT may contract in writing with third-party vendors to provide services or otherwise satisfy requirements under these standards.
- (b) An EIDT must ensure that all third-party vendors comply with these standards and all other applicable:
  - (1) Laws;
  - (2) Rules; and
  - (3) Regulations.

**Subchapter 4.        Facility Requirements.**

**401.    General Requirements.**

- (a)    An EIDT facility must:
- (1)    Be heated, air-conditioned, well-lit, well-ventilated, and well-maintained at a comfortable temperature;
  - (2)    Be safe, clean, maintained, in good repair, and sanitary, including without limitation as to the facility's:
    - (A)    Exterior;
    - (B)    Surrounding property; and
    - (C)    Interior floors and ceilings.
  - (3)    Be free of offensive odors and potentially hazardous objects including without limitation explosives and broken equipment;
  - (4)    Have drinking water available to clients and Employees;
  - (5)    Have an emergency alarm system throughout the facility to alert Employees and clients when there is an emergency;
  - (6)    Have at least one (1) toilet and one (1) sink for every fifteen (15) clients, with:
    - (A)    Running hot and cold water;
    - (B)    Toilet tissue;
    - (C)    Liquid soap; and
    - (D)    Paper towels or air dryers.
  - (7)    Have bathrooms that provide for individual privacy and are appropriate for all clients with regard to size and accessibility;
  - (8)    Have at least one (1) operable telephone on site that is available at all hours and reachable with a phone number for outside callers;
  - (9)    Have working smoke and carbon monoxide detectors in all areas used by clients or employees;

- (10) Have a first aid kit that includes at least the following:
- (A) Adhesive band-aids of various sizes;
  - (B) Sterile gauze squares;
  - (C) Adhesive tape;
  - (D) Roll of gauze bandages;
  - (E) Antiseptic;
  - (F) Thermometer;
  - (G) Scissors;
  - (H) Disposable gloves; and
  - (I) Tweezers.
- (11) Have enough fire extinguishers in number and location to satisfy all applicable laws and rules, but no fewer than two (2) fire extinguishers;
- (12) Have hallways and corridors at least six feet (6') in width;
- (13) Have screens for all windows and doors used for ventilation;
- (14) Have screens or guards attached to the floor or wall to protect:
- (A) Floor furnaces;
  - (B) Heaters;
  - (C) Hot radiators;
  - (D) Exposed water heaters;
  - (E) Air conditioners; and
  - (F) Electric fans.
- (15) Have no lead-based paint;
- (16) Have lighted "exit" signs at all exit locations;

- (17) Have written instructions and diagrams noting emergency evacuation routes and shelters to be used in case of fire, severe weather, or other emergency, posted at least every twenty-five feet (25'):
  - (A) In all stairwells;
  - (B) In and by all elevators; and
  - (C) In each room used by clients.
- (18) Have a copy of Title VI and VII of the Civil Rights Act of 1964, and all required legal notices, prominently posted as required;
- (19) Have an emergency power system to provide lighting and power to essential electrical devices throughout the EIDT, including without limitation power to exit lighting and fire detection, fire alarm, and fire extinguishing systems;
- (20) Have chemicals, toxic substances, and flammable substances stored in locked storage cabinets or closets;
- (21) Have the EIDT's telephone, hours of operation, and hours of access (if applicable) posted at all public entrances;
- (22) Prohibit the possession of firearms or other weapons except by authorized law enforcement personnel; and
- (23) Prohibit:
  - (A) Smoking;
  - (B) Use of tobacco products; and
  - (C) The consumption of:
    - (i) Prescription medication without a prescription;
    - (ii) Alcohol; and
    - (iii) Illegal drugs.

**Subchapter 5.            Enrollments, Exits, and Referrals.**

**501.    Enrollments.**

- (a)    An EIDT may enroll and provide services to a client who is eligible to receive EIDT services.
- (b)    An EIDT must document the enrollment of all clients to the EIDT.

**502.    Exits.**

- (a)    An EIDT may exit a client from its program if the person becomes ineligible for EIDT services, chooses to enroll with another EIDT, or for any other lawful reason.
- (b)    An EIDT must document the exit of all clients from its program.
- (c)    An EIDT must provide reasonable assistance to all clients exiting its program, including without limitation to:
  - (1)    Assisting the client in transferring to another EIDT or other service provider; and
  - (2)    Providing copies of such a client's records to the:
    - (A)    Client;
    - (B)    Client's legal custodian or guardian; and
    - (C)    EIDT or other service provider to which the client transfers after exiting the program.

**503.    Referrals to the First Connections Program.**

- (a)
  - (1)    An EIDT must, within two (2) working days of first contact, refer to the First Connections program all infants and toddlers from birth to thirty-six (36) months of age for whom there is a diagnosis or suspicion of a developmental delay or disability.
  - (2)    The referral must be made to the First Connections Central Intake Unit.
- (b)    Each EIDT is responsible for documenting that a proper and timely referral to First Connections has been made, pursuant to these standards.

**504. Referrals to Local Education Agencies.**

(a)

- (1) Each EIDT must, within two (2) working days of first contact, refer to the appropriate local education agency each client:
  - (A) Who is at least three (3) years of age;
  - (B) Who has not entered Kindergarten; and
  - (C) For whom there is a diagnosis or suspicion of a developmental delay or disability.
- (2) For clients who turn three (3) years of age while receiving services at the EIDT, the referral must be made at least ninety (90) days prior to the client's third birthday.
- (3) If the client begins services less than ninety (90) days prior to their third birthday, the referral should be made within two (2) working days of first contact.
- (4) The referral must be made to the local education agency where that client resides.

(b) Each EIDT is responsible for documenting that a proper and timely referral to the appropriate local education agency has been made, pursuant to these standards.

**505. Appropriate Referrals for Clients Failing to Qualify.**

(a) An EIDT must provide the custodian or legal guardian of a client with appropriate information and referrals to other available services if:

- (1) The EIDT assists the client with obtaining a developmental screen or performs a comprehensive developmental evaluation as part of the process of determining the client's eligibility for EIDT services; and
- (2) The developmental screen or comprehensive developmental evaluation indicates the client is not eligible to receive EIDT services.

(b) Other available services include without limitation any Early Head Start, Head Start, and home-visiting programs.

- (c) Each EIDT is responsible for maintaining documentation evidencing that a reasonable attempt was made to provide the referrals, materials, and information described in subsection (a) of this section, to the client's custodian or legal guardian.

PROPOSED



**Subchapter 6.            Program and Services.**

**601.    Arrivals and Departures.**

- (a) An EIDT must ensure that clients safely arrive to and depart from an EIDT facility.
- (b)
  - (1) An EIDT must document the arrival and departure of each client to and from an EIDT facility.
  - (2) Documentation of arrivals to and departures from an EIDT must include without limitation the:
    - (A) Client's:
      - (i) Name;
      - (ii) Date of birth; and
      - (iii) Date and time of arrival and departure;
    - (B) Name of the person or entity that provided transportation; and
    - (C) Method of transportation.
- (c) A manager or designee of an EIDT must:
  - (1) Review the client's arrival and departure documentation each day and compare it with the EIDT's attendance record; and
  - (2) Sign and date the client arrival and departure documentation verifying that all clients for the day safely arrived to and departed from the EIDT facility.
- (d) An EIDT must maintain client arrival and departure documentation for one (1) year from the date of transportation.

**602.    Medications.**

- (a)
  - (1) An EIDT must develop a medication management plan for all clients with prescribed medication that may be administered at the EIDT.

- (2) A medication management plan must include without limitation:
- (A) The name of each medication;
  - (B) The name of the prescribing physician or other healthcare professional if the medication is by prescription;
  - (C) A description of each medication prescribed and any symptom or symptoms to be addressed by each medication; and
  - (D) How each medication will be administered, including without limitation:
    - (i) Times of administration;
    - (ii) Doses;
    - (iii) Delivery; and
    - (iv) Persons that may lawfully administer each medication;
  - (E) How each medication will be charted;
  - (F) A list of the potential side effects caused by each medication; and
  - (G) The consent to the administration of each medication by the client or, if the client lacks capacity to consent, by the client's legal guardian or custodian.
- (b)
- (1) An EIDT must maintain a medication log detailing the administration of all medication to a client, including without limitation, prescribed medication, and over-the-counter medications.
  - (2) Each medication log must be uniformly organized and document the following for each administration of a medication:
    - (A) The name and dosage of medication administered;
    - (B) The symptom for which the medication was used to address;
    - (C) The method the medication was administered;
    - (D) The date and time the medication was administered;
    - (E) The name of the employee who administered the medication or assisted in the administration of the medication;

- (F) Any adverse reaction or other side effect from the medication;
  - (G) Any transfer of medication from its original container into individual dosage containers by the client's custodian or legal guardian;
  - (H) Any error in administering the medication and the name of the supervisor to which the error was reported; and
  - (I) The prescription and the name of the prescribing physician or other healthcare professional if the medication was not previously listed in the medication management plan.
- (3) Medication errors must be:
- (A) Immediately reported to a supervisor;
  - (B) Documented in the medication log; and
  - (C) Reported as required under all applicable laws and rules including without limitation the laws and rules governing controlled substances.
- (c) All medications stored for a client by an EIDT must be:
- (1) Kept in the original medication container unless the client's custodian or legal guardian transfers the medication into individual dosage containers;
  - (2) Labeled with the client's name;
  - (3) Stored in an area, medication cart, or container that is always locked; and
  - (4) Returned to a client's custodian or legal guardian, destroyed, or otherwise disposed of in accordance with applicable laws and rules, if the medication is no longer to be administered to a client.
- (d) An EIDT must store all medications requiring cold storage in a separate refrigerator that is used only for purpose of storing medications.

**603. Behavior Management Plans.**

- (a) An EIDT may implement a written behavior management plan for a client if a client exhibits challenging behaviors on a chronic basis.
- (b) A behavior management plan:

- (1) Must be approved by an ECDS;
  - (2) Must involve the fewest and shortest interventions possible; and
  - (3) Cannot punish or use interventions that are physically or emotionally painful or frightening nor put the client at medical risk.
- (c)
- (1)
    - (A) An EIDT must reevaluate behavior management plans at least quarterly.
    - (B) An EIDT must refer the client to an appropriately licensed professional for reevaluation if the behavior management plan is not achieving the desired results.
  - (2) An EIDT must regularly collect and review data regarding the use and effectiveness of all behavior management plans.
  - (3) The collection and review of data regarding the use and effectiveness of behavior management plans must include at least the:
    - (A) Date and time any intervention is used;
    - (B) Duration of each intervention;
    - (C) Employee or employees involved in each intervention; and
    - (D) Event or circumstances that triggered the need for the intervention.

**604. Transportation.**

- (a)
  - (1) An EIDT may elect to provide transportation services to its clients.
  - (2)
    - (A) The requirements of this part apply to all transportation provided to a client for any reason by any person or entity on behalf of the EIDT regardless of whether the transportation is a billed service.
    - (B) Notwithstanding the foregoing, if the transportation provided to a client is covered by another Medicaid program, then the transportation requirements

applicable to the funding Medicaid program, and not these standards, shall apply.

(3) An EIDT electing to provide transportation services to clients must maintain an updated list of all vehicles used to transport clients that includes the following information for each vehicle:

(A) Manufacturer:

(i) Name;

(ii) Make;

(iii) Model; and

(iv) Model year;

(B) Vehicle identification number; and

(C) Type of vehicle (for example: a sedan, 8-passenger van, 15-passenger van, or wheelchair van).

(4) Any vehicle used by an EIDT to transport clients must be available for inspection upon request.

(5) Reports or other documentation required to be maintained under this Section 604 must be made available for inspection upon request.

(6)

(A) An EIDT may use electronic records in addition to or in place of physical records to comply with these standards.

(B) An EIDT provider that uses electronic records must take reasonable steps to backup all electronic records and reconstruct its transportation records in the event of a breakdown in the EIDT's electronic records system.

(b)

(1)

(A) An EIDT electing to provide transportation services must provide the level of attendant care on each vehicle that is necessary to ensure client safety.

- (B)
  - i. Notwithstanding the foregoing, a three to one (3:1) minimum client to attendant ratio is required for clients under three (3) years of age, on any vehicle used by an EIDT for transportation.
  - ii. The driver may be counted towards the minimum client to attendant ratio for these purposes, but under no circumstances can the driver be the only adult on a vehicle transporting one or more clients under three (3) years of age.

(2)

(A) An inspection report must be completed for each trip in which a vehicle is used by an EIDT to transport clients.

(B)

(i) Each inspection report must include a pre-trip and post-trip inspection that includes at a minimum the:

(a) Vehicle used to transport;

(b) Date of the trip;

(c) A pre-trip check box that is marked to demonstrate that a visual inspection of the exterior of the vehicle was completed prior to the start of the trip;

(d) A pre-trip check box that is marked to demonstrate a visual inspection of the interior of the vehicle was completed prior to the start of the trip;

(e) A pre-trip check box that is marked to demonstrate that a visual inspection of the tires was completed prior to the start of the trip;

(f) A pre-trip check box that is marked to demonstrate that a visual inspection of the windshield was completed prior to the start of the trip;

(g) A post-trip check box that is marked to demonstrate that a visual inspection of the exterior of the vehicle was completed after final unloading;

- (h) A post-trip check box that is marked to demonstrate that a visual inspection of the interior of the vehicle was completed after final unloading;
- (i) A post-trip check box that is marked to demonstrate that a visual inspection of the tires was completed after final unloading;
- (j) A post-trip check box that is marked to demonstrate that a visual inspection of the windshield was completed after final unloading; and
- (k) A section for listing and describing any defect or deficiency discovered or reported during the:
  - (I) Trip;
  - (II) Pre-trip inspection; or
  - (III) Post-trip inspection.
- (ii) Each inspection report must include:
  - (a) The signature of the Employee that performed the pre-trip inspection;
  - (b) The signature of the Employee that performed the post-trip inspection;
  - (c) The time the pre-trip inspection was completed; and
  - (d) The time the post-trip inspection was completed.
- (C) An EIDT must maintain all inspection reports for five (5) years from the date of transportation.

(3)

- (A) A separate transportation log must be maintained for each trip in which a vehicle is used by an EIDT to transport a client, and that log must include:
  - (i) Each transported client's:

- (a) Name;
  - (b) Age;
  - (c) Date of birth;
  - (d) Medicaid ID number;
  - (e) Exact address of pick up and drop off; and
  - (f) Exact time of pick up and drop off.
  - (ii) The driver of the vehicle;
  - (iii) Each attendant or any other persons transported; and
  - (iv) The odometer reading on the vehicle at the:
    - (a) Pick-up of the first client on the trip; and
    - (b) Drop-off of last client on the trip.
  - (B) The transportation log shall be used to check clients on and off the vehicle at pick-up and drop-off.
  - (C) The driver or attendant who conducts the walk-through required by subsection (b)(4) of this section must sign the transportation log once it is confirmed that all clients exited the vehicle.
  - (D) An EIDT must maintain all transportation logs for five (5) years from the date of transportation.
- (4)
- (A)
    - (i) Any vehicle, with a maximum capacity of seven (7) or fewer passengers and one (1) driver, that is used by an EIDT to transport clients, must have the driver or an attendant walk through the vehicle and conduct a visual inspection of each seat on the vehicle upon arrival at the final unloading destination.



- (ii) The driver or attendant who conducts the walk-through inspection upon arrival must sign the transportation log required to be maintained under 604(a)(4).
- (B) Any vehicle, with a maximum capacity of more than seven (7) passengers and one (1) driver, that is used by an EIDT to transport clients, must have the driver or an attendant complete a walk-through inspection of each seat on the vehicle in one (1) of the following ways upon arrival at the final unloading destination:
- (i)
    - (a) The driver or an attendant must:
      - (I) Unload all clients from the vehicle;
      - (II) Walk or otherwise move through the interior of the vehicle to ensure that no client remains on board; and
      - (III) Deactivate the vehicle's safety alarm device.
    - (b) This option can only be used if all clients are able to unload from the vehicle in less than one (1) minute.
  - (ii)
    - (a)
      - (I) An attendant supervises the clients while unloading;
      - (II) The driver remains on the vehicle during unloading, to walk through the interior of the vehicle to ensure that no clients remain on board; and
      - (III) The driver deactivates the safety alarm device upon reaching the back of the vehicle.
    - (b) The individual who deactivates the safety alarm device must remain near the safety alarm device deactivation switch until all clients have unloaded, to ensure that no client is left on board.

(c) This option will require at least two (2) individuals, one (1) to supervise the clients exiting the vehicle and one (1) to remain near the safety alarm device deactivation switch.

(iii)

(a) The driver or an attendant deactivates the safety alarm device and unloads all clients immediately upon arrival.

(b) Immediately after unloading, the driver will start the vehicle and move it to a different location for final parking, which must reactivate the safety alarm device.

(c) Once parked the driver:

(I) Walks or otherwise moves through the interior of the vehicle to ensure that no clients remain on board; and

(II) Deactivates the safety alarm device.

(5) An EIDT, providing transportation services to a client, must maintain the client's emergency contact information within the vehicle during transport.

(c)

(1)

(A) Each driver of a vehicle, that is transporting clients on behalf of an EIDT, must meet each of the following requirements:

(i) Meet the higher of the following age requirements:

(a) Twenty-one (21) years of age; or

(b) The minimum age required by the applicable vehicle insurance;

(ii) Hold a current valid driver's license;

(iii) If required by state law for the transporting vehicle, hold a commercial driver's license;

(iv) Obtain and maintain in good standing the following credentials:

(a) CPR certification from the:

- (I) American Heart Association;
  - (II) Medic First Aid; or
  - (III) American Red Cross; and
- (b) First aid certification from the:
  - (I) American Heart Association;
  - (II) Medic First Aid; or
  - (III) American Red Cross; and
- (v) Have successfully completed training courses on the following:
  - (a) Defensive driving;
  - (b) Child passenger safety; and
  - (c) If applicable:
    - (I) Lift operation; and
    - (II) Wheelchair securement.
- (B) The following individuals are prohibited from driving a vehicle transporting EIDT clients:
  - (i) Any individual who has had a suspended or revoked driver's license for a moving violation within the last five (5) years.
  - (ii) Any individual who has been convicted of an alcohol, drug, or substance abuse offense within the last five (5) years.
  - (iii) Any individual who has received at least two (2) of any combination of the following citations within the prior twelve (12) months:
    - (I) Citations for moving vehicle violations; and
    - (II) Citations for accidents where the individual was found to be at fault.

- (C) In addition to those requirements in Section 304, an EIDT must maintain the following documentation for each Employee who drives a vehicle transporting clients:
  - (i) A copy of Employee's driving record for the previous three (3) years from the Arkansas State Police or Information Network of Arkansas that is updated annually;
  - (ii) Documentation of all reported complaints involving the Employee;
  - (iii) Documentation of all accidents or moving violations involving the Employee (for example: copies of tickets, police reports, etc.); and
  - (iv) Documentation evidencing the completion of all required training and credentials.
- (2) Each attendant, to a vehicle transporting clients on behalf of an EIDT, must meet each of the following requirements:
  - (A) Be at least eighteen (18) years of age;
  - (B) Have successfully completed training courses on the following:
    - (i) Defensive driving;
    - (ii) Child passenger safety; and
    - (iii) If applicable:
      - (a) Lift operation; and
      - (b) Wheelchair securement.
  - (C) Obtain and maintain in good standing the following credentials:
    - (i) CPR certification from the:
      - (a) American Heart Association;
      - (b) Medic First Aid; or
      - (c) American Red Cross; and
    - (ii) First aid certification from the:
      - (a) American Heart Association;



- (vii) Ensure all folding wheelchairs and other mobility aides being transported are safely and securely stowed away on the vehicle prior to departure.
  - (B) When arriving at the client's drop-off location, a driver or attendant is required to:
    - (i) Provide a client with assistance, as necessary, in:
      - (a) Exiting the vehicle; and
      - (b) Traveling from the vehicle to the entry of the client's drop off location; and
    - (ii) Ensure the client is safely transitioned at the drop off location in accordance with the client's needs.
- (d)
  - (1) Any vehicle used to transport a client must meet the safety and mechanical operating and maintenance standards for the make and model of vehicle.
  - (2) Each vehicle used to transport a client must have:
    - (A) Up-to-date registration with the Arkansas Department of Finance and Administration, Office of Motor Vehicles; and
    - (B) All other licenses, permits, and certificates required by state and federal law.
  - (3)
    - (A) Commercial insurance coverage must be maintained on any vehicle that is used to transport a client.
    - (B) Commercial insurance must have the following minimum coverage amounts:
      - (i) One million dollars (\$1,000,000) combined single-limit liability coverage;
      - (ii) One hundred thousand dollars (\$100,000) for uninsured motorist;

- (iii) One hundred thousand dollars (\$100,000) for under-insured motorist; and
      - (iv) Five thousand dollars (\$5,000) personal injury protection for each passenger based on the number of passengers the vehicle is manufactured to transport.
    - (C) Each commercial insurance policy must name the Arkansas Department of Human Services as an additional insured and loss payee under the policy.
    - (D) All commercial insurance coverage must be with companies licensed and approved to do business with the State of Arkansas.
    - (E) An EIDT must maintain documentation evidencing that the required commercial insurance is in place for each vehicle that is used to transport a client.
  - (e)
    - 1. Each vehicle used to transport a client must have the following safety equipment on board:
      - (A) Fire extinguisher
      - (B) First-aid kit
      - (C) Reflective triangles
      - (D) Flashlight; and
      - (E) Reflective safety vest
    - 2. Each vehicle used to transport a client must be maintained in a sanitary and safe condition, which includes without limitation:
      - (A) A heating and air conditioning system that is in good working condition;
      - (B)
        - (i) Each client must have their own seating space with a functioning seat belt or other appropriate safety restraint in accordance with federal and state law and manufacturer's guidelines.
        - (ii) Each client under six (6) years of age or weighing less than sixty (60) pounds must be restrained in a child passenger seat secured in accordance with the manufacturer's guidelines.

(C) Vehicle interiors must be free of:

- (i) Dirt;
- (ii) Oil;
- (iii) Grease;
- (iv) Litter;
- (v) Torn upholstery;
- (vi) Torn ceiling coverings;
- (vii) Damaged seats;
- (viii) Protruding sharp edges;
- (ix) Hazardous debris; and
- (x) Unsecured items.

(D)

- (i) Vehicles with an entry step-up of greater than twelve (12) inches must include a retractable step or step stool to aid in client boarding.
- (ii) A step stool must have four (4) legs with anti-skid tips on each leg.

(E) Vehicle exteriors must be clean and free of:

- (i) Broken:
  - (a) Windshields;
  - (b) Mirrors; and
  - (c) Windows.
- (ii) Excessive:
  - (a) Grime;



- (b) Dirt;
- (c) Dents; and
- (d) Damage.

(F)

- (i) The floor of each vehicle must be covered with commercial anti-skid, ribbed flooring, or carpeting.
- (ii) Any ribbed flooring must not interfere with wheelchair movement.

(3)

(A) Any vehicle with a maximum capacity of seven (7) or more passengers and one (1) driver, that is used by an EIDT to transport clients, must have a safety alarm device.

(B) The safety alarm device must:

- (i) Always be in working order and properly maintained;
- (ii) Be installed so that the driver is required to walk to the very back of the vehicle to reach the switch that deactivates the alarm;
- (iii) Be installed in accordance with the device manufacturer's recommendations; and
- (iv) Sound the alarm for at least one (1) minute after the activation of the safety alarm device.

(4)

(A) Any vehicle used by an EIDT to transport clients must have a camera system installed.

(B) The camera system must:

- (i) Be in working order at all times that a vehicle is used to transport clients;
- (ii) Be properly maintained;

- (iii) Have at least 720p resolution camera(s);
  - (iv) Maintain daily footage for a minimum of forty-five (45) days;
  - (v) Include GPS tracking; and
  - (vi) Have camera(s) positioned so that all passenger activity on each vehicle is recorded.
- (5) Each vehicle used to transport a client must prominently display:
- (A) Provider name; and
  - (B) Provider contact information.

**Subchapter 7.            Incident and Accident Reporting.**

**701.    Incidents to be Reported.**

- (a)    An EIDT must report all alleged, suspected, observed, or reported occurrences of any of the following events while a client is in the care or under the supervision of an EIDT:
- (1)    Death of a client;
  - (2)    Serious injury to a client;
  - (3)    Adult or child maltreatment of a client;
  - (4)    Any event where an employee threatens or strikes a client;
  - (5)    Unauthorized use on a client of restrictive intervention, including seclusion or physical, chemical, or mechanical restraint;
  - (6)    Any situation when the whereabouts of a client are unknown for more than two (2) hours;
  - (7)    Any unanticipated situation when services to the client are interrupted for more than two (2) hours;
  - (8)    Events involving a risk of death, serious physical or psychological injury, or serious illness to a client;
  - (9)    Medication errors made by an Employee that cause or have the potential to cause death, serious injury, or serious illness to a client;
  - (10)    Any act or admission that jeopardizes the health, safety, or quality of life of a client;
  - (11)    Motor vehicle accidents involving a client;
  - (12)    A positive case of a client or a staff member for any infectious disease that is the subject of a public health emergency declared by the:
    - (A)    Governor;
    - (B)    Arkansas Department of Health;
    - (C)    President of the United States; or
    - (D)    United States Department of Health and Human Services.

- (13) Any event that requires notification of the:
  - (A) Police;
  - (B) Fire department; or
  - (C) Coroner.
- (b) Any EIDT may report any other occurrences impacting the health, safety, or quality of life of a client.

**702. Reporting Requirements.**

- (a) An EIDT must:
  - (1) Submit all reports of the following events, within one (1) hour of the event:
    - (A) Death of a client;
    - (B) Serious injury to a client; or
    - (C) Any incident that an EIDT should reasonably know might be of interest to the public or the media.
  - (2) Submit reports of all other incidents within forty-eight (48) hours of the event.
- (b) An EIDT must submit reports of all incidents, to the Division of Provider Services and Quality Assurance as provided through the division's website: <https://humanservices.arkansas.gov/about-dhs/dpsqa/>.
- (c) Reporting under these standards does not relieve an EIDT of complying with any other applicable reporting or disclosure requirements under state or federal laws, rules, or regulations.

**703. Notification to Guardians and Legal Custodians.**

- (a) An EIDT must notify the guardian, or legal custodian of a client, of any reportable incident involving a client, as well as any injury or accident involving a client (even if the injury or accident is not otherwise required to be reported in this Section).
- (b) An EIDT should maintain documentation evidencing notification required in subsection (a) of this section.

**Subchapter 8. Enforcement.**

**801. Monitoring.**

(a)

(1) The Division of Provider Services and Quality Assurance shall monitor an EIDT to ensure compliance with these standards.

(2)

(A) An EIDT must cooperate and comply with all monitoring, enforcement, and any other regulatory or law enforcement activities performed or requested by the Division of Provider Services and Quality Assurance or law enforcement.

(B) Cooperation required under these standards includes without limitation cooperation and compliance, with respect to investigations surveys, site visits, reviews, and other regulatory actions taken by the Division of Provider Services and Quality Assurance or any third party contracted by the Department of Human Services to monitor, enforce, or take other regulatory action on behalf of the:

(i) Department;

(ii) Division of Provider Services and Quality Assurance; or

(iii) Division of Developmental Disabilities Services.

(b) Monitoring includes without limitation:

(1) On-site surveys and other visits including without limitation, complaint surveys and initial site visits;

(2) On-site or remote file reviews;

(3) Written requests for documentation and records required under these standards;

(4) Written requests for information; and

(5) Investigations related to complaints received.

(c) The department may contract with a third party to monitor, enforce, or take other regulatory action on behalf of the:

- (1) Department;
- (2) Division of Provider Services and Quality Assurance; or
- (3) Division of Developmental Disabilities Services.

**802. Written Notice of Enforcement Action.**

- (a) The Division of Provider Services and Quality Assurance shall provide written notice to the EIDT of all enforcement actions taken against the EIDT.
- (b) The division shall provide written notice to the EIDT by mailing the imposition of the enforcement action to the manager that is appointed by the EIDT, pursuant to Section 301.

**803. Remedies.**

- (a)
  - (1) The Division of Provider Services and Quality Assurance shall not impose any remedies imposed by an enforcement action unless:
    - (A) The EIDT is given notice and an opportunity to be heard, pursuant to this Section 802 and Subchapter 10 of these standards; or
    - (B) The Division of Provider Services and Quality Assurance determines that public health, safety, or welfare imperatively requires emergency action.
  - (2) If the Division of Provider Services and Quality Assurance imposes a remedy as an emergency action before the EIDT has notice and an opportunity to be heard, pursuant to subsection (a)(1) of this section, the Division of Provider Services and Quality Assurance shall:
    - (A) Provide immediate notice to the EIDT of the enforcement action; and
    - (B) Provide the EIDT with an opportunity to be heard pursuant to Subchapter 10.
- (b) The Division of Provider Services and Quality Assurance may impose on an EIDT any of the following enforcement actions for the EIDT's failure to comply with these standards:
  - (1) Plan of correction;

- (2) Directed in-service training plan;
  - (3) Moratorium on new admissions;
  - (4) Transfer of clients;
  - (5) Monetary penalties;
  - (6) Suspension of EIDT license;
  - (7) Revocation of EIDT license; or
  - (8) Any remedy authorized by law or rule including without limitation section Ark. Code Ann. § 25-15-217.
- (c) The Division of Provider Services and Quality Assurance shall determine the imposition and severity of these enforcement remedies on a case-by-case basis using the following factors:
- (1) Frequency of noncompliance;
  - (2) Number of noncompliance issues;
  - (3) Impact of noncompliance on a client's:
    - (A) Health;
    - (B) Safety; or
    - (C) Well-being.
  - (4) Responsiveness in correcting noncompliance;
  - (5) Repeated noncompliance in the same or similar areas;
  - (6) Noncompliance with previously or currently imposed enforcement remedies;
  - (7) Noncompliance involving intentional fraud or dishonesty; and
  - (8) Noncompliance involving a violation of any law, rule, or other legal requirement.
- (d)
- (1) The Division of Provider Services and Quality Assurance shall report any noncompliance, action, or inaction by the EIDT, to appropriate agencies for investigation and further action.

- (2) The Division of Provider Services and Quality Assurance shall refer non-compliance involving Medicaid billing requirements, to the Division of Medical Services and the Medicaid Fraud Control Unit .
- (e) These enforcement remedies are not mutually exclusive and the Division of Provider Services and Quality Assurance may apply multiple remedies simultaneously to a failure to comply with these standards.
- (f) The failure to comply with an enforcement remedy, imposed by the Division of Provider Services and Quality Assurance, constitutes a separate violation of these standards.

**804. Moratorium.**

- (a) The Division of Provider Services and Quality Assurance may prohibit an EIDT from accepting new clients.
- (b) An EIDT prohibited from accepting new admissions may continue to provide services to existing clients.

**805. Transfer of Clients.**

- (a) The Division of Provider Services and Quality Assurance may require that an EIDT transfer a client to another EIDT, if the division finds that the EIDT cannot adequately provide services to the client.
- (b) If directed by the division, an EIDT must continue providing services until the client is transferred to their new service provider of choice.
- (c) A transfer of a client may be permanent, or for a specific term, depending on the circumstances.

**806. Monetary Penalties.**

- (a) The Division of Provider Services and Quality Assurance may impose on an EIDT a civil monetary penalty, not to exceed five hundred dollars (\$500) for each violation of these standards.
- (b)
  - (1) The division may file suit to collect a civil monetary penalty assessed pursuant to these standards, if the EIDT does not pay the civil monetary penalty within sixty



(60) days from the date the division provides written notice to the EIDT of the imposition of the civil monetary penalty.

- (2) The division may file suit in Pulaski County Circuit Court or the circuit court of any county in which the EIDT is located.

**807. Suspension and Revocation of EIDT License.**

(a)

- (1) The Division of Provider Services and Quality Assurance may temporarily suspend an EIDT license if the EIDT fails to comply with these standards.
- (2) If an EIDT's license is suspended, the EIDT must immediately stop providing EIDT services until the division reinstates its license.

(b)

- (1) The division may permanently revoke an EIDT license if the EIDT fails to comply with these standards.
- (2) If an EIDT's license is revoked, the EIDT must immediately stop providing EIDT services and comply with the permanent closure requirements in Section 901(a).

**Subchapter 9.        Closure.**

**901.    Closure.**

(a)

- (1) An EIDT license ends if an EIDT permanently closes, whether voluntarily or involuntarily, and the license is effective on the date of the permanent closure as determined by the Division of Provider Services and Quality Assurance.
- (2) An EIDT that intends to permanently close, or does permanently close without warning, whether voluntarily or involuntarily, must immediately:
  - (A) Provide the custodian or legal guardian of each client with written notice of the closure;
  - (B) Provide the custodian or legal guardian of each client with written referrals to at least three (3) other appropriate service providers;
  - (C) Assist each client and their custodian or legal guardian in transferring services and copies of client records to any new service providers;
  - (D) Assist each client and their custodian or legal guardian in transitioning to new service providers; and
  - (E) Arrange for the storage of client service records to satisfy the requirements of Section 305.

(b)

- (1) An EIDT, that intends to voluntarily close temporarily due to natural disaster, pandemic, completion of needed repairs or renovations, or for similar circumstances, may request to temporarily close its facility while maintaining its EIDT license for up to one (1) year from the date of the request.
- (2) An EIDT must comply with requirements in subsection (a)(2) of this section for notice, referrals, assistance, and storage of client records if the division grants an EIDT's request for a temporary closure.
- (3)
  - (A) The division may grant a temporary closure if the EIDT demonstrates that it is reasonably likely to reopen after the temporary closure.

(B) The division shall end an EIDT's temporary closure and direct that the EIDT to permanently close if the EIDT fails to demonstrate that it is reasonably likely that it will be able to reopen after the temporary closure.

(4)

(A) The division may end an EIDT's temporary closure if the EIDT demonstrates that it is in full compliance with these standards.

(B) The division shall end an EIDT's temporary closure, and direct that the EIDT permanently close, if the EIDT fails to become fully compliant with these standards within one (1) year from the date of the request.

PROPOSED

**Subchapter 10.      Appeals.**

**1001. Reconsideration of Adverse Regulatory Actions.**

(a)

- (1) An EIDT may ask for reconsideration of any adverse regulatory action taken by the Division of Provider Services and Quality Assurance by submitting a written request for reconsideration to:

Division of Provider Services and Quality Assurance  
Office of the Director  
Requests for Reconsideration of Adverse Regulatory Actions  
P.O. Box 1437, Slot 427  
Little Rock, Arkansas 72203

- (2) The written request for reconsideration, of an adverse regulatory action taken by the Division of Provider Services and Quality Assurance, must be submitted by the EIDT and received by the Division of Provider Services and Quality Assurance within thirty (30) calendar days of the date that the EIDT received written notice of the adverse regulatory action.
- (3) The written request for reconsideration of an adverse regulatory action, taken by the Division of Provider Services and Quality Assurance, must include without limitation the:
  - (A) Specific adverse regulatory action taken;
  - (B) Date of the adverse regulatory action;
  - (C) Name of the EIDT against whom the adverse regulatory action was taken;
  - (D) Address and contact information for the EIDT against whom the adverse regulatory action was taken; and
  - (E) A legal and factual basis for the reconsideration of the adverse regulatory action.

(b)

- (1) The Division of Provider Services and Quality Assurance shall review each, timely received, written request for reconsideration, and determine whether to affirm or reverse the adverse regulatory action taken, based on these standards.

- (2) The Division of Provider Services and Quality Assurance may request, at its discretion, additional information as needed to review the adverse regulatory action and determine whether the adverse regulatory action taken should be affirmed or reversed based on these standards.
- (c)
- (1) The Division of Provider Services and Quality Assurance shall issue in writing its determination on reconsideration within thirty (30) days of receiving the written request for reconsideration or within thirty (30) days of receiving all information requested by DPSQA under subsection (b)(2) of this section, whichever is later.
  - (2) The Division of Provider Services and Quality Assurance shall issue its determination to the EIDT using the address and contact information provided in the request for reconsideration.
- (d)
- (1) An applicant may ask for reconsideration of a determination by DDS, to ensure that a county is not underserved, by submitting a written request for reconsideration pursuant to Division of Developmental Disabilities Services Policy 1076.
  - (2) If a determination that a county is not underserved is reversed on reconsideration by the Division of Developmental Disabilities Services or on appeal by an agency or court with jurisdiction:
    - (i) The applicant shall notify the Division of Provider Services and Quality Assurance of the reversal and submit a written request for reconsideration to the Division of Provider Services and Quality Assurance, as provided in this section, for any adverse regulatory action taken by the Division of Provider Services and Quality Assurance based on the initial determination; and
    - (ii) The Division of Provider Services and Quality Assurance shall review the written request for reconsideration as provided in this section.
- (e) The Division of Provider Services and Quality Assurance may also decide to reconsider any adverse regulatory action, on its own accord, any time it determines in its discretion that an adverse regulatory action is not consistent with these standards.

**1002. Appeal of Regulatory Actions.**

- (a)

- (1) An EIDT may administratively appeal any adverse regulatory action, to the Office of Appeals and Hearings; Department of Human Services, except for provider appeals related to the payment for Medicaid claims and services governed by the Medicaid Fairness Act, Arkansas Code § 20-77-1701 -1718, which shall be governed by that act.
  - (2) The office shall conduct administrative appeals of adverse regulatory actions pursuant to DHS Policy 1098 and other applicable laws and rules.
- (b) An EIDT may appeal any adverse regulatory action or other adverse agency action to circuit court as allowed by the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

PROPOSED

STATE ARKANSAS

AMOUNT, DURATION AND SCOPE OF  
SERVICES PROVIDED

Revised: July 1, 2018

2022

MEDICALLY NEEDY

---

23. Any other medical care and any other type of remedial care recognized under State law, specified by the Secretary.

a. Transportation

(1) A. Ground Ambulance Services

For transportation of recipients when medically necessary as certified by a physician to a hospital, to a nursing home from the hospital or patient's home, to the patient's home from the hospital or nursing home, from a hospital (after receiving emergency outpatient treatment) to a nursing home if a patient is bedridden and from a nursing home to another nursing home if determined necessary by the Office of Long Term Care. Emergency service is covered only through licensed emergency ambulance companies. Services not allowed by Title XVIII but covered under Medicaid will be paid for Medicare/Medicaid recipients.

These services will be equally available to all recipients.

B. Air Ambulance Services

Air ambulance services are provided to Arkansas Medicaid beneficiaries only in emergencies.

Air ambulance providers must be licensed by the Arkansas Ambulance Boards and enrolled as a Title XVIII, Medicare Provider.

(2) Early Intervention Day Treatment (EDIT) and Adult Developmental Day Treatment (ADDT) Transportation

EDIT and ADDT providers may provide transportation to and from a ~~DDTCS~~their facility. The Medicaid transportation broker must provide transportation to and from the nearest qualified medical provider for the purpose of obtaining medical treatment.

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METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES -  
OTHER TYPES OF CARE

Revised:

July 1, ~~2019~~2022

23. Any other medical care and any other type of remedial care recognized under State law, specified by the Secretary.

a. Transportation (Continued)

(3) Emergency Medical Transportation Access Payment (continued)

(6) For each QEMT, the Division shall calculate the sum of each of the amounts calculated for emergency medical transportation services in Subparagraph (B (5)).

(7) The Division shall provide a demonstration that access payments are for the state fiscal year are within the applicable fee-for-service upper payment limits as defined in 42 CFR 447.272, when the upper payment limit demonstrations are due for the fiscal year. If the demonstration shows that payments for any category have exceeded the UPL, the state will take corrective action as determined by CMS.

(C) The Division shall reimburse QEMTs the access payment of eighty percent (80%) of their UPL gap.

(D) These access payments are considered supplemental payments and do not replace any currently authorized Medicaid payments for emergency medical transportation services.

(4) Early Intervention Day Treatment (EIDT) and Adult Developmental Day Treatment (ADDT) Transportation

Effective for claims with dates of service on or after July 1, ~~2018~~2022, EIDT and ADDT transportation providers will be reimbursed on a per **person, per** mile basis at the lesser of the billed charges or the maximum Title XIX (Medicaid) charge allowed. Transportation will be covered from the point of pick-up to the EIDT ~~and or~~ ADDT facility and from the EIDT ~~and or~~ ADDT facility to the point of delivery. ~~If more than one eligible Medicaid recipient is transported at the same time to the same location, Medicaid may be billed only for one recipient. If more than one Medicaid recipient is transported at the same time to different locations, the provider may bill only for the recipient traveling the farthest distance.~~ The route must be planned to ensure that beneficiaries spend the least amount of time being transported. The maximum per mile is based on reasonable cost.

The EIDT and ADDT transportation providers will submit annual statements of mileage, revenues and expenses, i.e. salaries, repairs, supplies, rent, indirect overhead costs, etc. ~~The State Agency will review the cost and mileage information at least biennially and adjust the reimbursement rate if necessary. Therefore, an inflation factor will not be automatically applied.~~

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES -  
OTHER TYPES OF CARE

Revised:

July 1, 2022

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