EXHIBIT M

DEPARTMENT OF HUMAN SERVICES, DIVISION OF AGING, ADULT, & BEHAVIORAL HEALTH SERVICES

SUBJECT: Appendix K Extension Amendments for Limited Items

DESCRIPTION: The Director of the Division of Aging, Adult and Behavioral Services amends the ARChoices in Homecare and Living Choices Waivers to extend the date of the Workforce Stabilization Incentive Program to March 31, 2025. The plan implements the approved American Rescue Plan Act (ARP) spending plan. For the Living Choices Waiver, the current rates expire on November 10, 2023. DHS seeks to amend the base waiver to continue the current per person per day rate of $81.59, with an additional 5% differential for rural facilities which totals $85.67. The continuation of the foregoing rates within the proposed amendments reflects an average of $83.63.

PUBLIC COMMENT: A public hearing was held on this rule on October 11, 2023. The public comment period expired on October 30, 2023. The agency indicated that it received no public comments.

The proposed effective date is January 1, 2024.

FINANCIAL IMPACT: The agency indicated that this rule has no financial impact.

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).

Division of Aging, Adult, & Behavioral Health Services
P.O. Box 1437, Slot W241, Little Rock, AR 72203-1437
P: 501.686.9164

September 29, 2023

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

Re: Appendix K Extension Amendments for Limited Items

Dear Ms. Miller-Rice:

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.

Sincerely,

Mac Golden

Mac Golden
Deputy Chief, Office of Rules Promulgation

MG:

Attachments

QUESTIONNAIRE FOR FILING PROPOSED RULES WITH THE ARKANSAS LEGISLATIVE COUNCIL

DEPARTMENT Department of Human Services
BOARD/COMMISSION Division of Aging, Adult and Behavioral Services
BOARD/COMMISSION DIRECTOR Jay Hill
CONTACT PERSON Mac Golden
ADDRESS P. O. Box 1437, Slot S295 Little Rock, AR 72203-1437
PHONE NO. (501) 320-6383 **EMAIL** Mac.E.Golden@dhs.arkansas.gov
NAME OF PRESENTER(S) AT SUBCOMMITTEE MEETING
Jay Hill
PRESENTER EMAIL(S) Jay.Hill@dhs.arkansas.gov

INSTRUCTIONS

In order to file a proposed rule for legislative review and approval, please submit this Legislative Questionnaire and Financial Impact Statement, and attach (1) a summary of the rule, describing what the rule does, the rule changes being proposed, and the reason for those changes; (2) both a markup and clean copy of the rule; and (3) all documents required by the Questionnaire.

If the rule is being filed for permanent promulgation, please email these items to the attention of Rebecca Miller-Rice, miller-ricer@blr.arkansas.gov, for submission to the Administrative Rules Subcommittee.

If the rule is being filed for emergency promulgation, please email these items to the attention of Director Marty Garrity, garritym@blr.arkansas.gov, for submission to the Executive Subcommittee.

Please answer each question completely using layman terms.

****

1. What is the official title of this rule?
Appendix K Extension Amendments for Limited Items

2. What is the subject of the proposed rule? Extend the Workforce Stabilization Incentive Program to 3/31/25

3. Is this rule being filed under the emergency provisions of the Arkansas Administrative Procedure Act? Yes ☐ No ☑

If yes, please attach the statement required by Ark. Code Ann. § 25-15-204(c)(1).

If yes, will this emergency rule be promulgated under the permanent provisions of the Arkansas Administrative Procedure Act? Yes ☐ No ☐

4. Is this rule being filed for permanent promulgation? Yes ☑ No ☐

If yes, was this rule previously reviewed and approved under the emergency provisions of the Arkansas Administrative Procedure Act? Yes ☐ No ☑

If yes, what was the effective date of the emergency rule? _____

On what date does the emergency rule expire?_____

5. Is this rule required to comply with a *federal* statute, rule, or regulation? Yes ☐ No ☑

If yes, please provide the federal statute, rule, and/or regulation citation.

6. Is this rule required to comply with a *state* statute or rule? Yes ☐ No ☑

If yes, please provide the state statute and/or rule citation.

7. Are two (2) rules being repealed in accord with Executive Order 23-02? Yes ☐ No ☑

If yes, please list the rules being repealed.
If no, please explain.

Governor's Exception

8. Is this a new rule? Yes ☐ No ☑

Does this repeal an existing rule? Yes ☐ No ☑
If yes, the proposed repeal should be designated by strikethrough. If it is being replaced with a new rule, please attach both the proposed rule to be repealed and the replacement rule.

Is this an amendment to an existing rule? Yes ☑ No ☐
If yes, all changes should be indicated by strikethrough and underline. In addition, please be sure to label the markup copy clearly as the markup.

9. What is the state law that grants the agency its rulemaking authority for the proposed rule, outside of the Arkansas Administrative Procedure Act? Please provide the specific Arkansas Code citation(s), including subsection(s).

§§20-76-201, 20-77-107, and 25-10-129

10. Is the proposed rule the result of any recent legislation by the Arkansas General Assembly?
Yes ☐ No ☑

If yes, please provide the year of the act(s) and act number(s).

11. What is the reason for this proposed rule? Why is it necessary?

The Department of Human Services seeks to amend the ARChoices in Homecare and Living Choices Waivers to extend the date of the Workforce Stabilization Incentive Program to March 31, 2025. The plan implements the approved American Rescue Plan Act (ARP) spending plan.

For the Living Choices Waiver, current rates expire on November 10, 2023. DHS seeks to amend the base waiver to continue the current per person per day rate of $81.59, with an additional 5% differential for rural facilities which totals $85.67. The continuation of the foregoing rates within the proposed amendments reflects an average of $83.63. Absent the amendments, the rate would revert to $67.25.

12. Please provide the web address by which the proposed rule can be accessed by the public as provided in Ark. Code Ann. § 25-19-108(b)(1).

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

13. Will a public hearing be held on this proposed rule? Yes ☑ No ☐

If yes, please complete the following:

Date: 10/11/2023

Time: 10:00 am

Place: https://us02web.zoom.us/j/83568388804 ; Webinar ID: 835 6838 8804

Please be sure to advise Bureau Staff if this information changes for any reason.

14. On what date does the public comment period expire for the permanent promulgation of the rule? Please provide the specific date. 10/30/2023

15. What is the proposed effective date for this rule? January 1, 2024

16. Please attach (1) a copy of the notice required under Ark. Code Ann. § 25-15-204(a)(1) and (2) proof of the publication of that notice.

17. Please attach proof of filing the rule with the Secretary of State, as required by Ark. Code Ann. § 25-15-204(e)(1)(A).

18. Please give the names of persons, groups, or organizations that you anticipate will comment on these rules. Please also provide their position (for or against), if known.

Arkansas Assisted Living Association
Arkansas Heatlh Care Association

19. Is the rule expected to be controversial? Yes ☑ No ☐

If yes, please explain.

Similar rate adjustment rules in the past have been controversial based upon provider comments.

NOTICE OF RULE MAKING

The Department of Human Services (DHS) 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: §§ 20-76-201, 20-77-107, and 25-10-129.

The Director of the Division of Aging, Adult and Behavioral Services amends the ARChoices in Homecare and Living Choices Waivers to extend the date of the Workforce Stabilization Incentive Program to March 31, 2025. The plan implements the approved American Rescue Plan Act (ARP) spending plan. For the Living Choices Waiver, the current rates expire on November 10, 2023. DHS seeks to amend the base waiver to continue the current per person per day rate of $81.59, with an additional 5% differential for rural facilities which totals $85.67. The continuation of the foregoing rates within the proposed amendments reflects an average of $83.63. As the rates remain the same as currently paid, there is no fiscal impact.

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 ar.gov/dhs-proposed-rules. Public comments must be submitted in writing at the above address or at the following email address: ORP@dhs.arkansas.gov. All public comments must be received by DHS no later than October 30, 2023. 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 October 11, 2023 at 10:00 a.m.and public comments may be submitted at the hearing. Individuals can access this public hearing at https://us02web.zoom.us/j/83568388804. The webinar ID is 835 6838 8804. 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.

If you need this material in a different format, such as large print, contact the Office of Rules Promulgation at 501-320-6428.

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. 4502172997

Jay Hill, Director
Division of Aging, Adult and Behavioral Services

From:	legalads@arkansasonline.com
To:	Chloe Crater
Subject:	Re: FULL RUN AD - Appendix K Extension Amendments for Limited Items Public Hearing
Date:	Friday, September 29, 2023 2:13:33 PM
Attachments:	image001.png image002.png

[EXTERNAL SENDER]

Chloe,

Will run Sun 10/1, Mon 10/2, and Tues 10/3. Have a great weekend!

Gregg Sterne, Legal Advertising
Arkansas Democrat-Gazette
legalads@arkansasonline.com

From: "Chloe Crater" <Chloe.Crater@dhs.arkansas.gov>
To: "legalads" <legalads@arkansasonline.com>
Cc: "Jack Tiner" <jack.tiner@dhs.arkansas.gov>, "Mac Golden" <Mac.E.Golden@dhs.arkansas.gov>, "Lakeya Gipson" <Lakeya.Gipson@dhs.arkansas.gov>, "Elaine Stafford" <elaine.stafford@dhs.arkansas.gov>, "Thomas Herndon" <Thomas.Herndon@dhs.arkansas.gov>
Sent: Friday, September 29, 2023 10:55:59 AM
Subject: FULL RUN AD - Appendix K Extension Amendments for Limited Items Public Hearing

Hi Gregg,

Please run the attached ad in the Arkansas Democrat-Gazette on the following days:

- Sunday October 1, 2023
- Monday October 2, 2023
- Tuesday October 3, 2023

A public hearing by remote access only will be held through a Zoom webinar. The public comment period will end on October 30, 2023.

Invoice to: **AR Dept of Human Services**
P.O. Box 1437
Slot S535
Little Rock, AR 72203
ATTN: Elaine Stafford
(Elaine.stafford@dhs.arkansas.gov)

Or email invoices to: dms.invoices@arkansas.gov

Please let me know if you need anything further from me.

-Thanks
Chloe

CHLOE CRATER-BETTON
OFFICE OF LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS – RULES PROMULGATION
PROGRAM ADMINISTRATOR

P: 501-320-6217
700 MAIN STREET
Little Rock, AR 72201
Chloe.Crater@dhs.arkansas.gov

humanservices.arkansas.gov

From:	Chloe Crater
To:	register@sos.arkansas.gov
Cc:	Mac Golden; Jack Tiner; Lakeya Gipson; Thomas Herndon; Amanda Cox
Subject:	DHS/DAABHS - PROPOSED FILING - Appendix K Extension Amendments for Limited Items
Date:	Friday, September 29, 2023 2:26:00 PM
Attachments:	image001.png image002.png RULE SOS INITIAL FILING - Rule 252 - Appendix K Extension Amendments for Limited Items.corrected.pdf

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The Rule will run the following three consecutive days in the Arkansas Democrat Gazette.

- Sunday October 1, 2023
- Monday October 2, 2023
- Tuesday October 3, 2023

A public hearing by remote access only will be held through a Zoom webinar. The public comment period will end on October 30, 2023.

-Thanks
Chloe

DHS
CHLOE CRATER-BETTON
OFFICE OF LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS – RULES PROMULGATION
PROGRAM ADMINISTRATOR

P: 501-320-6217
700 MAIN STREET
Little Rock, AR 72201
Chloe.Crater@dhs.arkansas.gov

humanservices.arkansas.gov

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY.

DEPARTMENT Department of Human Services
BOARD/COMMISSION Division of Aging, Adult and Behavioral Services
PERSON COMPLETING THIS STATEMENT Jason Callan
TELEPHONE NO. (501) 320-6540 **EMAIL** Jason.Callan@dhs.arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

TITLE OF THIS RULE Appendix K Extension Amendments for Limited Items

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 no, please explain:

   (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 reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and

   (d) whether the reason for adoption of the more costly rule is within the scope of the agency's statutory authority, and if so, how.

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?

Current Fiscal Year	**Next Fiscal Year**
General Revenue_____	General Revenue_____
Federal Funds_____	Federal Funds_____
Cash Funds_____	Cash Funds_____
Special Revenue_____	Special Revenue_____
Other (Identify)_____	Other (Identify)_____
Total_____	Total_____

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

Current Fiscal Year	**Next Fiscal Year**
General Revenue $0	General Revenue $0
Federal Funds $0	Federal Funds $0
Cash Funds_____	Cash Funds_____
Special Revenue_____	Special Revenue_____
Other (Identify)_____	Other (Identify)_____
Total $ 0.00	Total $ 0.00

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

Current Fiscal Year	**Next Fiscal Year**
$_____	$_____

6. What is the total estimated cost by fiscal year to a state, county, or 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	**Next Fiscal Year**
$ 0.00	$ 0.00

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;

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

(3) a description of the factual evidence that:
(a) justifies the agency's need for the proposed rule; and
(b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;

(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;

(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;

(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

(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.

Request for a Amendment to a §1915(c) Home and Community-Based ServicesWaiver

1. Request Information

A. The **State** of **Arkansas** requests approval for a Medicaid home and community-based services (HCBS) waiver under the authority of §1915(c) of the Social Security Act (the Act).

B. Program Title (*optional - this title will be used to locate this waiver in the finder*):
Living Choices Assisted Living Waiver

C. Waiver Number:AR.0400
Original Base Waiver Number: AR.0400

D. Amendment Number: AR0400.R04.016.04.07

E. Proposed Effective Date: (mm/dd/yy)
~~07/01/21~~11/11/023

Approved Effective Date: 07/01/21

2. Purpose of Amendment

Purpose(s) of the Amendment. Describe the purpose(s) of the amendment:

Arkansas has an approved American Rescue Plan Act (ARP) Spending Plan under Section 9817 that outlines the Workforce Stabilization Incentive Program (Program). The effective dates of the Program are from October 1, 2021 to March 31, 2025. Due to the expiration of the Appendix K, the State is seeking to amend the base waiver to include the Program terms.

Likewise, due to the Appendix K expiration date, the State is seeking to amend the base waiver to include the current per person per day rate of $81.59, with an additional 5% differential for rural facilities which totals $85.67. The State has amended Appendix J to also reflect these rates.

3 Nature of Amendment

A. Component(s) of the Approved Waiver Affected by the Amendment. This amendment affects the following component(s) of the approved waiver. Revisions to the affected subsection(s) of these component(s) are being submitted concurrently (check each that applies):

Component of the Approved Waiver	Subsection
☐ Waiver Application	
☐ Appendix A: Waiver Administration and Operation	
☐ Appendix B: Participant Access and Eligibility	
☐ Appendix C: Participant Services	
☐ Appendix D: Participant Centered Service Planning and Delivery	
☐ Appendix E: Participant Direction of Services	
☐ Appendix F: Participant Rights	
☐ Appendix G: Participant Safeguards	
☐ Appendix H:	
☒ ~~☐~~ Appendix I: Financial Accountability	**I-2: Rates, Billing and Claims** **I-3: Payment (3 of 7)**
☒ ~~☐~~ Appendix J: Cost-Neutrality Demonstration	**J-1:Composite Overview** **J-2: Derivation of Estimates**

B. Nature of the Amendment. Indicate the nature of the changes to the waiver that are proposed in the amendment *(check each that applies):*

- ☐ **Modify target group(s)**
- ☐ **Modify Medicaid eligibility**
- ☐ **Add/delete services**
- ☐ **Revise service specifications**
- ☐ **Revise provider qualifications**
- ☐ **Increase/decrease number of participants**
- ☐ **Revise provider qualifications**
- ☒ **Revise cost neutrality demonstration**
- ☐ **Add participant-direction of services**
- ☒ **Other**

Specify:

The State is seeking to amend the base waiver to add supplemental or enhanced payments for waiver services as specified in Appendix I.

7.Contact Person(s)

B. If applicable, the state operating agency representative with whom CMS should communicate regarding the waiver is:

Last Name: ~~Gann~~Jay

First Name: ~~Patricia~~Hill

Title: ~~Deputy Director~~Division Director

Agency: Arkansas Dept. of Human Services; Division of Aging, Adult, and Behavioral Health Services

Address: P. O. Box 1437, Slot W-241

Address 2:

City: Little Rock

State: **Arkansas**

Zip: 72203-1437

Phone: (501) ~~682-1971~~686-9981 **Ext:** ☐ **TTY**

Fax: (501) 686-9182

E-mail: ~~Patricia.Gann~~Jay.Hill@dhs.arkansas.gov

6.Additional Requirements

A. Service Plan. In accordance with 42 CFR §441.301(b)(1)(i), a participant-centered service plan (of care) is developed for each participant employing the procedures specified in **Appendix D**. All waiver services are furnished pursuant to the service plan. The service plan describes: (a) the waiver services that are furnished to the participant, their projected frequency and the type of provider that furnishes each service and (b) the other services (regardless of funding source, including state plan services) and informal supports that complement waiver services in meeting the needs of the participant. The service plan is subject to the approval of the Medicaid agency. Federal financial participation (FFP) is not claimed for waiver services furnished prior to the development of the service plan or for services that are not included in the service plan.

B. Inpatients. In accordance with 42 CFR §441.301(b)(1)(ii), waiver services are not furnished to individuals who are in-patients of a hospital, nursing facility or ICF/IID.

C. Room and Board. In accordance with 42 CFR §441.310(a)(2), FFP is not claimed for the cost of room and board except when: (a) provided as part of respite services in a facility approved by the state that is not a private residence or (b) claimed as a portion of the rent and food that may be reasonably attributed to an unrelated caregiver who resides in the same household as the participant, as provided in **Appendix I**.

D. Access to Services. The state does not limit or restrict participant access to waiver services except as provided in **Appendix C**.

E. Free Choice of Provider. In accordance with 42 CFR §431.151, a participant may select any willing and qualified provider to furnish waiver services included in the service plan unless the state has received approval to limit the number of providers under the provisions of §1915(b) or another provision of the Act.

F. FFP Limitation. In accordance with 42 CFR §433 Subpart D, FFP is not claimed for services when another third-party (e.g., another third party health insurer or other federal or state program) is legally liable and responsible for the provision and payment of the service. FFP also may not be claimed for services that are available without charge, or as free care to the community. Services will not be considered to be without charge, or free care, when (1) the provider establishes a fee schedule for each service available and (2) collects insurance information from all those served (Medicaid, and non-Medicaid), and bills other legally liable third party insurers. Alternatively, if a provider certifies that a particular legally liable third party insurer does not pay for the service(s), the provider may not generate further bills for that insurer for that annual period.

G. Fair Hearing: The state provides the opportunity to request a Fair Hearing under 42 CFR §431 Subpart E, to individuals: (a) who are not given the choice of home and community-based waiver services as an alternative to institutional level of care specified for this waiver; (b) who are denied the service(s) of their choice or the provider(s) of their choice; or (c) whose services are denied, suspended, reduced or terminated. **Appendix F** specifies the state's procedures to provide individuals the opportunity to request a Fair Hearing, including providing notice of action as required in 42 CFR §431.210.

H. Quality Improvement. The state operates a formal, comprehensive system to ensure that the waiver meets the assurances and other requirements contained in this application. Through an ongoing process of discovery, remediation and improvement, the state assures the health and welfare of participants by monitoring: (a) level of care determinations; (b) individual plans and services delivery; (c) provider qualifications; (d) participant health and welfare; (e) financial oversight and (f) administrative oversight of the waiver. The state further assures that all problems identified through its discovery processes are addressed in an appropriate and timely manner, consistent with the severity and nature of the problem. During the period that the waiver is in effect, the state will implement the Quality Improvement Strategy specified in **Appendix H**.

I. Public Input. Describe how the state secures public input into the development of the waiver:

Policy and form revisions, procedural changes and clarifications have been made through the years based on input from participants, family, and providers. Comments have been reviewed and appropriate action taken to incorporate changes to benefit the participant, service delivery, and quality of care. Comments and public input have been gathered through routine monitoring of program requirements, provider workshops/trainings, program integrity audits, monitoring of participants, and contact with stakeholders. All of these experiences and lessons learned from the public and the resulting improvements are applied to the operations of Living Choices.

Notices of amendments and renewals of the waiver are posted on the DMS website [insert web address] for at least 30 days to allow for the general public to submit comments on changes. Notices of amendments and renewals are also published in a statewide newspaper with instruction for submitting comments to DMS.

The public notice for this waiver renewal was published in the Arkansas Democrat-Gazette on [insert dates]~~April 14-16, 2021~~. The comment period ended xx/xx/xxxx.~~May 13, 2021~~ Physical copies of the proposed waiver amendment were mailed to constituents upon request. A public hearing was held on [insert date]~~April 16, 2020~~. No comments were received.

J. Notice to Tribal Governments. The state assures that it has notified in writing all federally-recognized Tribal Governments that maintain a primary office and/or majority population within the State of the State's intent to submit a Medicaid waiver request or renewal request to CMS at least 60 days before the anticipated submission date is provided by Presidential Executive Order 13175 of November 6, 2000. Evidence of the applicable notice is available through the Medicaid Agency.

K. Limited English Proficient Persons. The state assures that it provides meaningful access to waiver services by Limited English Proficient persons in accordance with: (a) Presidential Executive Order 13166 of August 11, 2000 (65 FR 50121) and (b) Department of Health and Human Services "Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons" (68 FR 47311 - August 8, 2003). **Appendix B** describes how the state assures meaningful access to waiver services by Limited English Proficient persons.

Appendix I: Financial Accountability

I-2: Rates, Billing and Claims (1 of 3)

a. Rate Determination Methods. *In two pages or less, describe the methods that are employed to establish provider payment rates for waiver services and the entity or entities that are responsible for rate determination. Indicate any opportunity for public comment in the process. If different methods are employed for various types of services, the description may group services for which the same method is employed. State laws, regulations, and policies referenced in the description are available upon request to CMS through the Medicaid agency or the operating agency (if applicable).*

DMS is responsible for the oversight of rate determinations with consultation by DAABHS. There is an established procedure followed by DMS to conduct rate studies, get provider input, and rebase rates when needed. Rates are published for public comment and are made available to all providers before implementation of the new rate via an official notice from DMS. Upon enrollment with Medicaid, new providers are referred to the Arkansas Medicaid website which has published fee schedules. Various methodologies are used for rate determination depending on the waiver service.

Throughout the Covid 19 pandemic and National Public Health Emergency, there has been an increase in the need for direct care staff with increased provider personnel cost due to workforce shortages. Arkansas updated the per person per day rate due to this reason through an Appendix K.

The State will continue to utilize the approved Appendix K per person per day rate of $81.59 with an additional 5% differential for rural facilities, which totals $85.67 until data can be received and verified in accordance with Arkansas law, and if warranted, the State will seek any needed amendments.

~~*The Division of Medical Services is required to conduct rate reviews for every Medicaid program in a three year cycle. Living Choices rates were reviewed in 2021 (year 3 of the cycle). The rates were updated last in 2019. The most recent*~~

~~review indicated that no rate rebasing was needed.~~

The rates may be found at https://humanservices.arkansas.gov/wp-content/uploads/LCAL-fees.pdf

~~*Assisted Living Facility Rate Determination Methods: This waiver renewal reforms the payment rate determination method for assisted living facilities (ALFs) serving waiver participants*~~*. For purposes of this waiver, "assisted living facility" means a Medicaid-certified and enrolled assisted living facility with a Level II license.* ~~*As described below, a rate change takes effect 01/01/2019, with the implementation of the rate phased in over two years*~~*.*

~~*Methods Employed to Determine Rates: To establish the new assisted living facility payment methodology, the State employed An actuarial analysis by the Arkansas Medicaid program's contracted actuaries. This included a cost survey of assisted living facilities and consideration of other states' federally approved rate methods and rate levels; direct care cost factors (e.g., direct care work wages and benefits, direct care related supervision and overhead); Arkansas labor market wage levels; rate scenarios; and Arkansas' minimum and prevailing assisted living facility staffing levels. The actuary's report is available to CMS upon request through the Division of Aging, Adult, and Behavioral Health Services (DAABHS).*~~

The rate methodology excludes reimbursement of room and board costs. *The rates are not funded through ARP funding.*

The new methodology and resulting per diem rates provide for payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough assisted living facility providers, as required under 42 U.S.C. 1396a(a)30(A) and 42 CFR §447.200-205.

Uniform, Statewide Rate Methodology: The rate methodology is uniform and applies statewide to all Level II licensed assisted living facilities serving waiver participants.

Opportunities for Public Comment: Before submitting this waiver renewal to CMS for federal review and approval, DHS engaged in various opportunities for public comment including a webinar. These are in addition to the public comment process for this waiver renewal and the revised provider manual. Further, both the waiver renewal and the revised provider manual undergo prior review by Arkansas legislative committees.

See Main Section 6-I for additional information.

Entities Responsible for Rate Determination and Oversight of Rate Determination Process: As the Medicaid agency, DMS is responsible for oversight of all Medicaid rate determinations and for ensuring that provider payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers. DAABHS is responsible for day-to-day waiver administration, service planning, and access and care delivery in the waiver and DPSQA is responsible for ALF licensure, ALF Medicaid certification, provider accountability, quality of care, inspections, and auditing) jointly monitor to ensure that assisted living facility payments are consistent with the requirements of 42 U.S.C. § 1396a(a)30(A) and 42 CFR § 447.200-205.

Appendix I: Financial Accountability

I-3: Payment (3 of 7)

a. Supplemental or Enhanced Payments. *Section 1902(a)(30) requires that payments for services be consistent with efficiency, economy, and quality of care. Section 1903(a)(1) provides for Federal financial participation to states for expenditures for services under an approved state plan/waiver. Specify whether supplemental or enhanced payments are made. Select one:*

- ○ ***No. The state does not make supplemental or enhanced payments for waiver services.***
- ◉ ***Yes. The state makes supplemental or enhanced payments for waiver services.***

Describe: (a) the nature of the supplemental or enhanced payments that are made and the waiver services for which these payments are made; (b) the types of providers to which such payments are made; (c) the source of the non-Federal share of the supplemental or enhanced payment; and, (d) whether providers eligible to receive the

supplemental or enhanced payment retain 100% of the total computable expenditure claimed by the state to CMS. Upon request, the state will furnish CMS with detailed information about the total amount of supplemental or enhanced payments to each provider type in the waiver.

Arkansas has an approved American Rescue Plan Act (ARP) Spending Plan under section 9817 that outlines the Workforce Stabilization Incentive Program. The effective dates of the Workforce Stabilization Incentive Program are from October 1, 2021 to March 31, 2025. Due to the expiration of the Appendix K, the State is seeking to amend the base waiver to include the Program. Arkansas has designed a HCBS Workforce Stabilization Incentive Program to allow providers to customize resources that best fit their organization's size, operational needs, and business priorities. The State allotted funding to providers using the following incentive categories:

Hiring bonus: new direct service providers (DSPs) hired during the ARP effective period (i.e., October 1, 2021 through March 31, 2025) may receive a hiring/recruitment payment after completing a minimum of thirty (30) calendar days of employment. The payment may be made in installments based on the provider's business model but cannot exceed $1,000 per employee or contractor. Longevity bonus: longevity payments for DSPs who continuously provide service with the same employer for a minimum of three (3) months. The bonus cannot be paid in a one-time lump sum and must recur on a regular cadence determined by the employer. The recurring bonus can be paid through March 31, 2025, or until the provider allocation is depleted. Individual DSPs can earn bonuses up the Longevity Bonus cap but cannot exceed $15,000 total per employee or contractor. Complex Care Longevity bonus: complex care longevity payments for DSPs who provide care to at least one (1) individual with complex care needs. Bonus payments are provided on regular and recurring basis determined by the employer and is based upon the DSPs experience, commitment and need for the employee to continue to work with the complex care recipient. DSPs can earn bonuses up to the Complex Care Longevity Bonus cap but cannot exceed $3,500 total per employee or contractor. Complex Care means a history of: legal involvement, elopement risk, combative or aggressive behavior, multiple inpatient placements, DCFS or DYS involvement, or wheelchair or bed bound.

Appendix J: Cost Neutrality Demonstration

J-1: Composite Overview and Demonstration of Cost-Neutrality Formula

Composite Overview. *Complete the fields in Cols. 3, 5 and 6 in the following table for each waiver year. The fields in Cols. 4, 7 and 8 are auto-calculated based on entries in Cols 3, 5, and 6. The fields in Col. 2 are auto-calculated using the Factor D data from the J-2-d Estimate of Factor D tables. Col. 2 fields will be populated ONLY when the Estimate of Factor D tables in J-2-d have been completed.*

Level(s) of Care: Nursing Facility

Col. 1	*Col. 2*	*Col. 3*	*Col. 4*	*Col. 5*	*Col. 6*	*Col. 7*	*Col. 8*
Year	*Factor D*	*Factor D'*	*Total: D+D'*	*Factor G*	*Factor G'*	*Total: G+G*	*Difference (Col 7 less Column4)*
1	*17209.55*	*2173.00*	*19382.55*	*40959.00*	*1687.00*	*42646.00*	*23263.45*
2	*17209.55*	*2244.00*	*19453.55*	*42296.00*	*1742.00*	*44038.00*	*24584.45*
3	~~*21368.222*~~ *1368.22*	*2317.00*	~~*19526.55*~~ *23685.22*	*43677.00*	*1799.00*	*45476.00*	~~*25949.45*~~ *21790.78*
4	*17209.55* *21368.22*	*2393.00*	~~*19602.55*~~ *23761.22*	*45102.00*	*1858.00*	*46960.00*	~~*27357.45*~~ *23198.78*
5	*17209.55* *21368.22*	*2471.00*	~~*19680.55*~~ *23839.22*	*46574.00*	*1919.00*	*48493.00*	~~*28812.45*~~ *24653.78*

J-2: Derivation of Estimates (3 of 9)

a. Derivation of Estimates for Each Factor. *Provide a narrative description for the derivation of the estimates of the following factors.*

i. Factor D Derivation. *The estimates of Factor D for each waiver year are located in Item J-2-d. The basis and methodology for these estimates is as follows:*

Factor D is derived from current reporting of expenditures from the Medicaid DSS and consideration of previous waiver estimates of utilization and growth rates. Factor D was calculated utilizing data from 01/01/2019 through

12/31/2019.

The unduplicated cap of 1725 was used as the number of users for WY1-WY5 to allow for full-year participation of each available slot. Given the average length of stay of 291 days, the state calculates 1,505 as the maximum number of unduplicated participants who can be served under a point-in-time (PIT) maximum of 1,200. The calculation is:

1,200 (max PIT cap) x 365 days ÷ 291 days (avg. length of stay) = 1,505

This exact amount was used for the estimated number of users in Appendix J-2-d. Units per user was calculated based on actual usage from 02/01/2016-01/31/2019

Extended Medicaid State Plan Prescription Drug costs were estimated based on actual costs from the previous 5 years of the waiver. The most recent data from Medicaid DSS shows that this service cost has remained constant, therefore, we do not anticipate an increase in utilization of this service. The number of users for this service has increased over the last 5 years and have been updated to reflect more users of this service.

The Extended Medicaid State Plan Prescription Drug service was calculated utilizing the actual cost of services from 02/01/2016-01/31/2019.

The State will continue to utilize the approved Appendix K per person per day rate of $81.59 with an additional 5% differential for rural facilities, which totals $85.67 until data can be received and verified in accordance with Arkansas law, and if warranted, the State will seek any needed amendments.

Appendix J: Cost Neutrality Demonstration

J-2: Derivation of Estimates (7 of 9)

d. Estimate of Factor D.

i. Non-Concurrent Waiver. *Complete the following table for each waiver year. Enter data into the Unit, # Users, Avg. Units Per User, and Avg. Cost/Unit fields for all the Waiver Service/Component items. Select Save and Calculate to automatically calculate and populate the Component Costs and Total Costs fields. All fields in this table must be completed in order to populate the Factor D fields in the J-1 Composite Overview table.*

Waiver Year: Year 3

Waiver Service/ Component	*Unit*	*# Users*	*Avg. Units Per User*	*Avg. Cost/ Unit*	*ComponentCost*	*Total Cost*
Extended Medicaid State Plan Prescription Drugs Total:						***234000.00***
Extended Medicaid State Plan Prescription Drugs	*1 Month*	*250*	*12.00*	*78.00*	***234000.00***	
Living Choices Assisted Living Services Total:						~~***29452473.75***~~ ***36626176.65***
Living Choices Assisted Living Service	*1 Day*	*1505*	*291.00*	~~*67.25*~~ *83.63*	~~***29452473.75***~~ ***36626176.65***	
				GRAND TOTAL:	~~***29686473.75***~~ ***36860176.65***	
				Total Estimated Unduplicated Participants:	***1725***	
				Factor D (Divide total by number of participants):	~~***17209.55***~~ ***21368.22***	
				Average Length of Stay on the Waiver:	*291*	

Appendix J: Cost Neutrality Demonstration

J-2: Derivation of Estimates (8 of 9)

d. Estimate of Factor D.

i. Non-Concurrent Waiver. *Complete the following table for each waiver year. Enter data into the Unit, # Users, Avg. Units Per User, and Avg. Cost/Unit fields for all the Waiver Service/Component items. Select Save and Calculate to automatically calculate and populate the Component Costs and Total Costs fields. All fields in this table must be completed in order to populate the Factor D fields in the J-1 Composite Overview table.*

Waiver Year: Year 4

Waiver Service/ Component	*Unit*	*# Users*	*Avg. Units Per User*	*Avg. Cost/ Unit*	*ComponentCost*	*Total Cost*
Extended Medicaid State Plan Prescription Drugs Total:						***234000.00***
Extended Medicaid State Plan Prescription Drugs	*1 Month*	*250*	*12.00*	*78.00*	***234000.00***	
Living Choices Assisted Living Services Total:						***36,626,176.65*** ~~***29452473.75***~~
Living Choices Assisted Living Service	*1 Day*	*1505*	*291.00*	~~*67.25*~~ *83.63*	***36,626,176.65*** ~~***29452473.75***~~	
				GRAND TOTAL:	***38,966,260.28*** ~~***29686473.75***~~	
				Total Estimated Unduplicated Participants:	***1725***	
				Factor D (Divide total by number of participants):	***22,589.14*** ~~***17209.55***~~	
				Average Length of Stay on the Waiver:	*291*	

Appendix J: Cost Neutrality Demonstration

J-2: Derivation of Estimates (9 of 9)

d. Estimate of Factor D.

i. Non-Concurrent Waiver. *Complete the following table for each waiver year. Enter data into the Unit, # Users, Avg.*

Units Per User, and Avg. Cost/Unit fields for all the Waiver Service/Component items. Select Save and Calculate to automatically calculate and populate the Component Costs and Total Costs fields. All fields in this table must be completed in order to populate the Factor D fields in the J-1 Composite Overview table.

Waiver Year: Year 5

Waiver Service/ Component	*Unit*	*# Users*	*Avg. Units Per User*	*Avg. Cost/ Unit*	*ComponentCost*	*Total Cost*
Extended Medicaid State Plan Prescription Drugs Total:						***234000.00***
Extended Medicaid State Plan Prescription Drugs	*1 Month*	*250*	*12.00*	*78.00*	***234000.00***	
Living Choices Assisted Living Services Total:						***36,626,176.65*** ~~***29452473.75***~~
Living Choices Assisted Living Service	*1 Day*	*1505*	*291.00*	~~*67.25*~~ *83.63*	***36,626,176.65*** ~~***29452473.75***~~	
				GRAND TOTAL:	~~***29686473.75***~~ ***36860176.65***	
				Total Estimated Unduplicated Participants:	***1725***	
				Factor D (Divide total by number of participants):	~~***17209.55***~~ ***21368.22***	
				Average Length of Stay on the Waiver:	*291*	

1. Request Information

A. The **State** of **Arkansas** requests approval for a Medicaid home and community-based services (HCBS) waiver under the authority of §1915(c) of the Social Security Act (the Act).

B. Program Title (*optional - this title will be used to locate this waiver in the finder*):
Living Choices Assisted Living Waiver

C. Waiver Number:AR.0400
Original Base Waiver Number: AR.0400

D. Amendment Number: AR0400.R04.016.04.07

E. Proposed Effective Date: (mm/dd/yy)
11/11/2023
Approved Effective Date: 07/01/21

2. Purpose of Amendment

Purpose(s) of the Amendment. Describe the purpose(s) of the amendment:

Arkansas has an approved American Rescue Plan Act (ARP) Spending Plan under Section 9817 that outlines the Workforce Stabilization Incentive Program (Program). The effective dates of the Program are from October 1, 2021 to March 31, 2025. Due to the expiration of the Appendix K, the State is seeking to amend the base waiver to include the Program terms.

Likewise, due to the Appendix K expiration date, the State is seeking to amend the base waiver to include the current per person per day rate of $81.59, with an additional 5% differential for rural facilities which totals $85.67. The State has amended Appendix J to also reflect these rates.

3 Nature of Amendment

A. Component(s) of the Approved Waiver Affected by the Amendment. This amendment affects the following component(s) of the approved waiver. Revisions to the affected subsection(s) of these component(s) are being submitted concurrently (check each that applies):

Component of the Approved Waiver	Subsection
☐ Waiver Application	
☐ Appendix A: Waiver Administration and Operation	
☐ Appendix B: Participant Access and Eligibility	
☐ Appendix C: Participant Services	
☐ Appendix D: Participant Centered Service Planning and Delivery	
☐ Appendix E: Participant Direction of Services	
☐ Appendix F: Participant Rights	
☐ Appendix G: Participant Safeguards	
☐ Appendix H:	
☒ Appendix I: Financial Accountability	**I-2: Rates, Billing and Claims** **I-3: Payment (3 of 7)**
☒ Appendix J: Cost-Neutrality Demonstration	**J-1:Composite Overview** **J-2: Derivation of Estimates**

B. Nature of the Amendment. Indicate the nature of the changes to the waiver that are proposed in the amendment *(check each that applies):*

☐ **Modify target group(s)**

☐ **Modify Medicaid eligibility**

- ☐ **Add/delete services**
- ☐ **Revise service specifications**
- ☐ **Revise provider qualifications**
- ☐ **Increase/decrease number of participants**
- ☐ **Revise provider qualifications**
- ☒ **Revise cost neutrality demonstration**
- ☐ **Add participant-direction of services**
- ☒ **Other**

Specify:

The State is seeking to amend the base waiver to add supplemental or enhanced payments for waiver services as specified in Appendix I.

7.Contact Person(s)

B. If applicable, the state operating agency representative with whom CMS should communicate regarding the waiver is:

Last Name: Jay

First Name: Hill

Title: Division Director

Agency: Arkansas Dept. of Human Services; Division of Aging, Adult, and Behavioral Health Services

Address: P. O. Box 1437, Slot W-241

Address 2:

City: Little Rock

State: **Arkansas**

Zip: 72203-1437

Phone: (501) 686-9981 **Ext:** ☐ **TTY**

Fax: (501) 686-9182

E-mail: Jay.Hill@dhs.arkansas.gov

6.Additional Requirements

Note: Item 6-I must be completed.

A. Service Plan. In accordance with 42 CFR §441.301(b)(1)(i), a participant-centered service plan (of care) is developed for

each participant employing the procedures specified in **Appendix D**. All waiver services are furnished pursuant to the service plan. The service plan describes: (a) the waiver services that are furnished to the participant, their projected frequency and the type of provider that furnishes each service and (b) the other services (regardless of funding source, including state plan services) and informal supports that complement waiver services in meeting the needs of the participant. The service plan is subject to the approval of the Medicaid agency. Federal financial participation (FFP) is not claimed for waiver services furnished prior to the development of the service plan or for services that are not included in the service plan.

B. Inpatients. In accordance with 42 CFR §441.301(b)(1)(ii), waiver services are not furnished to individuals who are in-patients of a hospital, nursing facility or ICF/IID.

C. Room and Board. In accordance with 42 CFR §441.310(a)(2), FFP is not claimed for the cost of room and board except when: (a) provided as part of respite services in a facility approved by the state that is not a private residence or (b) claimed as a portion of the rent and food that may be reasonably attributed to an unrelated caregiver who resides in the same household as the participant, as provided in **Appendix I**.

D. Access to Services. The state does not limit or restrict participant access to waiver services except as provided in **Appendix C**.

E. Free Choice of Provider. In accordance with 42 CFR §431.151, a participant may select any willing and qualified provider to furnish waiver services included in the service plan unless the state has received approval to limit the number of providers under the provisions of §1915(b) or another provision of the Act.

F. FFP Limitation. In accordance with 42 CFR §433 Subpart D, FFP is not claimed for services when another third-party (e.g., another third party health insurer or other federal or state program) is legally liable and responsible for the provision and payment of the service. FFP also may not be claimed for services that are available without charge, or as free care to the community. Services will not be considered to be without charge, or free care, when (1) the provider establishes a fee schedule for each service available and (2) collects insurance information from all those served (Medicaid, and non-Medicaid), and bills other legally liable third party insurers. Alternatively, if a provider certifies that a particular legally liable third party insurer does not pay for the service(s), the provider may not generate further bills for that insurer for that annual period.

G. Fair Hearing: The state provides the opportunity to request a Fair Hearing under 42 CFR §431 Subpart E, to individuals: (a) who are not given the choice of home and community-based waiver services as an alternative to institutional level of care specified for this waiver; (b) who are denied the service(s) of their choice or the provider(s) of their choice; or (c) whose services are denied, suspended, reduced or terminated. **Appendix F** specifies the state's procedures to provide individuals the opportunity to request a Fair Hearing, including providing notice of action as required in 42 CFR §431.210.

H. Quality Improvement. The state operates a formal, comprehensive system to ensure that the waiver meets the assurances and other requirements contained in this application. Through an ongoing process of discovery, remediation and improvement, the state assures the health and welfare of participants by monitoring: (a) level of care determinations; (b) individual plans and services delivery; (c) provider qualifications; (d) participant health and welfare; (e) financial oversight and (f) administrative oversight of the waiver. The state further assures that all problems identified through its discovery processes are addressed in an appropriate and timely manner, consistent with the severity and nature of the problem. During the period that the waiver is in effect, the state will implement the Quality Improvement Strategy specified in **Appendix H**.

I. Public Input. Describe how the state secures public input into the development of the waiver:

Policy and form revisions, procedural changes and clarifications have been made through the years based on input from participants, family, and providers. Comments have been reviewed and appropriate action taken to incorporate changes to benefit the participant, service delivery, and quality of care. Comments and public input have been gathered through routine monitoring of program requirements, provider workshops/trainings, program integrity audits, monitoring of participants, and contact with stakeholders. All of these experiences and lessons learned from the public and the resulting improvements are applied to the operations of Living Choices.

Notices of amendments and renewals of the waiver are posted on the DMS website [insert web address] for at least 30 days to allow for the general public to submit comments on changes. Notices of amendments and renewals are also published in a statewide newspaper with instruction for submitting comments to DMS.

The public notice for this waiver renewal was published in the Arkansas Democrat-Gazette on [insert dates]. The comment period ended xx/xx/xxxx. Physical copies of the proposed waiver amendment were mailed to constituents upon request. A public hearing was held on [insert date]. No comments were received.

J. Notice to Tribal Governments. The state assures that it has notified in writing all federally-recognized Tribal Governments that maintain a primary office and/or majority population within the State of the State's intent to submit a Medicaid waiver request or renewal request to CMS at least 60 days before the anticipated submission date is provided by Presidential Executive Order 13175 of November 6, 2000. Evidence of the applicable notice is available through the Medicaid Agency.

K. Limited English Proficient Persons. The state assures that it provides meaningful access to waiver services by Limited English Proficient persons in accordance with: (a) Presidential Executive Order 13166 of August 11, 2000 (65 FR 50121) and (b) Department of Health and Human Services "Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons" (68 FR 47311 - August 8, 2003). **Appendix B** describes how the state assures meaningful access to waiver services by Limited English Proficient persons.

Appendix I: Financial Accountability

I-2: Rates, Billing and Claims (1 of 3)

a. Rate Determination Methods. *In two pages or less, describe the methods that are employed to establish provider payment rates for waiver services and the entity or entities that are responsible for rate determination. Indicate any opportunity for public comment in the process. If different methods are employed for various types of services, the description may group services for which the same method is employed. State laws, regulations, and policies referenced in the description are available upon request to CMS through the Medicaid agency or the operating agency (if applicable).*

DMS is responsible for the oversight of rate determinations with consultation by DAABHS. There is an established procedure followed by DMS to conduct rate studies, get provider input, and rebase rates when needed. Rates are published for public comment and are made available to all providers before implementation of the new rate via an official notice from DMS. Upon enrollment with Medicaid, new providers are referred to the Arkansas Medicaid website which has published fee schedules. Various methodologies are used for rate determination depending on the waiver service.

Throughout the Covid 19 pandemic and National Public Health Emergency, there has been an increase in the need for direct care staff with increased provider personnel cost due to workforce shortages. Arkansas updated the per person per day rate due to this reason through an Appendix K.

The State will continue to utilize the approved Appendix K per person per day rate of $81.59 with an additional 5% differential for rural facilities, which totals $85.67 until data can be received and verified in accordance with Arkansas law, and if warranted, the State will seek any needed amendments.

The rates may be found at https://humanservices.arkansas.gov/wp-content/uploads/LCAL-fees.pdf

. For purposes of this waiver, "assisted living facility" means a Medicaid-certified and enrolled assisted living facility with a Level II license..

The rate methodology excludes reimbursement of room and board costs. The rates are not funded through ARP funding.

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Uniform, Statewide Rate Methodology: The rate methodology is uniform and applies statewide to all Level II licensed assisted living facilities serving waiver participants.

Opportunities for Public Comment: Before submitting this waiver renewal to CMS for federal review and approval, DHS engaged in various opportunities for public comment including a webinar. These are in addition to the public comment process for this waiver renewal and the revised provider manual. Further, both the waiver renewal and the revised provider manual undergo prior review by Arkansas legislative committees.

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a. Derivation of Estimates for Each Factor. *Provide a narrative description for the derivation of the estimates of the following factors.*

i. Factor D Derivation. *The estimates of Factor D for each waiver year are located in Item J-2-d. The basis and methodology for these estimates is as follows:*

Factor D is derived from current reporting of expenditures from the Medicaid DSS and consideration of previous waiver estimates of utilization and growth rates. Factor D was calculated utilizing data from 01/01/2019 through 12/31/2019.

The unduplicated cap of 1725 was used as the number of users for WY1-WY5 to allow for full-year participation of each available slot. Given the average length of stay of 291 days, the state calculates 1,505 as the maximum number of unduplicated participants who can be served under a point-in-time (PIT) maximum of 1,200. The calculation is:

1,200 (max PIT cap) x 365 days ÷ 291 days (avg. length of stay) = 1,505

This exact amount was used for the estimated number of users in Appendix J-2-d. Units per user was calculated based on actual usage from 02/01/2016-01/31/2019

Extended Medicaid State Plan Prescription Drug costs were estimated based on actual costs from the previous 5 years of the waiver. The most recent data from Medicaid DSS shows that this service cost has remained constant, therefore, we do not anticipate an increase in utilization of this service. The number of users for this service has increased over the last 5 years and have been updated to reflect more users of this service.

The Extended Medicaid State Plan Prescription Drug service was calculated utilizing the actual cost of services from

02/01/2016-01/31/2019.

The State will continue to utilize the approved Appendix K per person per day rate of $81.59 with an additional 5% differential for rural facilities, which totals $85.67 until data can be received and verified in accordance with Arkansas law, and if warranted, the State will seek any needed amendments.

Appendix J: Cost Neutrality Demonstration

J-2: Derivation of Estimates (7 of 9)

d. Estimate of Factor D.

i. Non-Concurrent Waiver. *Complete the following table for each waiver year. Enter data into the Unit, # Users, Avg. Units Per User, and Avg. Cost/Unit fields for all the Waiver Service/Component items. Select Save and Calculate to automatically calculate and populate the Component Costs and Total Costs fields. All fields in this table must be completed in order to populate the Factor D fields in the J-1 Composite Overview table.*

Waiver Year: Year 3

Waiver Service/ Component	Unit	# Users	Avg. Units Per User	Avg. Cost/ Unit	ComponentCost	Total Cost
Extended Medicaid State Plan Prescription Drugs Total:						**234000.00**
Extended Medicaid State Plan Prescription Drugs	1 Month	250	12.00	78.00	**234000.00**	
Living Choices Assisted Living Services Total:						**36626176.65**
Living Choices Assisted Living Service	1 Day	1505	291.00	83.63	**36626176.65**	
				GRAND TOTAL:		**36860176.65**
				Total Estimated Unduplicated Participants:		**1725**
				Factor D (Divide total by number of participants):		**21368.22**
				Average Length of Stay on the Waiver:		291

Appendix J: Cost Neutrality Demonstration

J-2: Derivation of Estimates (8 of 9)

d. Estimate of Factor D.

i. Non-Concurrent Waiver. *Complete the following table for each waiver year. Enter data into the Unit, # Users, Avg. Units Per User, and Avg. Cost/Unit fields for all the Waiver Service/Component items. Select Save and Calculate to automatically calculate and populate the Component Costs and Total Costs fields. All fields in this table must be completed in order to populate the Factor D fields in the J-1 Composite Overview table.*

Waiver Year: Year 4

Waiver Service/ Component	Unit	# Users	Avg. Units Per User	Avg. Cost/ Unit	ComponentCost	Total Cost
Extended Medicaid State Plan Prescription Drugs Total:						**234000.00**

Extended Medicaid State Plan Prescription Drugs	*1 Month*	*250*	*12.00*	*78.00*	***234000.00***	
Living Choices Assisted Living Services Total:						***36,626,176.65***
Living Choices Assisted Living Service	*1 Day*	*1505*	*291.00*	*83.63*	***36,626,176.65***	

GRAND TOTAL:	***38,966,260.28***	
Total Estimated Unduplicated Participants:	***1725***	
Factor D (Divide total by number of participants):	***22,589.14***	~~***Average Length of Stay on the Waiver:***~~ *291*

Appendix J: Cost Neutrality Demonstration

J-2: Derivation of Estimates (9 of 9)

d. Estimate of Factor D.

i. Non-Concurrent Waiver. *Complete the following table for each waiver year. Enter data into the Unit, # Users, Avg. Units Per User, and Avg. Cost/Unit fields for all the Waiver Service/Component items. Select Save and Calculate to automatically calculate and populate the Component Costs and Total Costs fields. All fields in this table must be completed in order to populate the Factor D fields in the J-1 Composite Overview table.*

Waiver Year: Year 5

Waiver Service/ Component	***Unit***	***# Users***	***Avg. Units Per User***	***Avg. Cost/ Unit***	***ComponentCost***	***Total Cost***
Extended Medicaid State Plan Prescription Drugs Total:						***234000.00***
Extended Medicaid State Plan Prescription Drugs	*1 Month*	*250*	*12.00*	*78.00*	***234000.00***	
Living Choices Assisted Living Services Total:						***36,626,176.65***
Living Choices Assisted Living Service	*1 Day*	*1505*	*291.00*	*83.63*	***36,626,176.65***	

GRAND TOTAL:	***36860176.65***
Total Estimated Unduplicated Participants:	***1725***
Factor D (Divide total by number of participants):	***21368.22***
Average Length of Stay on the Waiver:	*291*

Request for an Amendment to a §1915(c) Home and Community-Based Services Waiver

1. Request Information

A. The **State** of **Arkansas** requests approval for an amendment to the following Medicaid home and community-based services waiver approved under authority of §1915(c) of the Social Security Act.

B. Program Title:
ARChoices in Homecare

C. Waiver Number:AR.0195
Original Base Waiver Number: AR.0195.

D. Amendment Number:AR.0195.R06.02

E. Proposed Effective Date: (mm/dd/yy)
~~01/01/23~~11/11/2023

Approved Effective Date: 01/01/23
Approved Effective Date of Waiver being Amended: 07/01/21

2. Purpose(s) of Amendment

Purpose(s) of the Amendment. Describe the purpose(s) of the amendment:

~~The amendment to the waiver allows ARChoices services to be provided to inpatients of acute care hospitals in certain circumstances and such services may be covered and reimbursable on days when the participant has been admitted to an inpatient acute care hospital, though the provided attendant care services may not exceed approved prior authorized rate for the service in place prior to hospitalization. The projected annual cost of this change for state fiscal year (SFY) 2023 is $240,276 (federal share of $172,086) and for SFY 2024 is $480,552 (federal share of $344,171).~~

~~Currently, Attendant Care Services cannot be provided to ARChoices clients while they are admitted tp acute care hospitals. The federal CARES Act, however, contains a provision for attendant care services for HCBS waiver clients while admitted to acute care hospitals to speed recovery and allow for hospital services not otherwise provided. The amendment provides that Attendant Care Services can be provided to ARChoices clients while they are an admitted to acute care hospitals and will be reimbursable to providers under this change. ARChoices attendant care services to be provided to inpatients of acute care hospitals if the services are (a) identified in an individual's person-centered plan (or comparable plan of care), (b) provided to meet needs of the individual that are not met through the provision of hospital services; (c) not a substitute for services that the hospital is obligated to provide through its conditions of participation or under Federal or State law, or under applicable requirement; and (d) designed to ensure smooth transitions between acute care settings and home and community-based settings, and to preserve the individual's functional abilities. The provided attendant care services may not exceed approved prior authorized rate for the service in place prior to hospitalization.~~

~~The state chooses the option to provide HCBS (attendant care services) in acute care hospitals under the following conditions:~~
~~a) The HCBS are provided to meet needs of the individual that are not met through the provision of acute care hospital services;~~
~~b) The HCBS are in addition to, and may not substitute for, the services the acute care hospital is obligated to provide;~~
~~c) The HCBS must be identified in the individual's person-centered service plan; and~~
~~The HCBS will be used to ensure smooth transitions between acute care setting and community-based settings and to preserve the individual's functional abilities.~~
Arkansas has an approved American Rescue Plan Act ~~(ARP)~~ Spending Plan under section 9817 that outlines the Workforce Stabilization Incentive Program. The effective dates of the Workforce Stabilization Incentive Program are from October 1, 2021 to March 31, 2025. Due to the expiration of the Appendix K, the State is seeking to amend the base waiver to include the Program terms in Appendix I.
~~d)~~

3. Nature of the Amendment

A. Component(s) of the Approved Waiver Affected by the Amendment. This amendment affects the following component(s) of the approved waiver. Revisions to the affected subsection(s) of these component(s) are being submitted concurrently (check each that applies):

Component of the Approved Waiver	Subsection
☐ Waiver Application	
☐ Appendix A: Waiver Administration and Operation	
☐ Appendix B: Participant Access and Eligibility	
☐ Appendix C: Participant Services	
☐ Appendix D: Participant Centered Service Planning and Delivery	
☐ Appendix E: Participant Direction of Services	
☐ Appendix F: Participant Rights	
☐ Appendix G: Participant Safeguards	
☐ Appendix H:	
☒ Appendix I: Financial Accountability ☐	I-3: Payment (3 of 7)
☐ Appendix J: Cost-Neutrality Demonstration	

B. Nature of the Amendment. Indicate the nature of the changes to the waiver that are proposed in the amendment *(check each that applies):*

- ☐ **Modify target group(s)**
- ☐ **Modify Medicaid eligibility**
- ☐ **Add/delete services**
- ☐ **Revise service specifications**
- ☐ **Revise provider qualifications**
- ☐ **Increase/decrease number of participants**
- ☐ **Revise provider qualifications**
- ☐ **Add participant-direction of services**
- ☒ **Other** ☐

Specify:

The State is seeking to amend the base waiver to add supplemental or enhanced payments for waiver services as specified in Appendix I.

6.Additional Requirements

Note: Item 6-I must be completed.

A. Service Plan. In accordance with 42 CFR §441.301(b)(1)(i), a participant-centered service plan (of care) is developed for each participant employing the procedures specified in **Appendix D**. All waiver services are furnished pursuant to the service plan. The service plan describes: (a) the waiver services that are furnished to the participant, their projected frequency and the type of provider that furnishes each service and (b) the other services (regardless of funding source, including state plan services) and informal supports that complement waiver services in meeting the needs of the participant. The service plan is subject to the approval of the Medicaid agency. Federal financial participation (FFP) is not claimed for waiver services furnished prior to the development of the service plan or for services that are not included in the service plan.

B. Inpatients. In accordance with 42 CFR §441.301(b)(1)(ii), waiver services are not furnished to individuals who are in-patients of a hospital, nursing facility or ICF/IID.

C. Room and Board. In accordance with 42 CFR §441.310(a)(2), FFP is not claimed for the cost of room and board except

when: (a) provided as part of respite services in a facility approved by the state that is not a private residence or (b) claimed as a portion of the rent and food that may be reasonably attributed to an unrelated caregiver who resides in the same household as the participant, as provided in **Appendix I**.

D. Access to Services. The state does not limit or restrict participant access to waiver services except as provided in **Appendix C**.

E. Free Choice of Provider. In accordance with 42 CFR §431.151, a participant may select any willing and qualified provider to furnish waiver services included in the service plan unless the state has received approval to limit the number of providers under the provisions of §1915(b) or another provision of the Act.

F. FFP Limitation. In accordance with 42 CFR §433 Subpart D, FFP is not claimed for services when another third-party (e.g., another third party health insurer or other federal or state program) is legally liable and responsible for the provision and payment of the service. FFP also may not be claimed for services that are available without charge, or as free care to the community. Services will not be considered to be without charge, or free care, when (1) the provider establishes a fee schedule for each service available and (2) collects insurance information from all those served (Medicaid, and non-Medicaid), and bills other legally liable third party insurers. Alternatively, if a provider certifies that a particular legally liable third party insurer does not pay for the service(s), the provider may not generate further bills for that insurer for that annual period.

G. Fair Hearing: The state provides the opportunity to request a Fair Hearing under 42 CFR §431 Subpart E, to individuals: (a) who are not given the choice of home and community-based waiver services as an alternative to institutional level of care specified for this waiver; (b) who are denied the service(s) of their choice or the provider(s) of their choice; or (c) whose services are denied, suspended, reduced or terminated. **Appendix F** specifies the state's procedures to provide individuals the opportunity to request a Fair Hearing, including providing notice of action as required in 42 CFR §431.210.

H. Quality Improvement. The state operates a formal, comprehensive system to ensure that the waiver meets the assurances and other requirements contained in this application. Through an ongoing process of discovery, remediation and improvement, the state assures the health and welfare of participants by monitoring: (a) level of care determinations; (b) individual plans and services delivery; (c) provider qualifications; (d) participant health and welfare; (e) financial oversight and (f) administrative oversight of the waiver. The state further assures that all problems identified through its discovery processes are addressed in an appropriate and timely manner, consistent with the severity and nature of the problem. During the period that the waiver is in effect, the state will implement the Quality Improvement Strategy specified in **Appendix H**.

I. Public Input. Describe how the state secures public input into the development of the waiver:

Policy and form revisions, procedural changes, and clarifications are based on input from participants, caregivers (related and non-related), and providers. Comments are reviewed and appropriate action taken to incorporate changes or modifications to benefit participants, service delivery, and quality of care. Comments and public input are gathered through routine monitoring of program requirements, provider workshops/trainings, program integrity audits, and monitoring of participants and contact with stakeholders. These experiences and lessons learned are applied to the operations of ARChoices.

Notices of amendments and renewals of the waiver are posted on the DHS website [insert web address] for at least 30 days to allow the general public to submit comments on changes. Notices of amendments and renewals are also published in a statewide newspaper with instructions for submitting comments to DMS.

The public notice for this amendment was published in the Arkansas Democrat-Gazette for three consecutive days from xx/xx/xxxx to xx/xx/xxxx. The 30-day public comment period ended xx/xx/xxxx. Physical copies of the entire proposed waiver renewal were mailed to constituents upon request and were posted on the DHS website on the proposed rules page at https://humanservices.arkansas.gov/do-business-with-dhs/proposed-rules/. The entire proposed waiver amendment was also emailed to an Interested Parties list.

Commenters could submit comments to either an email address or a physical address. DHS received public comments on this amendment, please see Main, Optional Additional information for the comment and response.

J. Notice to Tribal Governments. The state assures that it has notified in writing all federally-recognized Tribal Governments that maintain a primary office and/or majority population within the State of the State's intent to submit a Medicaid waiver request or renewal request to CMS at least 60 days before the anticipated submission date is provided by Presidential Executive Order 13175 of November 6, 2000. Evidence of the applicable notice is available through the Medicaid Agency.

K. Limited English Proficient Persons. The state assures that it provides meaningful access to waiver services by Limited English Proficient persons in accordance with: (a) Presidential Executive Order 13166 of August 11, 2000 (65 FR 50121) and (b) Department of Health and Human Services "Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons" (68 FR 47311 - August 8, 2003). **Appendix B** describes how the state assures meaningful access to waiver services by Limited English Proficient persons.

Appendix I: Financial Accountability

I-3: Payment (3 of 7)

a. Supplemental or Enhanced Payments. *Section 1902(a)(30) requires that payments for services be consistent with efficiency, economy, and quality of care. Section 1903(a)(1) provides for Federal financial participation to states for expenditures for services under an approved state plan/waiver. Specify whether supplemental or enhanced payments are made. Select one:*

○ ***No. The state does not make supplemental or enhanced payments for waiver services.***

◉ ***Yes. The state makes supplemental or enhanced payments for waiver services.***

Describe: (a) the nature of the supplemental or enhanced payments that are made and the waiver services for which these payments are made; (b) the types of providers to which such payments are made; (c) the source of the non-Federal share of the supplemental or enhanced payment; and, (d) whether providers eligible to receive the supplemental or enhanced payment retain 100% of the total computable expenditure claimed by the state to CMS. Upon request, the state will furnish CMS with detailed information about the total amount of supplemental or enhanced payments to each provider type in the waiver.

Arkansas has an approved American Rescue Plan Act (ARP) Spending Plan under section 9817 that outlines the Workforce Stabilization Incentive Program. The effective dates of the Workforce Stabilization Incentive Program are from October 1, 2021 to March 31, 2025. Due to the expiration of the Appendix K, the State is seeking to amend the base waiver to include the Program. Arkansas has designed a HCBS Workforce Stabilization Incentive Program to allow providers to customize resources that best fit their organization's size, operational needs, and business priorities. The State allotted funding to providers using the following incentive categories:

Hiring bonus: new direct service providers (DSPs) hired during the ARP effective period (i.e., October 1, 2021 through March 31, 2025) may receive a hiring/recruitment payment after completing a minimum of thirty (30) calendar days of employment. The payment may be made in installments based on the provider's business model but cannot exceed $1,000 per employee or contractor. Longevity bonus: longevity payments for DSPs who continuously provide service with the same employer for a minimum of three (3) months. The bonus cannot be paid in a one-time lump sum and must recur on a regular cadence determined by the employer. The recurring bonus can be paid through March 31, 2025, or until the provider allocation is depleted. Individual DSPs can earn bonuses up the Longevity Bonus cap but cannot exceed $15,000 total per employee or contractor. Complex Care Longevity bonus: complex care longevity payments for DSPs who provide care to at least one (1) individual with complex care needs. Bonus payments are provided on regular and recurring basis determined by the employer and is based upon the DSPs experience, commitment and need for the employee to continue to work with the complex care recipient. DSPs can earn bonuses up to the Complex Care Longevity Bonus cap but cannot exceed $3,500 total per employee or contractor. Complex Care means a history of: legal involvement, elopement risk, combative or aggressive behavior, multiple inpatient placements, DCFS or DYS involvement, or wheelchair or bed bound.

Request for an Amendment to a §1915(c) Home and Community-Based Services Waiver

1. Request Information

A. The **State** of **Arkansas** requests approval for an amendment to the following Medicaid home and community-based services waiver approved under authority of §1915(c) of the Social Security Act.

B. Program Title:
ARChoices in Homecare

C. Waiver Number:AR.0195
Original Base Waiver Number: AR.0195.

D. Amendment Number:AR.0195.R06.02

E. Proposed Effective Date: (mm/dd/yy)
11/11/2023

Approved Effective Date: 01/01/23
Approved Effective Date of Waiver being Amended: 07/01/21

2. Purpose(s) of Amendment

Purpose(s) of the Amendment. Describe the purpose(s) of the amendment:

Arkansas has an approved American Rescue Plan Act Spending Plan under section 9817 that outlines the Workforce Stabilization Incentive Program. The effective dates of the Workforce Stabilization Incentive Program are from October 1, 2021 to March 31, 2025. Due to the expiration of the Appendix K, the State is seeking to amend the base waiver to include the Program terms in Appendix I.

3. Nature of the Amendment

A. Component(s) of the Approved Waiver Affected by the Amendment. This amendment affects the following component(s) of the approved waiver. Revisions to the affected subsection(s) of these component(s) are being submitted concurrently (check each that applies):

Component of the Approved Waiver	Subsection
☐ Waiver Application	
☐ Appendix A: Waiver Administration and Operation	
☐ Appendix B: Participant Access and Eligibility	
☐ Appendix C: Participant Services	
☐ Appendix D: Participant Centered Service Planning and Delivery	
☐ Appendix E: Participant Direction of Services	
☐ Appendix F: Participant Rights	
☐ Appendix G: Participant Safeguards	
☐ Appendix H:	
☒ Appendix I: Financial Accountability	**I-3: Payment (3 of 7)**
☐ Appendix J: Cost-Neutrality Demonstration	

B. Nature of the Amendment. Indicate the nature of the changes to the waiver that are proposed in the amendment *(check each that applies):*

☐ **Modify target group(s)**

☐ **Modify Medicaid eligibility**

- ☐ **Add/delete services**
- ☐ **Revise service specifications**
- ☐ **Revise provider qualifications**
- ☐ **Increase/decrease number of participants**
- ☐ **Revise provider qualifications**
- ☐ **Add participant-direction of services**
- ☒ **Other**

Specify:

The State is seeking to amend the base waiver to add supplemental or enhanced payments for waiver services as specified in Appendix I.

6.Additional Requirements

Note: Item 6-I must be completed.

A. Service Plan. In accordance with 42 CFR §441.301(b)(1)(i), a participant-centered service plan (of care) is developed for each participant employing the procedures specified in **Appendix D**. All waiver services are furnished pursuant to the service plan. The service plan describes: (a) the waiver services that are furnished to the participant, their projected frequency and the type of provider that furnishes each service and (b) the other services (regardless of funding source, including state plan services) and informal supports that complement waiver services in meeting the needs of the participant. The service plan is subject to the approval of the Medicaid agency. Federal financial participation (FFP) is not claimed for waiver services furnished prior to the development of the service plan or for services that are not included in the service plan.

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G. Fair Hearing: The state provides the opportunity to request a Fair Hearing under 42 CFR §431 Subpart E, to individuals: (a) who are not given the choice of home and community-based waiver services as an alternative to institutional level of care specified for this waiver; (b) who are denied the service(s) of their choice or the provider(s) of their choice; or (c) whose services are denied, suspended, reduced or terminated. **Appendix F** specifies the state's procedures to provide individuals the opportunity to request a Fair Hearing, including providing notice of action as required in 42 CFR §431.210.

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and other requirements contained in this application. Through an ongoing process of discovery, remediation and improvement, the state assures the health and welfare of participants by monitoring: (a) level of care determinations; (b) individual plans and services delivery; (c) provider qualifications; (d) participant health and welfare; (e) financial oversight and (f) administrative oversight of the waiver. The state further assures that all problems identified through its discovery processes are addressed in an appropriate and timely manner, consistent with the severity and nature of the problem. During the period that the waiver is in effect, the state will implement the Quality Improvement Strategy specified in **Appendix H**.

I. Public Input. Describe how the state secures public input into the development of the waiver:

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Commenters could submit comments to either an email address or a physical address. DHS received public comments on this amendment, please see Main, Optional Additional information for the comment and response.

J. Notice to Tribal Governments. The state assures that it has notified in writing all federally-recognized Tribal Governments that maintain a primary office and/or majority population within the State of the State's intent to submit a Medicaid waiver request or renewal request to CMS at least 60 days before the anticipated submission date is provided by Presidential Executive Order 13175 of November 6, 2000. Evidence of the applicable notice is available through the Medicaid Agency.

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Appendix I: Financial Accountability

I-3: Payment (3 of 7)

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○ ***No. The state does not make supplemental or enhanced payments for waiver services.***

◉ ***Yes. The state makes supplemental or enhanced payments for waiver services.***

Describe: (a) the nature of the supplemental or enhanced payments that are made and the waiver services for which these payments are made; (b) the types of providers to which such payments are made; (c) the source of the non-Federal share of the supplemental or enhanced payment; and, (d) whether providers eligible to receive the supplemental or enhanced payment retain 100% of the total computable expenditure claimed by the state to CMS.

Upon request, the state will furnish CMS with detailed information about the total amount of supplemental or enhanced payments to each provider type in the waiver.

Arkansas has an approved American Rescue Plan Act (ARP) Spending Plan under section 9817 that outlines the Workforce Stabilization Incentive Program. The effective dates of the Workforce Stabilization Incentive Program are from October 1, 2021 to March 31, 2025. Due to the expiration of the Appendix K, the State is seeking to amend the base waiver to include the Program. Arkansas has designed a HCBS Workforce Stabilization Incentive Program to allow providers to customize resources that best fit their organization's size, operational needs, and business priorities. The State allotted funding to providers using the following incentive categories:

Hiring bonus: new direct service providers (DSPs) hired during the ARP effective period (i.e., October 1, 2021 through March 31, 2025) may receive a hiring/recruitment payment after completing a minimum of thirty (30) calendar days of employment. The payment may be made in installments based on the provider's business model but cannot exceed $1,000 per employee or contractor. Longevity bonus: longevity payments for DSPs who continuously provide service with the same employer for a minimum of three (3) months. The bonus cannot be paid in a one-time lump sum and must recur on a regular cadence determined by the employer. The recurring bonus can be paid through March 31, 2025, or until the provider allocation is depleted. Individual DSPs can earn bonuses up the Longevity Bonus cap but cannot exceed $15,000 total per employee or contractor. Complex Care Longevity bonus: complex care longevity payments for DSPs who provide care to at least one (1) individual with complex care needs. Bonus payments are provided on regular and recurring basis determined by the employer and is based upon the DSPs experience, commitment and need for the employee to continue to work with the complex care recipient. DSPs can earn bonuses up to the Complex Care Longevity Bonus cap but cannot exceed $3,500 total per employee or contractor. Complex Care means a history of: legal involvement, elopement risk, combative or aggressive behavior, multiple inpatient placements, DCFS or DYS involvement, or wheelchair or bed bound.