

DEPARTMENT OF HUMAN SERVICES, DIVISION OF MEDICAL SERVICES

SUBJECT: SPA-2020-0005 Vaccine Administration Fee Rate Increase

DESCRIPTION:

Statement of Necessity

The Arkansas Department of Human Services (DHS), Division of Medical Services (DMS), intends to revise the Arkansas Medicaid State Plan rates for vaccine administration fees based on a rate review process that was completed in July 2019 as required by Executive Order 19-02. DHS bases the rate increases upon a rate review recommendation. Providers of flu immunizations and other vaccines expressed concern of growing program costs given that no rate increases occurred in over 10 years. The rate increases ensure access and availability of immunizations to members of Arkansas Medicaid.

Rule Summary

This State Plan Amendment (SPA) increases the rates in the Physicians, Nurse Practitioner, ARKids B, and Pharmacy programs to fifteen dollars and forty-five cents (\$15.45) for administration of the influenza immunization. The SPA increases rates for other Medicaid payable vaccines to thirteen dollars and fourteen cents (\$13.14).

PUBLIC COMMENT: No public hearing was held on this rule. The public comment period expired May 11, 2020. The agency provided the following summary of the public comments it received and its responses to those comments:

Commenter's Name: Anna Strong, Executive Director, Arkansas Chapter, American Academy of Pediatrics

COMMENT:

On behalf of approximately 420 pediatrician members, the Arkansas Chapter of the American Academy of Pediatrics would like to provide public comment for SPA-2020-0005: Vaccine Administration Fee Rate Increase.

We are grateful to see this rate increase for childhood and flu vaccine administration move forward after several years of advocacy. While it is less than the amount we were originally anticipating that would have fully covered costs, and less than the Medicaid program's vaccine administration state cap, we hope this increase will enable most Arkansas pediatricians to continue to provide an in-office vaccine program and ensure children have timely access to needed immunizations.

We do hope that, over time, the immunization rate for childhood vaccinations will be at parity with the rate offered for flu vaccinations due to the more extensive counseling that is required with many families for childhood vaccinations.

RESPONSE: Thank you for your support of SPA-2020-0005: Vaccine Administration Fee Rate Increase. We utilized the Medicare fees for influenza immunization administration and for administration of all other vaccines as a basis to establish the administration fee. Medicare makes the same type of distinction in their rates. We will continue to review vaccine policies as they are updated to ensure adequate care is provided to Medicaid beneficiaries. We value your support and look forward to continuing to work with you in the future.

Commenter's Name: Steven C. Anderson, FASAE, CAE, IOM, President and Chief Executive Office

Comment:

On behalf of our members operating approximately 1929 chain pharmacies across the state, the National Association of Chain Drug Stores (“NACDS”) thanks the Arkansas Department of Human Services (“Department”) for the opportunity to comment on the proposed State Plan Amendment (“SPA”) to increase Medicaid payment rates for vaccines. Considering that vaccine payment rates have remained unchanged for the past 10 years while cost of business for healthcare providers have continued to climb, we commend the Department for its work to remedy this inequity by initiating the proposed increase to vaccine payment rates.

NACDS represents traditional drug stores, supermarkets and mass merchants with pharmacies. Chains operate nearly 40,000 pharmacies, and NACDS’ 80 chain member companies include regional chains, with a minimum of four stores, and national companies. Chains employ nearly 3 million individuals, including 155,000 pharmacists. They fill over 3 billion prescriptions yearly, and help patients use medicines correctly and safely, while offering innovative services that improve patient health and healthcare affordability. NACDS members also include more than 900 supplier partners and over 70 international members representing 21 countries. Please visit nacds.org.

Vaccine services save lives. While the prevalence of vaccine-preventable diseases in adults remains a significant public health issue in the United States, vaccines have prevented at least 10 million deaths between 2010 and 2015 alone, and many million more lives have been spared from suffering and disability associated with vaccine-preventable disease. Vaccinations reduce the rates of disease and improve overall lifespans by: controlling the spread of infectious diseases; mitigating the severity of disease; and, helping to protect unvaccinated people, including those who are contraindicated for the vaccine.

Global eradication of deadly, yet formerly common diseases, such as polio, is finally within reach thanks to widespread vaccination efforts. In addition to public health

benefits, vaccines have a societal economic benefit. Vaccine-preventable diseases and deaths create an approximately \$9 billion economic burden on the healthcare system in hospital and doctor visits and loss of income each year.

Ensuring access to vaccine services – including those available from pharmacists in community pharmacy settings – is instrumental to reducing rates of vaccine-preventable illness and disease. As committed stewards of public health, the pharmacy community continues to play a vital role alongside other healthcare providers in providing important vaccine services in the communities they serve. Especially during the COVID-19 response when clinics, urgent care, and physician offices are stressed by increased demand, access to and coverage for pharmacy care services – including immunizations provided in community pharmacies – is essential. Moreover, at such time when the coronavirus vaccine becomes available, leveraging pharmacy providers to provide vaccine services will be exceedingly critical to extending the reach of public health to prevent further spread of this disease.

Patients visit community pharmacies 10 times more often than they visit other healthcare settings, making community pharmacies convenient healthcare destinations and community pharmacists particularly well positioned to expand access to cost-effective vaccination assessment and delivery. As the face of neighborhood healthcare, pharmacists help states increase their vaccination rates and further reduce the incidence of vaccine preventable diseases. Given community pharmacists exceptional potential to increase immunization rates, NACDS supports policies – including the Department's existing Medicaid program design enabling Medicaid beneficiaries to obtain recommended vaccines at their local pharmacies – that facilitate access to the convenient, accessible and cost-effective vaccination services available from pharmacy providers.

Increasing payment rates is critical to maintaining access to vaccine services. As mentioned above, the rates paid to Medicaid providers of vaccine services have remained stagnant for the past 10 years while providers' operational costs have continued to increase. Ultimately, this may prove unsustainable for many vaccine providers and impede access to vaccine services for Medicaid beneficiaries. This must be remedied. Accordingly, NACDS strongly supports the Department's proposed vaccine payment rate increases, as these rate increases are integral to ensuring ongoing access to vaccine services for Medicaid beneficiaries.

In conclusion. NACDS thanks you for considering our feedback on the SPA and welcomes the opportunity to discuss this matter further with the Department. As the Department strives to initiate critical recovery and reopening plans, we strongly encourage the agency to take affirmative action to authorize pharmacists to administer forthcoming FDA-authorized or FDA-approved vaccines and treatment as they become available.

Additionally, as mentioned above, immunizations are one of many patient care services that community pharmacists are well-trained and positioned to deliver to Medicaid beneficiaries. Should the Department have an interest to explore additional service areas

for pharmacist delivery and reimbursement, we welcome continued conversation. Along these lines, we have included appendices that provide details on the qualifications of pharmacists as compared to other clinicians (Appendix 1), the proven clinical and economic value of pharmacy care (Appendix 2), and state opportunities for pharmacy care (Appendix 3). For follow-up, please contact NACDS' Mary Staples, Director of State Government Affairs, at (817) 442-1155 or mstaples@nacds.org.

RESPONSE: Thank you for your support of SPA-2020-0005: Vaccine Administration Fee Rate Increase. We will review the additional information you provided and will continue to review vaccine policies to ensure adequate care is provided to Medicaid beneficiaries. We value your support and look forward to continuing to work with you in the future.

The agency indicated that this proposed rule received CMS approval on May 12, 2020. The proposed effective date is July 1, 2020.

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

Per the agency, the additional cost to implement the rule is \$3,218,553 for the current fiscal year (\$915,035 in general revenue and \$2,303,518 in federal funds) and \$3,218,553 for the next fiscal year (\$915,035 in general revenue and \$2,303,518 in federal funds). The total estimated cost by fiscal year to state, county, and municipal government to implement the rule is \$915,035 for the current fiscal year and \$915,035 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;

As required by Executive Order 19-02, the rate review process for influenza immunization administration fees was completed in July 2019. The State Plan Amendment effectuates a rate increase for the influenza immunization administration fee to assure access and availability of immunizations to members of Arkansas Medicaid.

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

Providers of flu immunizations and other vaccines were concerned about being able to meet growing program costs given that there has not been a rate increase in over 10 years.

(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;

As required by Executive Order 19-02, the rate review process for influenza immunization administration fees was completed in July 2019. The rate increase is based upon a rate review recommendation. The rate increase helps ensure access to care.

(4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
There are no less costly alternatives.

(5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
None at this time.

(6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
None.

(7) an agency plan for review of the rule no less than every ten 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

Executive Order 19-02 requires influenza immunization administration fees to be reviewed no less frequently than every four years.

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

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

DEPARTMENT/AGENCY Department of Human Services
DIVISION Division of Medical Services
DIVISION DIRECTOR Janet Mann
CONTACT PERSON Alexandra Rouse
ADDRESS P. O. Box 1437, Slot S295 Little Rock, AR 72203-1437
PHONE NO. 501-508-8875 **FAX NO.** 501-404-4619 **E-MAIL** Alexandra.rouse@dhs.arkansas.gov
NAME OF PRESENTER AT COMMITTEE MEETING Janet Mann
PRESENTER E-MAIL Janet.Mann@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:

**Jessica C. Sutton
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201**

1. What is the short title of this rule? SPA #2020-0005 Vaccine Administration Fee Rate Increase

2. What is the subject of the proposed rule? SPA #2020-0005 Vaccine Administration Fee Rate Increase

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."**

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://medicaid.mmis.arkansas.gov/general/comment/comment.aspx>

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

Date: _____

Time: _____

Place: _____

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

May 11, 2020

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

July 1, 2020

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. Providers, in favor.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Department of Human Services

DIVISION Division of Medical Services

PERSON COMPLETING THIS STATEMENT Lynn Burton

TELEPHONE (501) 682-1857 **FAX** (501) 682-8155 **EMAIL:** Lynn.burton@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 SPA #2020-0005 Vaccine Administration Fee Rate Increase

- 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?

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

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

Current Fiscal Year

General Revenue	\$ 915,035
Federal Funds	\$ 2,303,518
Cash Funds	
Special Revenue	
Other (Identify)	
Total	\$ 3,218,553

Next Fiscal Year

General Revenue	\$ 915,035
Federal Funds	\$ 2,303,518
Cash Funds	
Special Revenue	
Other (Identify)	
Total	\$ 3,218,553

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

\$ _____

Next Fiscal Year

\$ _____

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

\$ 915,035

Next Fiscal Year

\$ 915,035

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; **As required by Executive Order 19-02, the rate review process for influenza immunization administration fees was completed in July 2019. The State Plan Amendment effectuates a rate increase for the influenza immunization administration fee to assure access and availability of immunizations to members of Arkansas Medicaid.**

(2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute; **Providers of flu immunizations and other vaccines were concerned about being able to meet growing program costs given that there has not been a rate increase in over 10 years.**

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- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule; **There are no less costly alternatives.**
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule; **None at this time.**
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and **None**
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

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Statement of Necessity and Rule Summary

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Statement of Necessity

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