

DEPARTMENT OF HUMAN SERVICES, MEDICAL SERVICES

SUBJECT: Chiropractic 1-17, Section I-4-17 and State Plan Amendment 2017-012

DESCRIPTION: In accordance with Act 1092 of 2017, effective for dates of service on or after January 1, 2018, a primary care physician referral is no longer necessary for Chiropractic Services for Arkansas Medicaid beneficiaries. This will not affect current benefit limits or private insurance requirements.

PUBLIC COMMENT: No public hearing was held. The public comment period expired on February 8, 2018. The Department received no comments.

The change requires CMS approval of a state plan amendment, which is pending as of February 15, 2018. The proposed effective date is May 1, 2018.

FINANCIAL IMPACT: The financial impact for the current fiscal year is \$14,212 (\$10,031 in federal funds and \$4,181 in general revenue) and \$56,849 for the next fiscal year (\$40,124 in federal funds and \$16,725 in general revenue). A small increase is anticipated in state funds in utilization with elimination of the PCP referral.

LEGAL AUTHORIZATION: The Department of Human Services is authorized to “make rules and regulations and take actions as are necessary or desirable to carry out the provisions of this chapter [Public Assistance] and that are not inconsistent therewith.” Arkansas Code Annotated § 20-76-201 (12). Arkansas Code §20-77-107 specifically authorizes the department to “establish and maintain an indigent medical care program.”

Representative Jim Dotson’s Act 1092 of 2017 directed the Department to adopt rules to allow a Medicaid recipient direct access to a chiropractic physician. The rules must allow a Medicaid recipient to receive diagnosis and treatment from a chiropractic physician without a referral from a primary care physician. The rules must provide a process for reporting diagnosis, treatment, costs of services, and cost-savings benefits and specify that the chiropractic physician shall receive the same reimbursement as if the Medicaid recipient had been referred by a primary care physician. *See* Ark. Code Ann. §20-77-132 (b) (Supp. 2017).

Federal law requires states to provide certain mandatory benefits and allows states the choice of covering other optional benefits. Under federal law, chiropractic services are optional benefits that states may cover. Section 273 of the 1972 Social Security Act Amendments expanded the Medicare definition of "physician" to include chiropractors. Expansion of this definition allowed chiropractors to participate in the Medicare and Medicaid programs.

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 Rose M. Naff
CONTACT PERSON Cathy Coffman
ADDRESS PO Box 1437, Slot S295 Little Rock AR.72203

PHONE NO. 501-537-1670 **FAX NO.** 501-404-4619 **E-MAIL** cathy.coffman@ dhs.arkansas.gov
NAME OF PRESENTER AT COMMITTEE MEETING Tami Harlan
PRESENTER E-MAIL tami.harlan@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:

Donna K. Davis
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? Chiropractic 1-17; Section I-4-17 and State Plan Amendment 2017-012

Effective for dates of service on or after January 1, 2018 a primary care physician (PCP) referral is no longer necessary for Chiropractic service visits for Arkansas Medicaid beneficiaries.

2. What is the subject of the proposed rule? _____

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. Act 1092 of the 91st General Assembly (2017)

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

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: A primary care referral is no longer necessary for Chiropractic Services.

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. A.C.A Statute § 20-76-201

7. What is the purpose of this proposed rule? The purpose of the proposed rule is to allow Chiropractic Service visits without a primary care physician referral for Arkansas Medicaid beneficiaries.

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). www.medicaid.state.ar.us/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.)
February 8, 2018

11. What is the proposed effective date of this proposed rule? (Must provide a date.)
April 1, 2018

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 and the Arkansas State Library

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. All Medicaid providers will be for this change.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Department of Human Services

DIVISION Medical Services

PERSON COMPLETING THIS STATEMENT Brian Jones

TELEPHONE 501-537-2064 **FAX** 501-404-4619 **EMAIL:** Brian Jones @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 Chiropractic 1-17: Section I-4-17 and SPA 2017-012

- 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	\$ 4,181
Federal Funds	\$10,031
Cash Funds	
Special Revenue	
Other (Identify)	
Total	\$14,212

Next Fiscal Year

General Revenue	\$16,725
Federal Funds	\$40,124
Cash Funds	
Special Revenue	
Other (Identify)	
Total	\$56,849

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

\$ 4,181

Next Fiscal Year

\$ 16,725

A small increase in Utilization is anticipated with the elimination of PCP referral.

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.

Summary Chiropractic :

In accordance with Act 1092 of the 91st General Assembly of 2017; effective for dates of service on or after January 1, 2018, a primary care physician referral is no longer necessary for Chiropractic Services for Arkansas Medicaid beneficiaries. This will not affect current benefit limits or private insurance requirements.