

## DEPARTMENT OF HUMAN SERVICES, DIVISION OF MEDICAL SERVICES

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**SUBJECT:** Physician Manual – Anesthesia Services

**DESCRIPTION:**

Statement of Necessity

The Division of Medical Services is updating the Physician Manual to clarify billing instructions when filing paper or electronic claims for anesthesia services. Providers submitting a paper claim for anesthesia services must bill units in whole numbers. Providers submitting an electronic claim for anesthesia services must bill for total minutes. For billing purposes, 15 minutes equals (1) unit. In addition, the anesthesia section was updated to indicate the type of documentation and attachments required, when applicable.

Rule Summary

292.310 Completion of the CMS-1500 Claim form – 24(G)

- Added the phrase, “For paper claims, including Anesthesia on paper claims, enter,” and added the sentence, “For electronic claims submission, for Anesthesia services, enter total minutes.”

292.440 Anesthesia Services

- (A) Added, “For electronic claims for Anesthesia services (procedure codes 00100 through 01999), for total minutes should be in the units’ field.”
- Deleted the sentence, “Electronic claims submission may be used unless attachments are required.”
- (C) Added the phrase, “require attachments or documentation.”
- (C) Deleted the phrase, “for hysterectomies and abortions must be billed on CMS-1500 paper claims because they require attachments or documentation.”
- Procedure Code 00800 – Added, “Operative Report.” Deleted information on female-only procedures.
- Procedure Code 00840 – Added, “Operative Report.” Deleted information on female-only procedures. Added modifiers U1, U2, and U3 when billing for payment, added a description sections and documentation requirements.
- Procedure code 00848 – Added “Acknowledgement of Hysterectomy Information (DMS-2606). View or print form DMS-2606 and instructions for completion.”
- Procedure code 00940 – Added, “Operative Report.” Deleted, “Required to name each procedure by surgeon in “Procedures, Services or Supplies” column.”
- Procedure code 00944 – Added, “View or print form DMS-2606 and instructions for completion.”
- Procedure code 01962 – Added, “Operative Report”, and added, “View or print form DMS-2606 and instructions for completion.”

- Procedure code 01963 - Added, “Operative Report”, and added, “View or print form DMS-2606 and instructions for completion.”
- Procedure code 01966 – Added, “Operative Report.”
- Added, “\*\*\*Other documentation may be requested upon review.”
- (D) Arranged codes in numerical order: 11, 21, 22, and 24.

Section 292.446 Time Units

- Added, “...for paper claims. If filing electronically, the value submitted in this field should be the total anesthesia in minutes.”

**PUBLIC COMMENT:** A public hearing was held on this rule on July 28, 2021. The public comment period expired August 13, 2021. The agency indicated that it received no public comments.

The proposed effective date is October 1, 2021.

**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).

**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 Elizabeth Pitman  
CONTACT PERSON Mac Golden  
ADDRESS P. O. Box 1437, Slot S295 Little Rock, AR 72203-1437  
PHONE NO. 501-563-7634 FAX NO. 501-404-4619 E-MAIL Mac.E.Golden@dhs.arkansas.gov  
NAME OF PRESENTER AT COMMITTEE MEETING Kimberly Wilmot  
PRESENTER E-MAIL Kimberly.Wilmot@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, 5<sup>th</sup> Floor  
Little Rock, AR 72201**

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1. What is the short title of this rule? Physician Manual – Anesthesia Services

2. What is the subject of the proposed rule? See Attached.

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes  No   
If yes, please provide the federal rule, regulation, and/or statute citation. \_\_\_\_\_

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act?  
Yes  No   
If yes, what is the effective date of the emergency rule? \_\_\_\_\_

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

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

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

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

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

See attached.

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

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

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

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

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

Date: July 28, 2021

Time: 11:00 a.m.

Place: <https://us02web.zoom.us/j/84327217816>

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)  
August 13, 2021

11. What is the proposed effective date of this proposed rule? (Must provide a date.)  
October 1, 2021

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. Unknown

**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT** Department of Human Services

**DIVISION** Division of Medical Services

**PERSON COMPLETING THIS STATEMENT** Jason Callan

**TELEPHONE** 501-320-6540      **FAX** 501-682-8155      **EMAIL:** Jason.callan@dhs.arkansas.gov

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

**SHORT TITLE OF THIS RULE** Physician Manual – Anesthesia Services

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

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

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

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

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

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

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

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

<b><u>Current Fiscal Year</u></b>		<b><u>Next Fiscal Year</u></b>	
General Revenue	<u>\$0</u>	General Revenue	<u>\$0</u>
Federal Funds	<u>\$0</u>	Federal Funds	<u>\$0</u>
Cash Funds	<u>\$0</u>	Cash Funds	<u>\$0</u>
Special Revenue	<u>\$0</u>	Special Revenue	<u>\$0</u>

Other (Identify) \$0  
 Total \$0

Other (Identify) \$0  
 Total \$0

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

**Current Fiscal Year**

General Revenue \$ 0  
 Federal Funds \$ 0  
 Cash Funds \$0  
 Special Revenue \$0  
 Other (Identify) \$0  
 Total \$0

**Next Fiscal Year**

General Revenue \$0  
 Federal Funds \$0  
 Cash Funds \$0  
 Special Revenue \$0  
 Other (Identify) \$0  
 Total \$0

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

**Current Fiscal Year**

\$ 0

**Next Fiscal Year**

\$ 0

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**

\$ 0

**Next Fiscal Year**

\$ 0

No impact for clarifying billing instructions.

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.

## NOTICE OF RULE MAKING

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

### **Effective October 1, 2021:**

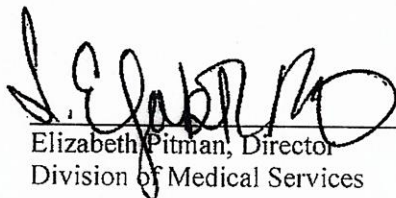
The Director of the Division of Medical Services (DMS) amends the Physician Manual to clarify billing instructions for anesthesia services when a provider is filing claims manually on paper or filing claims electronically. The changes outline that paper claims must bill in whole number units where 15 minutes equals a unit. Electronic filers must bill for total minutes. DMS also amends the anesthesia section to indicate the types of documentation and attachments required as well as when those attachments and documents are required. Several procedure codes are added to implement these changes.

The proposed rule is available for review at the Department of Human Services (DHS) Office of Rules Promulgation, 2nd floor Donaghey Plaza South Building, 7th and Main Streets, P. O. Box 1437, Slot S295, Little Rock, Arkansas 72203-1437. You may also access and download the proposed rule at <https://humanservices.arkansas.gov/do-business-with-dhs/proposed-rules/>. Public comments must be submitted in writing at the above address or at the following email address: [ORP@dhs.arkansas.gov](mailto:ORP@dhs.arkansas.gov). All public comments must be received by DHS no later than August 13, 2021. 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 July 28, 2021 at 11:00 a.m. and public comments may be submitted at the hearing. Individuals can access this public hearing at <https://us02web.zoom.us/j/84327217816>. The webinar ID is 843 2721 7816. If you would like the electronic link, "one-tap" mobile information, listening only dial-in phone numbers, or international phone numbers, please contact ORP at [ORP@dhs.arkansas.gov](mailto:ORP@dhs.arkansas.gov).

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

The Arkansas Department of Human Services is in compliance with Titles VI and VII of the Civil Rights Act and is operated, managed, and delivers services without regard to religion, disability, political affiliation, veteran status, age, race, color, or national origin. 4501960528



Elizabeth Pitman, Director  
Division of Medical Services



## Statement of Necessity and Rule Summary Physician Manual – Anesthesia Services

### Statement of Necessity

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