

EXHIBIT K

DEPARTMENT OF HUMAN SERVICES, DEVELOPMENTAL DISABILITIES SERVICES

SUBJECT: Therapy 1-18; Section V 3-18; and State Plan Amendment #2018-008

DESCRIPTION: The Occupational Therapy, Physical Therapy, and Speech Therapy (Therapy) Provider Manual is being changed so that a physician referral is required annually to align with the annual comprehensive evaluation for Early Intervention Day Treatment and Adult Developmental Day Treatment services.

Additional edits are being made to the Therapy Manual and State Plan changes to comply with the changes made in July, 2017.

PUBLIC COMMENT: A public hearing was held on April 18, 2018. The public comment period expired on May 8, 2018. The Department received several Public Comments, an 84-page summary of which is also attached to the agenda online. Specific comments and DDS responses on the Therapy Manual may be found on pages 11-23 of the Public Comments.

FURTHER CLARIFICATIONS MADE BY DDS:

- Due to the comments we received regarding the DMS-640, we are pulling the changes to the form and will present them to our Therapy workgroup for further discussion.
- In the Therapy Manual, we clarified that an extension of benefit request is allowed for evaluations; this was inadvertently deleted.

The Department does not yet have approval from CMS. The Department states that it will not sunset DDTCS or CHMS programs without CMS approval of the new programs.

The proposed effective date is July 1, 2018.

FINANCIAL IMPACT: There is no financial impact.

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). DHS is authorized to establish and maintain an indigent medical care program. *See* Ark. Code Ann. § 20-77-107. DHS is also authorized to promulgate rules as necessary to conform to federal rules that affect its programs as necessary to receive any federal funds. *See* Ark. Code Ann. § 25-10-129(b).

The Department’s Division of Developmental Disabilities Services (“DDS”) is responsible for the overall coordination of services for Arkansans with developmental disabilities as defined in Ark. Code Ann. §20-48-101.

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

DEPARTMENT/AGENCY Department of Human Services
DIVISION Division of Developmental Disabilities Services
DIVISION DIRECTOR Melissa Stone
CONTACT PERSON Elizabeth Pitman
ADDRESS P.O. Box 1437, Slot N502
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NAME OF PRESENTER AT COMMITTEE MEETING Melissa Stone
PRESENTER E-MAIL Melissa.stone@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? Therapy 1-18; Section V 3-18 and State Plan Amendment #2018-008

2. What is the subject of the proposed rule? Provision of therapy services to Medicaid Eligible beneficiaries.

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."**

The Therapy Provider Manual and State Plan pages are being amended to align the physician referral requirement to the annual comprehensive evaluation for EIDT or ADDT services. Now a referral will only be needed once per year, not once every six months. Other changes are being made to comply with the changes made in July 2017.

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. A.C.A. 20-77-107

7. What is the purpose of this proposed rule? Why is it necessary? These changes update the Therapy Manual to comply with the changes made on July 1, 2017, and to coordinate with the new annual evaluation requirement in the EIDT and ADDT programs.

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). <http://humanservices.arkansas.gov/ddds/Pages/default.aspx>

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

Date: April 18, 2018

Time: 5:00 p.m.

Central Arkansas Library, Darragh
Center Auditorium, 100 Rock Street,

Place: Little Rock, AR

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

May 8, 2018

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

July 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.

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

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 Arkansas Department of Human Services

DIVISION Division of Developmental Disabilities Services

PERSON COMPLETING THIS STATEMENT Elizabeth Pitman

TELEPHONE 501-682-4936 **FAX** 501-682-8380 **EMAIL:** Elizabeth.pitman@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 Therapy 1-18; Section V 3-18 and State Plan Amendment #2018-008

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?

| <u>Current Fiscal Year</u> | | <u>Next Fiscal Year</u> | |
|-----------------------------------|----------|--------------------------------|----------|
| 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) | <u>0</u> | Other (Identify) | <u>0</u> |
| Total | <u>0</u> | Total | <u>0</u> |

- (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 OF THE OCCUPATIONAL THERAPY, PHYSICAL THERAPY, AND SPEECH THERAPY PROVIDER MANUAL

The Occupational Therapy, Physical Therapy, and Speech Therapy (Therapy) Provider Manual is being changed so that a physician referral is required annually to align with the annual comprehensive evaluation for Early Intervention Day Treatment and Adult Developmental Day Treatment services.

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