

EXHIBIT L

DEPARTMENT OF HUMAN SERVICES, DEVELOPMENTAL DISABILITIES SERVICES

SUBJECT: Transportation 1-18 and State Plan Amendment #2018-009

DESCRIPTION: Beginning July 1, 2018, DDS is sunsetting the current Development Day Treatment Clinic Services (DDTCS) and Child Health Management Services (CHMS) and creating the Early Intervention Day Treatment (EIDT) and Adult Developmental Treatment (ADDT).

DDS is amending the Transportation Provider Manual to allow ADDT and EIDT providers to provide transportation services, just as the DDTCS providers were able to do under the previous program. This decision was based upon a cost analysis comparing the current DDTCS transportation utilization and rate to the utilization and rate under the non-Emergency Transportation (NET) currently used CHMS.

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 TRANSPORTATION MANUAL include the following:

DAVID IVERS, DEVELOPMENTAL DISABILITIES PROVIDER ASSOCIATION (DDPA)

COMMENT: The rate for transportation has not been increased in eight years. Providers lose significant amounts of money providing transportation. No transportation broker provider would provide the transportation for the full EIDT rate, let alone as a subcontractor. This will create an access issue soon if not addressed.

RESPONSE: No transportation broker is needed. DDS will pay the rate directly to EIDT and ADDT providers to transport their own clients. We are currently engaging stakeholders in non-emergency transportation (NET) discussions. We are happy to discuss a future change of eliminating EIDT/ADDT transportation and putting everyone on the NET rate, if eligible.

COMMENT: *272.200 Mileage Calculation: The route taken when transporting the clients must be reasonable and must be planned to minimize the beneficiaries' time spent in route to and from the facility (i.e. must pick up the beneficiary farthest from the facility first and drop him or her off last). The provider must not take unnecessary extended routes to increase the mileage.*

Why is the new language inserted? Providers lose money and only get paid for the client who lives the farthest, so what is the purpose of adding this?

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RESPONSE: The purpose of this additional language was to clarify that the rule is the provider is paid for the client who lives the farthest, not the client who spends the most amount of time in transport. In doing so, we want to ensure that clients, both children and adults with developmental delays and disabilities, do not spend more time than necessary in route to the day treatment program.

COMMENT: Page 8aa at 23.a.(3) The statement that: "The route must be planned to ensure that beneficiaries spend the least amount of time being transported" is ambiguous. Considering the financial status of the program, this concept would have to be balanced with the economic realities.

RESPONSE: Please see response above.

The Department does not yet have approval from CMS. The Department states in the summary 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
PHONE NO. (501) 682-4936 **FAX NO.** (501) 682-8380 **E-MAIL** Elizabeth.pitman@dhs.arkansas.gov
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? Transportation 1-18 and State Plan Amendment #2018-009

2. What is the subject of the proposed rule? EIDT and ADDT Transportation.

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 Transportation Provider Manual is being changed to reflect that EIDT and ADDT providers will be able to provide transportation services similar to those provided by DDTCS centers now.

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? Because DDTCS is sunseting on July 1, 2018, and the transportation must be allowed for 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 Transportation 1-18 and State Plan Amendment #2018-009

- 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>

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

Current Fiscal Year

General Revenue	<u>0</u>
Federal Funds	<u>0</u>
Cash Funds	<u>0</u>
Special Revenue	<u>0</u>
Other (Identify)	<u>0</u>
Total	<u>0</u>

Next Fiscal Year

General Revenue	<u>0</u>
Federal Funds	<u>0</u>
Cash Funds	<u>0</u>
Special Revenue	<u>0</u>
Other (Identify)	<u>0</u>
Total	<u>0</u>

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

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 OF TRANSPORTATION MEDICAID PROVIDER MANUAL

Beginning on July 1, 2018, DDS is sunsetting the current Developmental Day Treatment Clinic Services (DDTCS) and Child Health Management Services (CHMS) and creating the Early Intervention Day Treatment (EIDT) and Adult Developmental Day Treatment (ADDT).

DDS is amending the Transportation Provider Manual to allow ADDT and EIDT providers to provide transportation services, just as the DDTCS providers were able to do under the previous program. This decision was based upon a cost analysis comparing the current DDTCS transportation utilization and rate to the utilization and rate under the Non-Emergency Transportation (NET) currently used CHMS.