

## DEPARTMENT OF HUMAN SERVICES, DIVISION OF DEVELOPMENTAL DISABILITIES SERVICES

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**SUBJECT:** Occupational Therapy, Physical Therapy, and Speech-Language Pathology  
Medicaid Manual

**DESCRIPTION:**

Statement of Necessity

This amendment to the Occupational Therapy, Physical Therapy, and Speech-Language Pathology Medicaid manual clarifies and removes duplication from the current version of the manual and includes the requirements and parameters surrounding delivery of Occupational Therapy, Physical Therapy, and Speech-Language Pathology services through telemedicine. Department rule promulgation authority is also provided under A.C.A. § 20-76-201(12) which directs the Department to make rules that are necessary to provide public assistance. The 93<sup>rd</sup> General Assembly enacted Acts 767 and 829 amending the Telemedicine Act. These rule changes are in response to those amendments.

Rule Summary

- Reorganizes the manual into the following structure: provider credentialing and operational requirements, client eligibility, covered services and benefit limits, extension of benefits and prior authorizations, and retrospective review.
- Updates the table of contents to reflect new structure and organization.
- Adds hyperlinks for the list of accepted evaluation instruments and applicable procedure codes and descriptions.
- Removes duplication and includes clarifying language throughout the current version of manual.
- Updates retrospective review section.
- Includes the option of delivery of Occupational Therapy, Physical Therapy, and Speech-Language Pathology services through telemedicine and sets out those parameters and requirements.

**PUBLIC COMMENT:** A public hearing was held on this rule on October 28, 2021. The public comment period expired on November 8, 2021. The agency provided the following summary of the public comments it received and its responses to those comments:

Commenter's Name: Grace Velte, Graduate Assistant at the University of Central Arkansas, on behalf of Professor Lynne Hollaway, MS, OTR/L

**COMMENT:** Hi, I'm Grace Velte. I am a graduate assistant at UCA, and I'm here on the behalf of Ms. Hollaway. She's a pediatric professor here at the university, and we wanted to make a few changes to this new proposal. We would like to remove The

Adaptive Behavior Scale-School Edition, as it is outdated and is no longer being published. We would also like to remove the Bruininks-Oseretsky Test of Motor Proficiency, as there is an updated version of this, a new edition. We would also like to add a few standardized assessments that would address areas that are not currently addressed in the assessments on the list. These are the Weekly Calendar Planning Activity; Behavior Rating Inventory of Executive Function, the second Edition; the Roll Evaluation of Activities of Life; and the Goal-Oriented Assessment of Lifeskills. Thank you.

Yes, so those are specifically for occupational therapy.

**RESPONSE:** Thank you for your comment. The list of accepted evaluation instruments for each discipline is not included within the proposed Occupational Therapy, Physical Therapy, and Speech-Language Pathology Medicaid Manual, but a hyperlink to the accepted evaluation instruments for each discipline will be imbedded within the electronic version of the proposed Medicaid Manual. The complete list of the accepted evaluation instruments for each discipline will also be available online.

Commenter's Name: Elizabeth Cleveland, PhD, CCC-SLP, Assistant Professor, Dept. of Communication Sciences and Disorders, University of Central Arkansas

**COMMENT:** The American Speech-Language-Hearing Association (ASHA) indicates nine areas of practice for speech-language pathologists, more commonly known as "ASHA's Big Nine Areas" (see The Big Nine under this website: <https://www.asha.org/events/slp-summit-glossary/>). These nine areas include:

1. Articulation
2. Fluency
3. Voice and Resonance (including respiration and phonation)
4. Receptive and Expressive Language
5. Hearing (including the impact on speech and language)
6. Swallowing (oral, pharyngeal, esophageal, and related functions, including oral function for feeding and orofacial myofunction)
7. Cognitive Aspects of Communication (attention, memory, sequencing, problem-solving, executive functioning)
8. Social Aspects of Communication (challenging behavior, ineffective social skills, lack of communication opportunities)
9. Communication Modalities (including oral, manual, augmentative and alternative communication techniques, and assistive technologies)

The Arkansas Medicaid Manual for occupational therapy, physical therapy, and speech-language pathology section 212.420, Part B states:

212.420 Speech-Language Pathology Comprehensive Assessments 1-1-22

B. Depending on the type of communication disorder suspected, the following are required to be included as part of a comprehensive assessment used to establish medical necessity:

1. Language Disorder: a comprehensive measure of language must be included for initial eligibility purposes. Use of one-word vocabulary tests alone will not be accepted;
2. Speech Production Disorder: a comprehensive measure with all errors specific to the type of speech production disorder reported (for example, positions, processes, and motor patterns);
3. Voice Disorder: a medical evaluation to determine the presence or absence of a physical etiology is required as part of the comprehensive assessment; and
4. Oral Motor, Swallowing, or Feeding Disorder: if swallowing problems or signs of aspiration are noted, then a referral for a video fluoroscopic swallow study must be made and documented as part of the comprehensive assessment.

Likewise, section 212.520 states:

#### 212.520 Speech-Language Pathology Standardized Evaluations 1-1-22

A. The standardized evaluation(s) and required scoring to establish medical necessity for speech-language pathology services varies depending on the suspected communication disorder.

1. Language Disorder: impaired comprehension or use of spoken language, written, or other symbol systems. A language disorder may involve one (1) or any combination of the following components: phonology, morphology, syntax, semantics, prosody, and pragmatics.

a. Children birth to three (3) years of age: a score on a standardized evaluation performed within the past six (6) months that indicates a composite or quotient score of at least one point five (1.5) standard deviations below the mean, along with corroborating data from a second criterion referenced evaluation.

b. Children three (3) to twenty-one (21) years of age: a score on two (2) standardized evaluations performed within the past six (6) months that both result in a composite or quotient score of at least one point five (1.5) standard deviations below the mean.

c. If both evaluations do not agree or do not indicate a composite or quotient score on a of at least one point five (1.5) standard deviations below the mean, then a third evaluation may be used to demonstrate medical necessity; however, for a client from three (3) to twenty-one (21) years of age, the third evaluation must be a norm-referenced, standardized evaluation that results in a composite or quotient score on a of at least one point five (1.5) standard deviations below the mean.

2. Speech Production (Articulation, Phonological, and Apraxia): a score on two (2) standardized evaluations performed within the past six (6) months that both result in standard scores of at least one point five (1.5) standard deviations below the mean. If only one (1) evaluation results in a standard score of at least one point five (1.5) standard deviations below the mean, then corroborating data from clinical analysis procedures can be used as a substitute for a second evaluation.

3. Voice Disorder: a detailed functional profile of voice parameters that indicate a moderate or severe voice deficit or disorder.

4. Fluency: a standardized evaluation and at least one (1) supplemental tool to address affective components each performed within the last six (6) months. The results of the standardized evaluation and supplemental tool must establish one of the following:

a. The client is within three (3) years of stuttering onset and exhibits significant risk factors for persistent developmental stuttering;

b. The client has a persistent stutter and a score on a standardized evaluation within one (1.0) standard deviation from the mean or greater during functional speaking tasks; or

c. A score on a standardized evaluation that indicates either:

i. A standard score within one (1.0) standard deviation from the mean or greater; or

ii. An index score of at one point five (1.5) standard deviations below the mean when comparing beneficiaries who stutter to individuals who do not stutter.

5. Oral Motor, Swallowing, or Feeding Disorder: an in-depth functional profile of oral motor structures and function using a comprehensive checklist or profile protocol that indicates a moderate or severe oral motor, swallowing, or feeding deficit or disorder.

The areas addressed in these sections incorporate all of ASHA's Big Nine Areas except for cognition. Pediatric cognition is an area that falls well within a speech-language pathologist's scope of practice (1, 2, 3), and yet it has always been omitted from the Arkansas Medicaid manuals. Individuals who experience cognitive impairments have diagnoses such as autism spectrum disorder, Down syndrome, cerebral palsy, premature birth, pediatric traumatic brain injury, attention deficit/hyperactivity disorder, fetal alcohol spectrum disorders, and other neurodevelopmental disabilities (1, 2). Cognitive communication impairments have even frequently been documented in pediatric COVID-19 patients (2, 3). Speech-language pathology intervention (i.e., speech therapy) for cognitive impairments have been shown to increase cognitive skills levels, academic performance, quality of life, and success during the transition from pediatric to adulthood (1).

Because of these reasons, I recommend adding Cognitive Disorder to the speech-language pathologist's list of billable evaluation and treatment services as mentioned in sections 212.520, 212.420, There are standardized and norm-referenced cognitive

assessments that should follow the same requirements as found under "Language Disorders" in section 212.520.

Following the format introduced in section 212.520, please see a proposed addition to the Arkansas Medicaid manual for occupational therapy, physical therapy, and speech language pathology:

6. (following oral motor, swallowing, or feeding disorder) Cognitive Disorder: impaired cognition as characterized by one or more of the following areas: attention, memory, sequencing, problem-solving, executive functioning.

a. Children birth to three (3) years of age: a score on a standardized evaluation performed within the past six (6) months that indicates a composite or quotient score of at least one point five (1.5) standard deviations below the mean, along with corroborating data from a second criterion referenced evaluation.

b. Children three (3) to twenty-one (21) years of age: a score on two (2) standardized evaluations performed within the past six (6) months that both result in a composite or quotient score of at least one point five (1.5) standard deviations below the mean.

c. If both evaluations do not agree or do not indicate a composite or quotient score on a of at least one point five (1.5) standard deviations below the mean, then a third evaluation may be used to demonstrate medical necessity; however, for a client from three (3) to twenty-one (21) years of age, the third evaluation must be a norm-referenced, standardized evaluation that results in a composite or quotient score on a of at least one point five (1.5) standard deviations below the mean.

Finally, please consider the addition of Cognitive Disorders to the following billing code (revisions have been added to this example):

92523	UA	Evaluation of Speech Production (e.g., articulation, phonological process, apraxia, dysarthria) with Evaluation of Language Comprehension and Expression (e.g., receptive and expressive language) and Evaluation of Cognition (e.g. attention deficits, memory deficits, executive dysfunction)
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1 unit equals 30 minutes; maximum of 4 units per state fiscal year

**RESPONSE:** Thank you for your comment. The proposed Medicaid Manual is only intending to simplify, organize, and clarify the existing eligibility and assessment criteria under the current Occupational Therapy, Physical Therapy, and Speech-Language Pathology Medicaid Manual. Adding cognitive disorder would create an expansion of the current eligibility criteria, which was not under consideration for this amendment. This comment will be considered for potential inclusion in any future revisions to the Manual.

Commenter's Name: Hannah Richesin, DPT

1. I have a bit of feedback I'd like considered regarding the proposed manual update.

In Section 201.300 C – "... (an EIDT program may elect to employ or contract with therapists..." But, then in Section 203.000 A – "A supervising therapist must be a paid employee of the Arkansas Medicaid provider that is filing claims". The first item states therapists working at an EIDT program may be contracted or self-employed. The second doesn't explicitly agree, only mentioning employees. Maybe 203.000 A could be updated to include language "paid employee OR CONTRACTOR OF..."?

Response: Thank you for your comment. Section 203.000(A) will be removed in its entirety, and Section 203.000 subsections B, C, and D will be changed to subsections A, B, and C, respectively.

2. When can we expect to see an updated fee schedule considering the recent rate reviews recommendations? Thank you! **RESPONSE:** Thank you for your comment. An approximate date is not known at this time.

3. I have a comment/question regarding: 251.000 Method of Reimbursement 1-1-22 A.

Occupational therapy, physical therapy, and speech-language pathology services use fee schedule reimbursement methodology. Under the fee schedule methodology, reimbursement is made at the lower of the billed charge for the service or maximum allowable reimbursement for the service under the Arkansas Medicaid Program.

1. A full unit of service must be rendered in order to bill a unit of service.

2. Partial units of service may not be rounded up and are not reimbursable.

Does Arkansas Medicaid honor the CMS rule which most other payors use? I.E. "The 8-minute rule" in therapies? I would assume yes but nothing is explicitly stated. If not, what constitutes a full unit? Is it truly all or nothing?

Here is an example where all or nothing methodology is highly problematic:

Imagine an EIDT center utilizes a computer-based system. The computer logs a child out for therapy at 8:00 am and returned at 8:45 am. Now, it will reasonably take the therapist a matter of seconds, up to a minute or two, to retrieve the next child from a separate classroom. Say the next child is logged out 8:46 am to 9:30 am. Would the therapist lose a unit? This would happen between most children transitioning. That's very inefficient. Even if the therapist attempted to keep the child until 9:31 am, to make whole units - there is always something going on. The computer log in takes a few seconds longer, etc. - any number of things. It is very, very difficult to make a whole exact unit each time, down to the second (or even minute). Working with other disciplines, if every child is

returned at an odd time, it throws everyone's day off. A pad of even 5 minutes on a unit works so much better in reality.

Then, let's assume this ideology is carried over to other Medicaid services like dayhab in EIDT. The units are 1 hour. I am aware of no other setting where providers are expected to render a service for 59 minutes for free, if the system logged a child in at 8:01 am. I would really love to have something firm in the manual regarding this topic. I might suggest that at least 75% of a unit should be rendered to count as a whole unit.

Percentages can be problematic, but something like:

At least 10 minutes of a 15-minute unit

At least 45 minutes of an hour unit

Or, just do what CMS and most other payors have done for many years setting a standard in therapy as:

8 – 22 minutes	1 unit
23 – 37 minutes	2 units
38 – 52 minutes	3 units
53 – 67 minutes	4 units
68 – 82 minutes	5 units
83 minutes	6 units

Thank you for the consideration!

**RESPONSE:** Thank you for your comment. All billable units of service under the proposed Occupational Therapy, Physical Therapy, and Speech-Language Pathology Medicaid Manual are for fifteen (15) minutes except Occupational Therapy, Physical Therapy, and Speech-Language Pathology Evaluation and Treatment Planning services which are reimbursed on a per unit basis based on complexity. See the memo dated 12/30/2020 for guidance on Evaluation and Treatment Planning complexity codes attached. A full fifteen (15) minutes of service must be rendered to be reimbursable under the proposed manual. Partial units of service may not be rounded up and are not reimbursable.

Commenter's Name: Martha McKenzie Hill, Mitchell, Williams, Selig, Gates & Woodyard, P.L.L.C., on behalf of The CHMS Providers' Association

**1. Ladies and Gentlemen:** On behalf of the CHMS Providers' Association, please see the following comments on the proposed rules for the revised Occupational Therapy, Physical Therapy, and Speech-Language Pathology Manual.

Specifically regarding Proposed Rules 201.200, 212.50 and 212.520:

There appears to be an inconsistency between 204.200 requiring referral and prescription for a 12-month period and 212.510 and 212.520 which relies on evaluations every six months. CHMS Providers Association members urge and prefer a 12-month period for

referral and prescription in order to demonstrate certain gains of children over a 12-month period.

**RESPONSE:** Thank you for your comment. The intent of the language in 212.520 is not to require evaluations every 6 months, but the language seems to be causing confusion. The language in 212.510(A), 212.520(A)(1)(a-b), 212.520(A)(2), and 212.520(A)(4) will be changed from “six (6) months” to “twelve (12) months” to alleviate any confusion.

**2. Specifically regarding Proposed Rules 206.00 and 207.00:**

Section 206 and 207 require every therapist to refer. We believe that it is in the best interest of all involved that referrals should be streamlined. Current EIDT rules require facility referrals. The CHMS Providers’ Association urges streamlined referrals in accordance with EIDT rules to insure efficiencies with regard to each recipient. The rules as currently proposed could cause up to four referrals per child if these rules are not adjusted and redrafted.

**RESPONSE:** Thank you for your comment. Occupational therapists, Physical Therapists, and Speech-Language pathologists are primary referral sources under the Individual with Disabilities Education Act (IDEA) and 34 CFR § 303.303(c). While the current language may result in multiple referrals for the same child, inclusion as drafted is the only way to ensure State of Arkansas compliance with IDEA child find requirements.

**3. Specifically regarding Proposed Rule 214.100D:**

“The billable unit includes time spent administering and scoring a standardized evaluation, clinical observation, administering supplemental tests and tools, writing an evaluation report and comprehensive assessment along with time spent developing the treatment plan.”

Please be more specific about the administrative time needed in drafting and revising reports. Substantial time is spent drafting and revising reports concerning patients. We need to insure that time expended is billable.

Thank you in advance for your consideration of these comments. If you have any questions, do not hesitate to contact me.

**RESPONSE:** Thank you for your comment. Please see the memo dated 12/30/2020 for guidance on Occupational Therapy, Physical Therapy, and Speech-Language Pathology Evaluation and Treatment Planning complexity codes, attached.

The proposed effective date is January 1, 2022.

**FINANCIAL IMPACT:** The agency indicated that this rule does not have a 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).

Per the agency, this rule was promulgated, in part, to implement Acts 767 and 829 of 2021. Act 767, sponsored by Representative Aaron Pilkington, clarified the Telemedicine Act, specified that the home of a patient may be an originating site for telemedicine and that group meetings may be performed via telemedicine, and clarified reimbursement of telemedicine services. Act 829, sponsored by Representative Jim Dotson, amended the Telemedicine Act and authorized additional reimbursement for telemedicine via telephone.

**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** Mac Golden  
**ADDRESS** P. O. Box 1437, Slot S295 Little Rock, AR 72203-1437  
**PHONE NO.** 501-320-6383 **FAX NO.** 501-404-4619 **E-MAIL** Mac.E.Golden@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:

Jessica C. Whittaker  
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? Occupational Therapy, Physical Therapy, and Speech-Language Pathology Medicaid Manual

2. What is the subject of the proposed rule? To clarify, remove duplication, and reorganize the Occupation Therapy, Physical Therapy, and Speech-Language Pathology Medicaid Manual and add parameters related to telemedicine services delivery.

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: October 28, 2021

Time: 10:00 AM CST

<https://us02web.zoom.us/j/89990074908>

Place: Webinar ID: 899 9007 4908

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

November 8, 2021

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

January 1, 2022

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. Occupational and Physical therapist and therapist assistants, and speech-language pathologist and speech-language pathologist assistants. (unknown)

**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT** Department of Human Services

**DIVISION** Division of Developmental Disabilities Services

**PERSON COMPLETING THIS STATEMENT** Jason Callan

**TELEPHONE** (501) 320-6540 **FAX** \_\_\_\_\_ **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** Occupational Therapy, Physical Therapy, and Speech-Language Pathology Medicaid Manual

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?

<b><u>Current Fiscal Year</u></b>		<b><u>Next Fiscal Year</u></b>	
General Revenue	<u>\$0.00</u>	General Revenue	<u>\$0.00</u>
Federal Funds	<u>\$0.00</u>	Federal Funds	<u>\$0.00</u>
Cash Funds	_____	Cash Funds	_____
Special Revenue	_____	Special Revenue	_____
Other (Identify)	_____	Other (Identify)	_____
<b>Total</b>	<u>\$0.00</u>	<b>Total</b>	<u>\$0.00</u>

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

**Current Fiscal Year**

General Revenue \$0.00  
Federal Funds \$0.00  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_  
  
Total \$ 0.00

**Next Fiscal Year**

General Revenue \$0.00  
Federal Funds \$0.00  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_  
  
Total \$ 0.00

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**

\$ 0.00

**Next Fiscal Year**

\$ 0.00

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**

\$ 0.00

**Next Fiscal Year**

\$ 0.00

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.

**Statement of Necessity and Rule Summary**  
**Occupational Therapy, Physical Therapy, and Speech-Language Pathology Medicaid**  
**Manual**

**Statement of Necessity.**

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**Summary:**

- Re-organizes the manual into the following structure: provider credentialing and operational requirements, client eligibility, covered services and benefit limits, extension of benefits and prior authorizations, and retrospective review.
- Updates the table of contents to reflect new structure and organization
- Adds hyperlinks for the list of accepted evaluation instruments and applicable procedure codes and descriptions.
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- Updates retrospective review section.
- Includes the option of delivery of Occupational Therapy, Physical Therapy, and Speech-Language Pathology services through telemedicine and sets out those parameters and requirements.



## NOTICE OF RULE MAKING

The Director of the Division of Developmental Disabilities 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 January 1, 2022:**


The Director of the Division of Developmental Disabilities Services (DDS) rescinds the Occupational, Physical, and Speech Language Therapy Services Manual and replaces it with a new Occupational, Physical, and Speech Language Therapy Services Manual. DDS adds telemedicine services requirements to the manual, including a hyperlink to billable telecommunication codes. DDS adds to the Retrospective Review Section that the Quality Improvement Organization will review all billed services delivered via telemedicine. DDS also re-organizes the manual, removes duplications, and makes technical changes. Procedure codes and evaluation instruments are removed and replaced with hyperlinks. Medically necessary occupational therapy, physical therapy, and speech-language pathology services reimbursement criteria for weekly services is added.

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 **November 8, 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 **October 28, 2021, at 10:00 a.m.** and public comments may be submitted at the hearing. Individuals can access this public hearing at <https://us02web.zoom.us/j/89990074908>. The webinar ID is **899 9007 4908**. 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. **4502024674**

  
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Melissa Stone, Director  
Division of Developmental Disabilities Services