

## DEPARTMENT OF HUMAN SERVICES, DIVISION OF MEDICAL SERVICES

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**SUBJECT:** COVID-19 Vaccinations for Home-Bound Medicaid Clients

**DESCRIPTION:**

Statement of Necessity

The Centers for Disease Control and Prevention (CDC) and the Centers for Medicare and Medicaid Services (CMS) approved the administration of the COVID-19 vaccination in a patient's home (or similar setting). The Department of Human Services (DHS), Division of Medical Services (DMS) will cover administration of the COVID-19 vaccination to Arkansas Medicaid clients who are home-bound.

Examples of Medicaid clients eligible for this service include those who face barriers or challenges to obtaining a COVID-19 vaccination and those who might not get vaccinated without this service being provided in their home by designated Medicaid providers. CMS created an infographic to help Medicare providers understand the scope of this service, which Medicaid providers may find helpful.

Summary

To implement this program, Medicaid will authorize Home Health services providers (Provider Type 14) and Pharmacy providers (Provider Type 07/PV) to administer the COVID-19 vaccinations in the home (or similar setting) to eligible Medicaid clients. Home Health and Pharmacy providers will be able to administer the vaccination to current Home Health clients, as well as to those who are not currently in the Home Health Program.

DMS amends the COVID Response Manual to authorize home health providers and pharmacy providers to administer COVID-19 vaccination shots in a client's home or similar location. DMS outlines home administration requirements for those currently receiving home-based services as well as those who do not currently receive home based services. Also, DMS requires specific documentation by the provider and provides directions for billing and payment of claims. These include covered vaccines, procedure codes, and rates. The rule automatically sunsets at the end of the Federal Public Health Emergency. The information also will be issued in an Official Notice published to providers.

**PUBLIC COMMENT:** A public hearing was held on this rule on December 1, 2021. The public comment period expired on December 13, 2021. The agency indicated that it received no public comments.

This rule was filed on an emergency basis and was reviewed and approved by the Executive Subcommittee on November 9, 2021. The proposed effective date for permanent promulgation is March 1, 2022.

**FINANCIAL IMPACT:** The agency indicated that this rule has a financial impact.

Per the agency, the total cost to implement this rule is estimated at \$1,485,578 for the current fiscal year (\$421,607 in general revenue and \$1,063,971 in federal funds) and \$2,228,367 for the next fiscal year (\$632,411 in general revenue and \$1,595,956 in federal funds). The total estimated cost by fiscal year to state, county, and municipal government to implement this rule is \$421,607 for the current fiscal year and \$632,411 for the next fiscal year.

The agency indicated that there is a new or increased cost or obligation of at least \$100,000 per year to a private individual, private entity, private business, state government, county government, local government, or to two or more of those entities combined. Accordingly, the agency provided the following written findings:

*(1) a statement of the rule's basis and purpose;*

The Centers for Disease Control and Prevention (CDC) and the Centers for Medicare and Medicaid Services (CMS) approved administration of the COVID-19 vaccination in a patient's home. The Department of Human Services, Division of Medical Services (DHS/DMS) will cover administration of the COVID-19 vaccination to Arkansas Medicaid clients who are home-bound.

*(2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;*

The purpose is to provide home bound recipients with an opportunity to receive the COVID-19 vaccine.

*(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;*

The Centers for Disease Control and Prevention (CDC) and the Centers for Medicare and Medicaid Services (CMS) approved administration of the COVID-19 vaccination in a patient's home. The Department of Human Services, Division of Medical Services (DHS/DMS) will cover administration of the COVID-19 vaccination to Arkansas Medicaid clients who are home-bound.

*(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;*

None



*(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;*

N/A

*(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*

The Centers for Disease Control and Prevention (CDC) and the Centers for Medicare and Medicaid Services (CMS) approved administration of the COVID-19 vaccination in a patient's home. The Department of Human Services, Division of Medical Services (DHS/DMS) will cover administration of the COVID-19 vaccination to Arkansas Medicaid clients who are home-bound.

*(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.*

DMS will review this rule based on the current state of the Public Health Emergency.

**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).

The federal government has approved in-home administration of COVID-19 vaccines for certain "patients that have difficulties leaving their homes or are hard-to-reach." See CMS, *Medicare Payment for COVID-19 Vaccination Administration in the Home* (Aug. 2021), <https://www.cms.gov/files/document/vaccine-home.pdf>; CDC, *Vaccinating Homebound Persons with COVID-19 Vaccine* (Aug. 10. 2021), <https://www.cdc.gov/vaccines/covid-19/clinical-considerations/homebound-persons.html>.

**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.** 501-320-6383 **FAX NO.** 501-404-4619 **E-MAIL** Mac.E.Golden@dhs.arkansas.gov  
**NAME OF PRESENTER AT COMMITTEE MEETING** Elizabeth Pitman  
**PRESENTER E-MAIL** Elizabeth.Pitman@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? COVID-19 Vaccinations for Home-Bound Medicaid Clients

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? November 11, 2021

When does the emergency rule expire? March 11, 2022

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: December 1, 2021

Time: 10:00 a.m.

<https://us02web.zoom.us/j/84119369838>

Place: webinar ID is 841 1936 9838

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

December 13, 2021

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

November 11, 2021 (Emergency promulgation); March 1, 2022 (regular promulgation)

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. Arkansas Medical Society, Arkansas

**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**                      COVID-19 Vaccination for Home-Bound Medicaid Clients

- 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	\$ _____	General Revenue	\$ _____
Federal Funds	\$ _____	Federal Funds	\$ _____
Cash Funds	\$ _____	Cash Funds	\$ _____
Special Revenue	\$ _____	Special Revenue	\$ _____



Other (Identify) \$ \_\_\_\_\_  
 Total \$ \_\_\_\_\_

Other (Identify) \$ \_\_\_\_\_  
 Total \$ \_\_\_\_\_

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

**Current Fiscal Year**

General Revenue \$421,607  
 Federal Funds \$1,063,971  
 Cash Funds \$  
 Special Revenue \$  
 Other (Identify) \$  
 Total \$1,485,578

**Next Fiscal Year**

General Revenue \$632,411  
 Federal Funds \$1,595,956  
 Cash Funds \$  
 Special Revenue \$  
 Other (Identify) \$  
 Total \$2,228,367

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**

\$ 421,607

**Next Fiscal Year**

\$ 632,411

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:

*The Centers for Disease Control and Prevention (CDC) and the Centers for Medicare and Medicaid Services (CMS) approved administration of the COVID-19 vaccination in a patient's home. The Department of Human Services, Division of Medical Services (DHS/DMS) will cover administration of the COVID-19 vaccination to Arkansas Medicaid clients who are home-bound.*

- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;

***The purpose is to provide home bound recipients with an opportunity to receive the COVID-19 vaccine.***

- (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;

***The Centers for Disease Control and Prevention (CDC) and the Centers for Medicare and Medicaid Services (CMS) approved administration of the COVID-19 vaccination in a patient's home. The Department of Human Services, Division of Medical Services (DHS/DMS) will cover administration of the COVID-19 vaccination to Arkansas Medicaid clients who are home-bound.***

- (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; *None*
- (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; *N/A*
- (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

***The Centers for Disease Control and Prevention (CDC) and the Centers for Medicare and Medicaid Services (CMS) approved administration of the COVID-19 vaccination in a patient's home. The Department of Human Services, Division of Medical Services (DHS/DMS) will cover administration of the COVID-19 vaccination to Arkansas Medicaid clients who are home-bound.***

- (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;
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***DMS will review this rule based on the current state of the Public Health Emergency.***



## **Statement of Necessity and Rule Summary COVID-19 Vaccinations for Home-Bound Medicaid Clients**

### **Statement of Necessity**

The Centers for Disease Control and Prevention (CDC) and the Centers for Medicare and Medicaid Services (CMS) approved the administration of the COVID-19 vaccination in a patient's home (or similar setting). The Department of Human Services (DHS), Division of Medical Services (DMS) will cover administration of the COVID-19 vaccination to Arkansas Medicaid clients who are home-bound.

Examples of Medicaid clients eligible for this service include those who face barriers or challenges to obtaining a COVID-19 vaccination and those who might not get vaccinated without this service being provided in their home by designated Medicaid providers. CMS created an infographic to help Medicare providers understand the scope of this service, which Medicaid providers may find helpful.

### **Summary**

To implement this program, Medicaid will authorize Home Health services providers (Provider Type 14) and Pharmacy providers (Provider Type 07/PV) to administer the COVID-19 vaccinations in the home (or similar setting) to eligible Medicaid clients. Home Health and Pharmacy providers will be able to administer the vaccination to current Home Health clients, as well as to those who are not currently in the Home Health Program.

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## 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, & 25-10-129.

### **Effective March 1, 2022:**

The Director of the Division of Medical Services (DMS) amends the DMS COVID-19 Response Manual to authorize home health providers and pharmacy providers to administer COVID-19 vaccination shots in a client's home or similar location. DMS outlines the requirements for those currently receiving home-based services as well as those who do not currently receive home based services to receive the COVID-19 vaccine in their home. Also, DMS requires specific documentation by the provider and provides directions for billing and payment of claims. These include covered vaccines, procedure codes, and rates. The rule automatically sunsets at the end of the Federal Public Health Emergency.

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 December 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 December 1, 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/84119369838>. The webinar ID is 841 1936 9838. 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. 4502035775



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Elizabeth Pitman, Director  
Division of Medical Services