

DEPARTMENT OF HEALTH, ARKANSAS KIDNEY DISEASE COMMISSION

SUBJECT: Arkansas Kidney Disease Commission Rules

DESCRIPTION: The agency provided the following rule summary:

The Arkansas Kidney Disease Commission (“AKDC”) is initiating the process for the revision of the Arkansas Kidney Disease Commission Rules. The following revisions are being proposed:

In accordance with Act 910 of 2019, language will be added to the Authority section of the rules stating that the Secretary of the Arkansas Department of Health is the disbursing officer of funds appropriated by the Arkansas General Assembly and any other funds made available to the Commission.

A residency requirement has been added to the eligibility requirements of applicants who wish to participate in the Commission’s programs. In addition, financial eligibility of individuals who wish to participate will now be limited to those whose annual income does not exceed 250% of the Federal Poverty Level (FPL) percentage for the year in which they are applying for assistance.

If an Applicant has insurance coverage, they must provide proof of that coverage. Applicants shall be required to apply and provide evidence of acceptance/denial from all applicable pharmaceutical company patient assistance programs. This is to ensure that the AKDC will only be the payor of last resort.

The revisions also create a formulary that will include nutritional supplements designed for kidney dialysis patients.

PUBLIC COMMENT: A public hearing was held on this rule on March 2, 2022. The public comment period expired on March 1, 2022. The agency indicated that it received no public comments.

Lacey Johnson, an attorney with the Bureau of Legislative Research, asked the following questions and received the following responses:

1. Is there a specific statute the Commission is relying on for the new provision regarding ad hoc committees (page 5)? **RESPONSE:** Not specific authority but ADH/AKDC thought it inherent in its powers and duties especially since the issues before the commission relate to medical issues and require applicable medical expertise e.g., development of the formulary and issues surrounding dialysis.
2. Will the “Appendix A Formulary” text at the end of the rule be a hyperlink in the final rule? **RESPONSE:** No hyperlink—it is in the CLEAN proposed final rule, but not in MARK-up. Will send revised MARK-Up rule.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that this rule has no financial impact.

LEGAL AUTHORIZATION: The State Kidney Disease Commission has authority to establish a program to assist persons suffering from acute or chronic renal failure and to develop standards for determining eligibility for financial assistance. Ark. Code Ann. § 20-15-603(a)(1)-(2).

QUESTIONNAIRE
FOR FILING PROPOSED RULES WITH THE
ARKANSAS LEGISLATIVE COUNCIL

DEPARTMENT/AGENCY Arkansas Department of Health
DIVISION Arkansas Kidney Disease Commission
DIVISION DIRECTOR _____
CONTACT PERSON Laura Shue, General Counsel
ADDRESS 4815 West Markham, Slot 35, Little Rock, AR 72205
PHONE NO. (501) 661-2297 **FAX NO.** _____ **E-MAIL** Laura.Shue@arkansas.gov
NAME OF PRESENTER AT COMMITTEE MEETING Laura Shue, General Counsel
PRESENTER E-MAIL Laura.Shue@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. Rule" below.
- E. Submit two (2) copies of the 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, 5th Floor
Little Rock, AR 72201

1. What is the short title of this rule? Arkansas Kidney Disease Commission Rules

2. What is the subject of the proposed rule? Rules of operation for the Arkansas Kidney Disease Commission

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 rule.

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."

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation.

Act 450 of 1971; Ark. Code Ann. § 20-15-601, et seq.

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

Outlines the rules of operation for the Arkansas Kidney Disease Commission.

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://www.healthy.arkansas.gov/proposed-amendment-to-existing-rules>

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

Date: _____

Time: _____

Place: _____

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

03/01/2022

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

05/01/2022

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. _____

13. Please provide proof of filing the rule with the Secretary of State 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.

None

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Department of Health
DIVISION Arkansas Kidney Disease Commission
PERSON COMPLETING THIS STATEMENT Laura Shue, General Counsel
TELEPHONE NO. (501) 661-2297 **FAX NO.** _____ **EMAIL:** Laura.Shue@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two (2) copies with the Questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Arkansas Kidney Disease Commission Rules

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?

Current Fiscal Year

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total \$ 0.00

Total \$ 0.00

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

Current Fiscal Year

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total \$ 0.00

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

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

Next Fiscal Year

\$ _____

\$ _____

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.



Arkansas Department of Health

4815 West Markham Street • Little Rock, Arkansas 72205-3867 • Telephone (501) 661-2000
Governor Asa Hutchinson
José R. Romero, MD, Secretary of Health

PROPOSED REVISIONS TO THE ARKANSAS KIDNEY DISEASE COMMISSION RULES

September 15, 2021

PURPOSE

The Arkansas Department of Health (Department) is seeking Governor Hutchinson's review of proposed amendments to the Arkansas Kidney Disease Commission (AKDC) Rules.

BACKGROUND

The AKDC duly adopts and promulgates its Rules for the administration of its programs pursuant to the authority expressly conferred to it by Act 450 of 1971. The AKDC was brought under ADH during Act 910 "transformation." ADH advised AKDC the necessity for updates and clarification of the Rules which had not been amended in many years.

KEY POINTS

The proposed rule:

- Clarifies eligibility requirements
- Delineates the operations of the Commission
- Adds language from Act 910 of 2019

DISCUSSION

The Arkansas Kidney Disease Commission (AKDC) is initiating the process for the revision of the Arkansas Kidney Disease Commission Rules. The following revisions are being proposed:

In Accordance with Act 910 of 2019 language will be added to the Authority section of the rules stating that the Secretary of the Arkansas Department of Health is the disbursing officer of funds appropriated by the Arkansas General Assembly and any other funds made available to the Commission.

A residency requirement has been added to the eligibility requirements of applicants who wish to participate in the Commission's programs. In addition, financial eligibility of individuals who wish to participate will now be limited to those whose annual income does not exceed 250% of

the Federal Poverty Level (FPL) percentage for the year in which they are applying for assistance.

If an Applicant has insurance coverage, they must provide proof of that coverage. Applicants shall be required to apply and provide evidence of acceptance/denial from all applicable pharmaceutical company patient assistance programs. This is to ensure that the AKDC will only be the payor of last resort.

The revisions also create a formulary that will include nutritional supplements designed for kidney dialysis patients.

RECOMMENDATION

ADH recommends that the proposed amendments to the Rules for the Administration of Arkansas Kidney Disease Commission be approved.

ARKANSAS KIDNEY DISEASE COMMISSION

RULES



~~Arkansas Department of Career Education~~ Health

~~Arkansas Rehabilitation Services~~

~~525 W. Capitol Avenue~~

~~4815 W. Markham, Slot 31,~~

~~Little Rock, AR 72204 5~~

~~Telephone: (501) 686-2807~~ 1-800-462-0599

~~Fax: (501) 686-2831~~

Effective Date: ~~October 1, 2013~~ XXXX , XX, 2021

INTRODUCTION

Pursuant to A.C.A. § 20-15-603 ~~this manual~~ these Rules delineates ~~the rules of operation~~ and standards for the program administered by ~~established for~~ the Arkansas Kidney Disease Commission. Changes, additions, and deletions ~~will~~ shall be made from time to time in order to insure the best possible services for clients with permanent kidney failure who are residents of the State of Arkansas. Rule changes ~~will~~ shall only be considered during Commission meetings when a quorum is declared. A majority vote is required for any change. Promulgation of a rule revision is required for any Commission decision which affects patient qualification or services. No Rule, Rule amendment or Rule revision shall be effective until promulgation under the Arkansas Administrative Procedure Act at § 25-15-201 et seq.

Arkansas Kidney Disease Commission

RULES

AUTHORITY

The Arkansas Kidney Disease Commission (AKDC) was established by the General Assembly of the State of Arkansas through Act 450 of 1971 to establish a program for the care and treatment of persons suffering from chronic renal disease. The legislation charged the AKDC to “provide financial assistance for persons suffering from chronic renal disease who require life-saving care and treatment to the extent as determined by the Commission.”

Act 910 of 2019 authorizes the Secretary of the Arkansas Department of Health as the disbursing officer of funds appropriated by the Arkansas General Assembly and any other funds made available to the Commission for such purposes.

Legislative Findings and Purpose

Legislative findings declared and found that one of the major problems facing medicine and the public health and welfare is the lack of an adequate program to assist in the treatment and cure of persons suffering from chronic kidney disease. It is estimated that a number of citizens of this State annually are confronted with chronic kidney disease, requiring complicated and expensive treatment, which is often beyond the financial resources of such individuals. There is a critical shortage of adequate facilities within the State for the discovery, evaluation, diagnosis, treatment, and cure of individuals suffering from chronic kidney disease. In order to provide for the care and treatment of persons suffering from acute or chronic kidney disease, and in order to encourage and assist in the development of adequate treatment facilities for persons suffering from acute or chronic kidney disease, it is essential that the State develop a program of financial assistance to aid in defraying a portion of the cost for the care and treatment of chronic renal disease to the extent that the individual suffering from such disease is unable to pay for such services on a continuing basis.

COMMISSION

Powers and Duties of the Commission

The Commission shall have the following functions, powers and duties:

- To establish a program to assist persons suffering from acute or chronic renal failure in obtaining care and treatment requiring dialysis. The program shall provide financial assistance for persons suffering from chronic renal diseases who require life-saving care and treatment for the renal disease to the extent, as determined by the Commission, that a person is unable to pay for such services on a continuing basis without causing unjust and unusual hardship to himself or herself and his or her immediate family, including without limitation a drastic lowering of the standard of living.

- To develop standards for determining eligibility for assistance in defraying the cost of care and treatment of renal disease under this program.
- To cooperate with hospitals, private groups, and organizations, and public agencies in the development of positive programs to bring about financial assistance and support of evaluation and treatment of patients suffering from chronic kidney disease.
- To cooperate with the national and state kidney foundations and with medical programs of the state and federal government for the purpose of obtaining the maximum amount of federal and private assistance possible in support of a kidney disease treatment program.
- To establish criteria and standards for evaluating the financial ability of persons suffering from chronic renal disease to pay for their own care, including the availability of third party insurance coverage, for the purpose of establishing standards for eligibility for financial assistance in defraying the cost of the care and treatment from funds appropriated to the commission for renal disease treatment purposes.
- To accept gifts, grants, and donations from private sources, and the federal government and support from municipal and county governments to be used for the purposes of this Act in defraying costs incurred by persons suffering from acute or chronic renal disease who are unable to meet the total cost of life-saving care and treatment for renal disease.
- To accept gifts, grants, and donations from private sources and the federal government and support from municipal and county governments to be used to honor persons who have provided living kidney donations to Arkansans in need of kidney transplantation.

Commission Committees

Financial Committee

~~The Financial Committee will be composed of at least two (2) members appointed by the Chairman of the Commission. It will be the responsibility of this Committee to review and make recommendations to the full Commission regarding program rules and practices related to establishing the client financial needs criteria to be utilized by the AKDC.~~

Medical Committee

~~The Chairman of the Commission will appoint the Medical Committee. This Committee will be composed of as many as eight (8) members, and will include specialists who treat end stage renal disease (ESRD), and may include others who work in allied medical fields and are knowledgeable about chronic renal conditions. One member shall serve at the discretion of the Chairman of the Commission as chairman of this committee. The Chairman of the Medical Committee must be a physician knowledgeable in ESRD. It will be the responsibility of this committee to review and make recommendations to the full Commission regarding program rules and practices related to the services provided by the AKDC. This committee will also establish the specific medical criteria a client must have in order to receive services provided by the program. The Chairman of the Medical~~

~~Committee may assist in the application review process to ascertain if the individual applying for services meets the established medical criteria. In certain instances the full Medical Committee may be asked to review an application if such is indicated.~~

The Commission may establish ad hoc committees from time to time. The ad hoc committees shall review issues and make recommendation to the full Commission.

CHAIN OF LIFE AWARD

The AKDC Chain of Life award recognizes individuals who have made a living kidney donation to a current resident of Arkansas who is in need of kidney transplantation. Nominations for the award are received by the AKDC and presented to the Commission Board for approval. The AKDC shall not use state funds appropriated for program services but ~~will~~ may accept gifts, grants, and donations from private sources and the federal government and support from municipal and county governments to maintain the award.

ELIGIBILITY

Persons suffering from chronic renal failure may be referred to the Arkansas Kidney Disease Commission. Referrals ~~will~~ shall come from clients themselves, physicians, social workers, hospital or kidney dialysis center personnel, pharmacists, rehabilitation counselors, and others including individuals and agencies familiar with the person's kidney disease.

Eligibility Requirements

Eligibility requirements ~~will~~ shall be applied without regard to sex, race, creed, color, or national origin. With respect to age, no upper or lower limit ~~will~~ shall be set as a guide to turn away a referral.

Residency Requirement

Clients must be a resident of Arkansas. To be eligible, an applicant must provide a copy of his or her driver's license or identification card issued by the State of Arkansas.

~~No residence requirement, durational or other, will be imposed which would exclude any individual, who lives in Arkansas and makes or intends to make Arkansas their permanent residence, from receiving services.~~

Physician Certification requirement

Certification by a Nephrologist (or other physician) or Advance Practice Registered Nurse is required confirming the applicant has a diagnosis of ESRD with an indication that the individual is in need of regular renal dialysis treatments or has been the recipient of a kidney transplant.

Financial Eligibility

~~Financial need will be considered in determining eligibility.~~

A client's annual income may not exceed 250% of the Federal Poverty Level (FPL) percentage for the year in which they are applying for assistance. The AKDC shall consider the available financial resources of the total household. Income sources to be considered include wages; business income; social security, SSDI, and SSI benefits; retirement income; veteran's benefits; income from stocks, bonds, or other investments; and other identifiable

liquid assets.

If the applicant is a dependent, the resources of the parent(s) shall be determined. The exception is if the applicant is a dependent and is receiving SSI benefits, he/she may be considered a family of one.

Insurance Eligibility

Clients with insurance must provide proof of insurance coverage. Individuals with or without insurance are not prohibited from receiving services on the basis of their insurance status. However, AKDC shall be payor of last resort.

~~The AKDC will conform to the policies of the Directive/Protection of Families from Government.~~

Application for Services

Individuals applying for services available through the program ~~are requested to~~ shall complete the AKDC Initial Referral Application. ~~Utilization of the AKDC Initial Referral Application (Form AKDC-01) is preferred as it contains the necessary individual identifying information as well as income, benefit, and asset information to determine financial need.~~ The Initial Referral Application also includes the required Nephrologist or other health professional certification indicating the applicant has ESRD or has been the recipient of a kidney transplant.

Certificate of Eligibility/Ineligibility

A certificate of eligibility-ineligibility (AKDC-10) ~~will~~ shall be completed prior to the provision of services, or the refusal of services, as the case may be. The AKDC Program Manager ~~will~~ shall ~~have the responsibility to~~ review the Initial Referral Application, applying the established financial needs and residential criteria ~~and ensuring the applicant's physician has certified that the applicant meets the medical criteria.~~ ~~The applicant will be notified if financial need is not met.~~ The signature of the AKDC Program Manager ~~will~~ shall ~~only be required on~~ sign the Certificate of Eligibility/Ineligibility for ~~those~~ each applicants, indicating the applicant's eligibility or ineligibility ~~not meeting the program's established financial needs criteria.~~ Applications of individuals ~~determined to meet the established financial needs criteria~~ will be referred to the Chairman of the Medical Committee or, if so determined by the Commission Board, a physician employed by Arkansas Rehabilitation Services to ascertain whether the applicant's medical condition is consistent with the established program criteria to be eligible for services. The signature of the AKDC Program Manager, the reviewing physician, and the Chairman of the Commission is required on the Certificate of Eligibility/Ineligibility for those applicants ~~determined eligible to receive program services.~~ The Vice-Chairman of the Commission will sign in the absence of the Chairman. Applicants and other concerned will be notified of the decision made, whether approved or denied.

FINANCIAL NEED/COMPARABLE BENEFITS

Client's Resources

Every applicant's request for services will be reviewed to determine if other benefits are available. It is the intention of the AKDC to assist all eligible ESRD cases, but only to the extent that such services will supplement other benefits.

~~Financial need is basic for AKDC services. Many individuals lack adequate financial resources to maintain themselves and/or their dependents and are often unable to meet needs arising from the extraordinary circumstances associated with ESRD. AKDC rules and practices are based on the concept of providing financial assistance to address specific treatment needs of eligible clients consistent with services offered by the program.~~

~~When determining an individual's financial resources, all resources available to the client and his/her household will be considered. If the applicant is a dependent, the resources of the parent(s) will be determined. The exception is if the applicant is a dependent and is receiving SSI benefits, he/she may be considered a family of one. The Commission Board members will establish the standards for determining financial need.~~

~~When determining financial need, the AKDC will consider the available financial resources of the total household unless an exception exists. Income sources to be considered include wages; business income; social security, SSDI, and SSI benefits; retirement income; veteran's benefits; income from stocks, bonds, or other investments; and other identifiable liquid assets.~~

Comparable Benefits of the Individual

~~The comparable benefits provision provides the AKDC with an organized method for assessing an individual's eligibility for benefits under other programs. Any benefits available to an individual under any other program to meet, in whole or in part, the cost of any AKDC service is not a factor in determining eligibility for AKDC services.~~

Other Resources/ Similar Benefit

~~Applicants shall be required to apply and provide evidence of acceptance/denial from all applicable pharmaceutical company patient assistance programs. Any services that the applicant may receive, or be eligible to receive from other sources will shall be used first. The AKDC may only supplement these benefits.~~

Co-Payment

~~The Commission Board members will shall establish any a co-payment for services that is to be paid by a client of the program. The AKDC has assessed clients a co payment for prescription drugs to be paid at the point of sale. The copayment amount is \$2.00 for each medication each month.~~

EFFECTIVE DATE OF SERVICE

~~The effective date a client will shall be eligible to receive paid for services provided by the AKDC will shall be established by the program. An applicant must be determined eligible prior to program funds being authorized. The AKDC shall not authorize payment for any services provided prior to the effective date of service.~~

Financial Cap

~~The Commission Board members will may establish an annual limit on per-client expenditures per prior to the beginning of the new state fiscal year, based on funds available and number of clients participating in the program in prior year. This annual cap is subject to change based on increase or decreases in the number of patients in the programs and or changes in program funding. Exceptions may be made on a case by case basis as determined by the Commission. During the course of a fiscal year, should expenditures for a client~~

exceed the annual limit allowed, per year the case will be referred to the Commission Board for review to determine a course of action.

Termination of Services

~~Paid for services provided by the AKDC will pay for services and medication prescribed up to the client's date of death, be terminated the day a client dies.~~ Eligibility for ~~covered~~ paid for services will also be ended the day a client moves out of state or the last day of the month a client's course of dialysis is terminated unless the individual has received a kidney transplant. ~~It will be the practice of the AKDC to mirror Medicare regarding clients receiving kidney transplants.~~

Annual Review

Individuals determined eligible to receive AKDC services shall submit an eligibility renewal application annually will participate in an annual review to determine continued program eligibility. The review process will consist of a determination as to whether the individual continues to meet program medical, residential and financial need eligibility criteria. Clients who meet eligibility requirements will continue to receive AKDC services. Any client who no longer meets program eligibility requirements ~~will~~ shall be issued a letter of termination of services effective thirty (30) days after the date of review. AKDC shall not pay for services for patients who fail to renew within one and a half years of their last date of eligibility (year of eligibility, plus six-month grace period). Medications prescribed within a client's annual eligibility period (plus six-month grace period) shall be covered, even if the claim is received by AKDC after the patient's eligibility has lapsed.

SERVICES

~~The availability of funds will influence~~ The services provided by the AKDC shall be dependent on the availability of funds. The Commission Board ~~will~~ may determine specific services to be funded by the program prior to the beginning of each new state fiscal year. Covered services ~~can~~ may include outpatient pharmaceutical drugs and nutritional supplements; pre-transplant dental services; transportation, patient education and referral. Specific services to AKDC clients, including those in need of continuing services, ~~will~~ shall be provided based upon the availability of funds. During the course of a fiscal year should it be determined that available funding is insufficient monies are available to fund services provided by the program at existing levels for the remaining portion of the fiscal year, the Commission Board ~~will~~ shall establish the manner in which services will be curtailed, or if required, terminated for the remainder of that fiscal year. Should the curtailing of services result, preference will be given to those in need of continuing services, as determined by the Commission.

Financial assistance from the AKDC may include:

- Outpatient prescriptions: AKDC may provide financial assistance for no more than 3 outpatient prescriptions per month. Amount payable to pharmacy is the allowable amount in the formulary fee schedule, after insurance payment and less client co-payment.
- Immunosuppressant drugs: AKDC may provide financial assistance for immunosuppressant drugs. A client co-pay for allowable drugs is required. The AKDC shall only participate in the purchase of immuno-suppressant medications as a co-payer. Program co-payment for immuno-suppressant drugs shall not exceed twenty percent of the Medicare allowable rate.

- Nutritional supplements: AKDC may provide for nutritional supplement if ordered by physician. Amount Payable to pharmacy is the allowable amount in the formulary fee schedule, after insurance and less client co-payment.
- Transportation: AKDC may provide for dialysis appointment transportation mileage reimbursement, at the state employee mileage reimbursement rate for the applicable year. Clients who prove they must take a taxi or other paid transportation service are eligible for transportation mileage reimbursement. Patients must first attempt to use personal or Medicaid transportation if available, prior to engaging a taxi or other paid transportation. Evidence of efforts to use Medicaid transportation must be provided. Taxi or paid transportation receipt is required prior to mileage reimbursement.
- Dental: AKDC may provide for dental care when a dental problem jeopardizes the health and treatment program outlined by the renal specialist and may be covered only for the purpose of kidney transplantation. Payment for services rendered will be prior approved and consistent with the established dental fee schedule herein attached as Appendix A.

Outpatient Pharmaceutical Drugs and Nutritional Supplements

~~The AKDC may pay for a limited number of ESRD related prescription drugs. Medications paid for by the program must be consistent with the approved AKDC drug list. A client co-pay for allowable drugs is required. The AKDC will only participate in the purchase of immuno-suppressant medications as a co payer. Program co-payment for immuno-suppressant drugs shall not exceed twenty percent of the Medicare allowable rate.~~

~~If funds allow, the AKDC may purchase nutritional supplements specifically designed for kidney dialysis patients. Purchases will be made consistent with state purchasing requirements. Distribution of the supplements will be coordinated by the program.~~

Pre-Transplant Dental Services

~~The AKDC may assist with dental charges when a dental problem jeopardizes the health and treatment program outlined by the renal specialist and may be covered only for the purpose of kidney transplantation. Payment for services rendered will be prior approved and consistent with the established dental fee schedule.~~

Transportation

~~The AKDC may assist in paying for some client transportation costs specifically associated with ESRD treatment. Eligibility to receive this service will be on a prior approved basis with determination consisting of a review of existing client/household income and expenses, other available resources, and documentation of a lack of other assistance. Reimbursement will be based on the Internal Revenue Service (IRS) standard medical mileage rate in effect the date the service was provided.~~

Patient Education

The AKDC will may partner with local, state, regional, and national agencies and organizations to educate its clients and the public at large regarding the importance of prevention and/or treatment of kidney disease.

Referral Services

The AKDC ~~will~~ may assist clients diagnosed with ESRD with referral to other programs including vocational rehabilitation.

Formulary

AKDC shall establish a formulary. The formulary will include nutritional supplements designed for kidney dialysis patients. The formulary and fee schedule may be updated periodically and is attached as Appendix A.

Payment for Services to Vendors

The AKDC ~~will~~ shall process payment for covered services to program clients when in receipt of a signed vendor statement or letter that includes the client's name and other necessary identifiable information, a description of services provided, date(s) of service provision, and cost. Claims made for payment of prescription drugs or transportation reimbursement are to be submitted on the appropriate AKDC claim form or applicable online form if available. The AKDC ~~will~~ shall not pre-pay for a service, only providing payment after the service has been rendered. Requests for payment for services rendered must be received by the program within one calendar year of the date of service. The AKDC will not provide remittance for those requests for payment that exceed the one-year from date of service limit.

Confidentiality, Use, and Release of Client Records and Information

The AKDC ~~will~~ shall ~~develop and~~ maintain a case record for applicants and individuals determined eligible to receive services available through the program. Client information developed or received by the AKDC ~~will be~~ is the property of the program. Information contained in the case record ~~may~~ shall only be used for determining eligibility/ineligibility for AKDC services, providing payment for services rendered, or other program operations. The AKDC ~~will endeavor to~~ shall maintain personal information contained in the case record in a secure manner and treat such information with the highest degree of confidentiality.

The AKDC Program Administrator ~~shall be~~ is designated as the custodian of applicant and client case records. The Program Manager ~~will have~~ has the responsibility of ensuring such information is maintained in a safe and secure manner consistent with State and Federal law, rule or regulations. The Program Manager shall provide training to AKDC staff regarding how applicant and client information will be developed, maintained, and shared with affected parties. The Program Manager ~~will be~~ is responsible for the destruction of all closed case files.

When requested in writing, the AKDC ~~will~~ shall make available to the applicant or client, or if appropriate the individual's representative, information contained in that person's case record. Should the applicant or client or, if appropriate, that individual's representative believes information contained in the case record to be inaccurate or misleading, a written request can be made to the program to amend such information.

In the event another agency or organization requests personal information contained in the case record of an AKDC applicant or client, the program ~~will~~ shall only release such information with written consent of the applicant or client or, if appropriate, that

individual's representative. It ~~will be~~ is the responsibility of the AKDC and parties involved to respect the confidential nature of personal information and limit information exchanged to that minimally necessary. The AKDC ~~will~~ shall release personal information contained in the case record in response to investigations in connection with law enforcement, fraud, and abuse unless expressly prohibited by State and Federal laws and regulations and in response to an order issued by a judge, magistrate, or other authorized judicial official.

CERTIFICATION

This will certify that the Arkansas Kidney Disease Commission Rules were adopted by the Arkansas Kidney Disease Commission at a regular session of said Commission held in Little Rock, Arkansas on the 17th day of March 2021.

Deborah Wooten
Chairmen
Arkansas Kidney Disease Commission

Arkansas Kidney Disease Commission

Formulary

COMMON NAME OF DRUG	BRAND NAME
PHOSLO CALCIUM ACETATE- Generic	667 mg tablets/capsules not to exceed 360 tablets/capsules each month.
RENEVELA SEVELAMER - Generic	800 mg tablets or 0.8 gram packets not to exceed 270 360 tablets or packets each month.

THE FOLLOWING PHOSPHATE BINDING AGENTS ARE COVERED WITH PRIOR APPROVAL ONLY

FOSRENOL	LANTHANUM- Generic Acting as a co-payer ONLY , 1000 mg tablets or 1000 mg packets not to exceed 90 360 tablets or packets each month.
VELPHORO	SUCROFERRIC OXYHYDROXIDE 500 mg tablets not to exceed 360 tablets each month.
AURYXIA	FERRIC CITRATE 210 mg tablets not to exceed 360 tablets each month

For initiation of therapy with phosphate binders, patients shall be prescribed calcium acetate or sevelamer prior to initiation of therapy with other listed phosphate binder medications. Medications other than calcium acetate and sevelamer can be requested only:

- After the patient fails to achieve targeted phosphate levels, based on clinical guidelines, on at least 3 dosage formulations (capsules, tablets, etc.) of calcium acetate or sevelamer with each meal along with dietary restrictions, or
- If patient has adverse side effects to sevelamer or calcium acetate, or
- If patient is unable to swallow calcium acetate or sevelamer or
- If calcium acetate or sevelamer is not available due to shortage, recall or discontinuation.

ADDITIONAL MEDICATIONS COVERED WITH PRIOR APPROVAL ONLY

AKDC payment for the following medications cannot exceed the National Average Drug Acquisition Cost (NADAC), plus a dispensing fee for each prescription that matches the dispensing fee paid by the Arkansas Medicaid program. AKDC will revise coverage restrictions annually, using the most up-to-date NADAC costs prior to the start of the new state fiscal year. If no NADAC is listed for a particular drug, AKDC will pay the insurance allowable cost of the drug, less the client co-pay and insurance payment.

SENSIPAR	CINACALCET- Generic	Acting as a co-payer ONLY , not to exceed 50% of insurance allowable cost of drug
NULOJIX		Acting as a co-payer ONLY , not to exceed 50% of insurance allowable cost of drug
VELTASSA		
LOKELMA		

IMMUNOSUPPRESSANT DRUGS**COMMON NAME OF DRUG****BRAND NAME**

AKDC payment for the following medications cannot exceed the National Average Drug Acquisition Cost (NADAC), plus a dispensing fee for each prescription that matches the dispensing fee paid by the Arkansas Medicaid program. AKDC will revise coverage restrictions annually, using the most up-to-date NADAC costs prior to the start of the new state fiscal year. If no NADAC is listed for a particular drug, AKDC will pay the insurance allowable cost of the drug, less the client co-pay and insurance payment.

AZATHIOPRINE	
CYCLOSPORINE	NEORAL, GENGRAF
EVEROLIMUS	ZORTRESS
MYCOPHENOLATE MOFETIL	CELLCEPT
MYFORTIC	MYCOPHENOLIC ACID
PREDNISONE	
SIROLIMUS	RAPAMUNE
TACROLIMUS	PROGRAF

IMURAN

The AKDC will act as a co-payer for immunosuppressant drugs, not to exceed 20% of insurance allowable cost of the drug.

OTC DRUGS**COMMON NAME OF DRUG****BRAND NAME**

FAMOTIDINE	PEPCID
LORATADINE	CLARITIN
OMEPRAZOLE	PRILOSEC
RANITIDINE	ZANTAC

COMMON NAME OF DRUG**DISPENSED FORM****BRAND NAME****A**

ACYCLOVIR		ZOVIRAX
ALBUTEROL SULFATE	TABS, INHALER	VENTOLIN, PROVENTIL
ALPRAZOLAM		XANAX
ALUMINUM HYDROXIDE		ALU CAPS
AMIODARONE		CORDARONE
AMITRIPTYLINE		ELAVIL
AMLODIPINE BESYLATE		NORVASC
AMOXICILLIN	CAPS, SUSP	AMOXIL
AMOXICILLIN W/CLAVULANIC ACID	TABS, SUSP	AUGMENTIN, CLAVULIN
AMPICILLIN	CAPS, SUSP	
ATENOLOL		TENORMIN
AURYXIA		FERRIC CITRATE (RELOCATED TO PA SECTION)
AZITHROMYCIN		ZITHROMAX, Z PACK

B

BACITRACIN W/POLYMYXIN B AND NEOMYCIN	OINT	NEOSPORIN
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BECLOMETHASONE DIPROPIONATE
BENZAEPRI
BUMETANIDE

CR, OINT, GEL

PROPADERM, Q-VAR
LOTENSIN
BUMEX

C

CALCITRIOL
CALCIUM ACETATE
CAPTOPRIL
CARBAMAZEPINE
CARVEDILOL
CEFACTOR
CEPHALEXIN MONOHYDRATE
CHLORPROMAZINE
CIPROFLOXACIN
CLONAZEPAM
CLONIDINE
CLOPIDOGREL BISULFATE
CYCLOPHOSPHAMIDE

TABS

IR TAB

ROCALTROL
PHOSLO
CAPOTEN
TEGRETOL
COREG
CECLOR
KEFLEX
THORAZINE
CIPRO
KLONIPIN
CATAPRES
PLAVIX
CYTOXAN

D

DIATX WITH ZINC OR DIATX
DIAZEPAM
DIGOXIN
DILTIAZEM
DIPHENOXYLATE/ATROP
DIPYRIDAMOLE
DISOPYRAMIDE PHOSPHATE
DOXAZOSIN MESYLATE
DOXYCYCLINE HYCLATE

TABS, XR

DEXFOL
VALIUM
LANOXIN
CARDIZEM, TIAZAC
LOMOTIL
PERSANTINE
RYTHMODAN
CARDURA
VIBRAMYCIN

E

ENALAPRIL MALEATE
ENALAPRIL MALEATE HCTZ
ESTRADIOL
ESTROPIATE

VASOTEC
VASERETIC
ESTRACE
OGEN

F

FLUOXETINE
FUROSEMIDE

PROZAC
LASIX

G

GABAPENTIN
GEMFIBROZIL

NEURONTIN
LOPID

GLUCOSE TEST STRIPS
GLYBURIDE
GUANFACINE HCL
GLIPIZIDE
GLIMEPIRIDE

DIABETA, MICRONASE
TENEX
GLUCOTROL
AMARYL

H

HYDROCODONE/ APAP
HYDRALAZINE
HYDROXYZINE PAMOATE HCL
HYDROCHLOROTHIAZIDE

VICODIN, LORCET, NORCO
APRESOLINE
ATARAX, VISTARIL
HCTZ, HYDRODIURIL, MICROZIDE

I

INSULIN
INSULIN SYRINGES
IPRATROPIUM BROMIDE- NASAL INHALER
IPRATROPIUM BROMIDE/ALBUTEROL SULFATE-
ISOSORBIDE DINIT
ISOSORBIDE MONONITRATE

ATROVENT
COMBIVENT
ISORDIL
IMDUR, ISMO

K

KETOCONAZOLE TABS, CREAM

NIZORAL

L

LABETALOL
LACTULOSE
LEVOFLOXACIN
LEVOTHYROXINE SODIUM
LISINAPRIL
LORAZEPAM
LOSARTAN
LOSARTAN POTASSIUM-HYDROCHLOROTHIAZIDE

TRANDATE
CEPHULAC
LEVAQUIN
LEVOTHROID, SYNTHROID
PRINIVIL, ZESTRIL
ATIVAN
COZAAR
HYZAAR

M

METHYLPREDNISOLONE
METOCLOPRAMIDE HCL
METOLAZONE
METOPROLOL SUCINATE
METOPROLOL TARTRATE
METRONIDAZOLE
MEXILETINE
MINOXIDIL
MORPHINE IR/SR TABS, SOL
MUPIROCIN OINT

MEDROL
REGLAN
ZAROXOLYN
TOPROL-XL
LOPRESSOR
FLAGYL
MEXITIL
LONITEN
BACTROBAN

MIDODRINE
MEGESTROL ACETATE

MEGACE

N

NEOMYCIN-POLYMYXIN-HC
NICARDIPINE
NEBIVOLOL
NIFEDIPINE
~~NITROFURANTOIN~~
NYSTATIN
NYSTATIN W/TRIAMCINOLONE ACETONIDE CREAM, OINT
NOVOLOG

OTIC SOL

CAPS, XL TABS

CREAM, OINT, TABS
INSULIN

CORTISPORIN
CARDENE
BYSTOLIC
ADALAT, AFEDITABS, PROCARDIA
MACRODANTIN, MACROBID

FLEXPEN

O

OLMESARTAN
ONDANSETRON
OXYCODONE HCL
OXYCODONE / APAP

TABS, ODT
IR TABS

BENICAR
ZOFRAN

P

PAROXETINE
PENICILLIN W/ POTASSIUM
PENTOXIFYLLINE
PHENOBARBITAL
PHENYTOIN
PIOGLITAZONE
PRAVASTATIN SODIUM
~~PROCAINAMIDE~~
PROCHLORPERAZINE
PROPAFENONE HYDROCHLORIDE
PROPRANOLOL
PRORANOLOL AND HYDROCHLOROTHIAZIDE

TABS

PAXIL

TRENTAL
ELIXIR
DILANTIN
ACTOS
PRAVACHOL
PROCAN
COMPazine
RYTHMOL
INDERAL
INDERIDE

Q

QUINAPRIL HYDROCHLORIDE
QUINIDINE GLUCONATE
QUINIDINE SULFATE
QUININE

ACCUPRIL

R

RENAL VITAMINS

VITAMIN

RENAVITE, DIALYVITE, NEPROVITE

S

SIMVASTATIN
SODIUM POLYSTYRENE SULFONATE (SPS)
SUCRALFATE

TABS

ZOCOR
KAYEXALATE
CARAFATE

