

# EXHIBIT G

## DEPARTMENT OF HUMAN SERVICES, ADULT, AGING AND BEHAVIORAL HEALTH SERVICES

**SUBJECT: Outpatient Behavioral Health Services Program Provider Manual 3-18 and Certification Manual**

**DESCRIPTION:** This removes the home and community behavioral health services from the current program manual and moves it to PASSE manual and defines the certification manual to include fee-for-service only.

This amendment coincides with the implementation of the Provider-Led Arkansas Shared Savings Entity (PASSE) model of organized care. Under the PASSE model, beneficiaries who are in need of a full array of home and community based behavioral health services have received or will receive a BH Independent Assessment and have or will attribute to a PASSE if the assessment shows a functional deficit. The services to treat those deficits will be provided through a 1915(i) state plan amendment and be subject to the home and community based services requirements. Providers who provide 1915(i) services to beneficiaries in a PASSE will be credentialed through the PASSE as home and community based service (HCBS) providers.

The services that remain in the Outpatient Behavioral Health Services Program manual will be available to individuals with a behavioral health diagnosis who need counseling and medication management services only and will be accessible without an Independent Assessment and the Certification manual will apply only to services provided in fee-for-service environment.

**PUBLIC COMMENT:** DHS held three public hearings, one in Little Rock on August 20, 2018, one in Monticello on September 4, 2018, and one in Hope on September 6, 2018. The public comment period ended on September 12, 2018. DHS received the following comments and provided its responses:

### **DHS Responses to Public Comments Regarding the OBHS Manual**

#### **Kathy D. Harris**

**Comment:** COMMENTS ON THE PROPOSED REVISIONS.

1. Section 223.000 - Exclusions Item G Services provided to nursing home and ICF/IDD residents other than those specified in Section 252.150 (unable to locate Section 252.150 in this draft Manual). Is the intent to eliminate any Tier 1 services to persons residing nursing homes?
2. Section 256.300 Services Available to Residents of Long Term Care Facilities Billing Information. Again, all services to nursing homes are eliminated—is this the intent?
3. Section 255.001 Crisis Services

There is no service code or modifier included in this service that allows for telemedicine billing. Please consider adding this as an allowable method of delivering this service. It allows providers to be more timely and responsive to crisis intervention needs.

**Response:** No, it is not the intent to eliminate services for residents of nursing homes.

# EXHIBIT G

The allowable services for those beneficiaries in long term care facilities are addressed in the Applicable Populations section of the service definitions in this manual. Section 223.000 will be updated to remove section 252.150.

DHS has determined that telemedicine will not be added for this service code at this time.

## **Dr. R. Kevin Rowell**

**Comment:** I hope that you will reinstate the provision to allow doctoral level interns to practice and bill under Medicaid. They serve the people of Arkansas who are in need. This letter in no way represents the University of Central Arkansas. I am simply commenting as a trainer of psychologists and counselors. Thank you for your consideration in this matter.

**Response:** In the current OBH manual there is a provision for the enrollment of Provisionally Licensed Psychologists. The appropriate licensing board should be consulted.

## **Cody Jeffries**

**Comment:** Please add a provision to permit doctoral level psychology interns to bill Medicaid again so the underserved persons of Arkansas may receive the quality healthcare they deserve.

**Response:** In the current OBH manual there is a provision for the enrollment of Provisionally Licensed Psychologists. The appropriate licensing board should be consulted.

## **Bridget Atkins**

**Comment:** In Section 211.300 of the proposed Manual, I noticed that DPSQA is specifically referenced for the certification of Performing Providers. Since the Division of Aging, Adult & Behavioral Health Services is retaining responsibility for approving therapists to provide Infant Mental Health Services (whether they are with a BHA or are an ILP), I wondered if that Division needs to also be mentioned in that section.

**Response:** Qualifications for the provision of Infant Mental Health services are addressed in section 214.100.

## **Christopher Westfall**

**Comment:** Request that we include the original language developed in the 2014 rules and allow reimbursement for supervised doctoral psychology interns.

**Response:** In the current OBH manual there is a provision for the enrollment of Provisionally Licensed Psychologists. The appropriate licensing board should be consulted.

## **Glenn Mesman**

**Comment:** Please add a provision to permit doctoral level psychology interns to bill Medicaid again so the underserved persons of Arkansas may receive the quality healthcare they deserve.

**Response:** In the current OBH manual there is a provision for the enrollment of Provisionally Licensed Psychologists. The appropriate licensing board should be consulted.

# EXHIBIT G

## Karin Vanderzee

**Comment:** I would welcome the opportunity to meet with leadership at OBHS to provide further information about the role of psychology interns in facilitating access to much needed services for children in the state and their families. I would also welcome the opportunity to meet with OBHS leadership regarding CPP so that the Proposed OBHS-3-18 Provider Manual Update may be revised so that clinicians may be able to complete their Infant Mental Health Certification training, so young children can continue to receive CPP as it was designed, and so we can achieve our common goal of improving the system of care for our youngest and most vulnerable children.

**Response:** In the current OBH manual there is a provision for the enrollment of Provisionally Licensed Psychologists. The appropriate licensing board should be consulted.

## Lisa Evans

**Comment:** I am a licensed psychologist in the State of Arkansas and very familiar with the training needs of doctoral-level psychology trainees. Allowing the trainee to bill under the license of the psychologist has the following advantages for the State and Medicaid beneficiaries.

- Allows highly trained psychologists in training to provide services to Medicaid beneficiaries. Psychologists in training are highly skilled, have excellent knowledge and background in evidence-based practices, and come from all over the country, bringing diversity to our provider pool. Medicaid recipients may not otherwise be provided this skill level.
- Allows the psychologist in training to have a training experience that includes serving Medicaid beneficiaries, broadening and improving their education.
- Will allow psychology internship programs in the state to continue functioning – removing the ability for the interns to serve and bill for Medicaid clients will likely cause some of the internship programs in the state to cease operation. In state psychology internship programs allow us to increase the number of well-trained psychologists in communities around Arkansas.

**Response:** In the current OBH manual there is a provision for the enrollment of Provisionally Licensed Psychologists. The appropriate licensing board should be consulted.

## Betty Everett

**Comment:** Please include the original language that was developed in the rules in 2014 and permit reimbursement for supervised doctoral psychology interns.

**Response:** In the current OBH manual there is a provision for the enrollment of Provisionally Licensed Psychologists. The appropriate licensing board should be consulted.

## American Psychological Association, Dr. Jaime Diaz-Granados and Dr. Jared Skillings

**Comment:** Please include the original language that was developed in the rules in 2014 and permit.

Reimbursement for supervised doctoral psychology interns. This system has worked well for Arkansas and no rationale has been offered for its change.

# EXHIBIT G

**Response:** In the current OBH manual there is a provision for the enrollment of Provisionally Licensed Psychologists. The appropriate licensing board should be consulted.

## Joy Pemberton

**Comment:** I am extremely concerned about these changes and ask that the following language be reinstated to the OBHS manual.

**Response:** In the current OBH manual there is a provision for the enrollment of Provisionally Licensed Psychologists. The appropriate licensing board should be consulted.

## Professional Staff of South Arkansas Regional Health Center-Dr. Jamie Frank

**Comment:** 202.100 Certification Requirements by the Division of Provider Services and Quality Assurance (DPSQA)

Under this section it states exemptions would be granted, but there was not conditions listed under which an exemption could be granted. The link in the manual did not take the reader to the applicable section or any document that covered it.

**Response:** This will be removed.

## **Comment:** 211.200 Staff Requirements

These two allowable providers under RSMPI, Provisionally Licensed Master Social Worker (PLMSW) and Pre-Doctoral Student under Ph.D. supervisor with The Psychology Board providing quarterly monitoring of supervision, but not included in this proposed OBHS manual. Given the shortage of professionals in the State, both levels of providers are recognized as practitioners that have the knowledge and experience to provide services with appropriate levels of supervision. Please approve these two types of providers in the final OBHS manual.

In order for the practitioner to have a PLMSW through the Arkansas Social Work Licensure Board, the practitioner has completed course work and internships to obtain the Master of Social Work (MSW) and has the same supervision requirements as a Licensed Master Social Work practitioner. The practitioner has one year to successfully pass the licensure exam, but can practice at the master level.

Pre-doctoral Student under Ph.D. supervisor with The Psychology Board providing quarterly monitoring of supervision.

Please add to the list Non-Independently Licensed Clinicians, the Provisionally Licensed Master Social Worker and Pre-Doctoral Interns as providers and allow to perform the specific services other Non-Independently Licensed Clinicians can perform. These codes are: 252.111, 252.112, 252.1113, 252.114, 252.115, 252.116, 252.117, 252.118, 252.119, and 255.001.

**Response:** Until the practitioner has completed the licensure exam they can practice as QBHPs.

In the current OBH manual there is a provision for the enrollment of Provisionally Licensed Psychologists. The appropriate licensing board should be consulted.

## **Comment:** 217.100 Primary Care Physician (PCP) Referral

Ask for exclusion of Crisis Intervention to the 3 Counseling Level Services and obtaining a PCP to receive this type of service. While obtaining a PCP is a critical task in the

# EXHIBIT G

provision of care in a managed care environment, Crisis Intervention should be available regardless of whether the individual has a PCP or not.

**Response:** The Manual will be updated to mention that Crisis Intervention will be excluded.

**Comment:** 233.000 Exclusions G.

What are the services that can be provided to nursing home and ICF / IDD residents?  
Could not locate 252.150 in this proposed manual.

**Response:** The allowable services for those beneficiaries in long term care facilities are addressed in the Applicable Populations section of the service definitions in this manual. Section 223.000 will be updated to remove section 252.150.

**Comment:** 227.000 Prescription for Outpatient Behavioral Health Services

No timeline for which the subsequent renewals need to be obtained. This needs to be clearly stated given its importance. Examples: Every 12 month, six months or three months.

**Response:** Please see section 1 of the Medicaid Manual for timelines for renewal of PCP referrals.

**Comment:** 231.3000 Substance Abuse Covered Codes

Independently licensed practitioners may provide Substance Abuse Service within the scope of their practice.

ADD Non-independent licensed practitioners may provide Substance Abuse Services within the scope of their practice and under licensure required supervision. For those diagnosed with Substance Abuse dx as primary or co-occurring with substance abuse disorder(s) as secondary dx. This exclusion conflicts with 252.119 Substance Abuse Assessment - Allowable Performing Providers, which clearly states Non-independent licensed clinicians.

Also include as allowable Non-independent practitioners - Provisionally Licensed Psychologist, Pre-Doc. Psychology Interns and Provisionally Licensed Master Social Work as long as training and supervision requirements are met.

**Response:** Behavioral Health Agencies employ Non-Independently Licensed Practitioners. Please see applicable service definitions for performing providers allowable under each service.

**Comment:** 252.100 Procedure Codes for Types of Covered Services

In 3<sup>rd</sup> paragraph last sentence - The beneficiary must then also be determined by an Intensive level Services Independent Assessment to be eligible for Inpatient Psychiatric Care.

For Psychiatric Acute Care placement, any licensed practitioner should be allowed to assess the need and assist in the accessing in the initial placement. Following this initial placement, a third party can perform utilization review to determine the need for continued stay. The option of obtaining an Independent Assessment prior to an acute psychiatric care admission can't be completed quickly enough to insure safety of the individual and others.

**Response:** This paragraph will be removed.

# EXHIBIT G

**Comment:** 252.117 Mental Health Diagnosis

Need to make provision for more than one intake benefit per year, as people leave services and need to reenter, or move from one facility to another, and need to initiate services.

**Response:** Providers may request extension of benefits for services deemed to be medically necessary.

**Comment:** 252.120 Psychological Evaluation

Also include as allowed providers - Please Include as allowed providers those that are Provisionally Licensed Psychologist and Pre-Doc. Psychology Interns.

**Response:** In the current OBH manual there is a provision for the enrollment of Provisionally Licensed Psychologists. The appropriate licensing board should be consulted.

**Richard Sylvester**

**Comment:** If doctoral level psychology interns are not permitted to bill Medicaid, then the internship programs may no longer be able to offer internship opportunities. One must complete a doctoral level internship to obtain licensure as a psychologist. Without internship opportunities Arkansas will be further deprived of quality mental health professionals. Please add a provision to permit doctoral level psychology interns to bill Medicaid again so the undeserved persons of Arkansas may receive the quality healthcare they need and deserve.

**Response:** In the current OBH manual there is a provision for the enrollment of Provisionally Licensed Psychologists. The appropriate licensing board should be consulted.

**Patricia Walz**

**Comment:** Doctoral interns, for your information, are completing their final step to become doctoral psychologists, having completed their doctoral academic training, as well as prior supervised clinical experience. This final step gives them supervised clinical experiences that are critical for their development as psychologists. Psychologists are highly and uniquely trained professionals, who deliver quality healthcare services. Interns expense as providers is well below that of fully licensed psychologists, yet their contributions to healthcare in Arkansas are critical and of very high quality. Please reconsider the language in question and reverse this potentially disastrous policy change that could have serious long- term consequences for healthcare in Arkansas. Without internship opportunities, Arkansas will be further deprived of quality mental health professionals and Arkansans will be underserved. Please reinstate the provision to permit doctoral level psychology interns to bill Medicaid again so the underserved persons of Arkansas may receive the quality healthcare they deserve.

**Response:** In the current OBH manual there is a provision for the enrollment of Provisionally Licensed Psychologists. The appropriate licensing board should be consulted.

# EXHIBIT G

## Dr. Donala Jordan

**Comment:** To ameliorate this dilemma, I strongly urge you to reconsider allowing pre-doctoral psychology interns to bill Medicaid for psychological services. Failing to do so will prevent current psychology internship programs such as South Arkansas Regional Health Center (which is accredited by the American Psychological Association [APA]) and future community-based psychology internship programs from being able to offer internship opportunities. Such training is critical because interns must complete a doctoral level internship to obtain licensure as a psychologist. Dr. Donala Jordan

**Response:** In the current OBH manual there is a provision for the enrollment of Provisionally Licensed Psychologists. The appropriate licensing board should be consulted.

## Meggie P. Rowland

**Comment:** If doctoral interns are not allowed to bill Medicaid, they may not be offered internship opportunities in Arkansas. Completing a doctoral level internship is a requirement to obtain licensure as a psychologist. If internship opportunities are not offered in Arkansas due to no provision for agencies to bill for doctoral intern mental health services, Arkansas will continue to experience a drought of mental health professionals, which only worsens the problems Arkansas residents already experience as an underserved population.

**Response:** In the current OBH manual there is a provision for the enrollment of Provisionally Licensed Psychologists. The appropriate licensing board should be consulted.

## Hilary Casner

**Comment:** The doctoral level psychology internship is a required, year-long experience for psychology graduate students pursuing their Ph.D. in clinical psychology. One must complete a doctoral level internship to obtain licensure as a psychologist. If doctoral level psychology interns are not permitted to bill Medicaid, then the internship programs may no longer be able to offer internship opportunities, and without internship opportunities Arkansas will be further deprived of quality mental health professionals. Please add a provision to permit doctoral level psychology interns to bill Medicaid again so the underserved persons of Arkansas may receive the quality healthcare they deserve and future psychologists will continue to come to Arkansas for training.

**Response:** In the current OBH manual there is a provision for the enrollment of Provisionally Licensed Psychologists. The appropriate licensing board should be consulted.

## Jamie Frank

**Comment:** If doctoral level psychology interns are not permitted to bill Medicaid, then the internship programs may no longer be able to offer internship opportunities. One must complete a doctoral level internship to obtain licensure as a psychologist. Without internship opportunities Arkansas will be further deprived of quality mental health professionals. Please add a provision to permit doctoral level psychology interns to bill Medicaid again so the underserved persons of Arkansas may receive the quality healthcare they deserve.

# EXHIBIT G

**Response:** In the current OBH manual there is a provision for the enrollment of Provisionally Licensed Psychologists. The appropriate licensing board should be consulted.

**Dr. Jennifer Sue Kleiner**

**Comment:**

Please reinstate the following provision to the OBHS manual to permit psychology interns to continue to bill Medicaid:

Psychology Interns

The Division of Medical Services will allow psychology interns to provide limited services under the following provisions:

OBHS facilities must retain written documentation of each intern's:

- A. Enrollment in an American Psychological Association internship program that is fully accredited or accredited on contingency.
- B. Agreement with the Arkansas Psychology Board regarding oversight and supervision as defined by the American Psychological Association and the Arkansas Psychology Board (APB) Rules and Regulations.

Supervision of psychology interns in the OBHS Program

The psychological procedures covered under the OBHS Program are allowed as a covered service when provided by a psychology intern authorized by the Arkansas State Board of Psychology to provide such psychological services. When a psychology intern provides the services, the intern must be under the "direct supervision" of the supervising psychologist. For the purpose of psychological services only, the term "direct supervision" means the following:

- A. The supervising psychologist must monitor and be responsible for the quality of work performed by the psychology intern under his/her "direct supervision." The supervising psychologist must be immediately available to provide assistance and direction throughout the time the service is being performed. "Immediately available" is defined as the supervising psychologist being accessible to the psychology intern at any point during the supervisory relationship.
  - B. Oversight:
    1. Each supervising psychologist must monitor and be responsible for the quality of the clinical work assigned to his/her supervisee (intern). Monitoring must include personal observation of randomly selected patient interactions;
    2. The supervising psychologist must assist and direct the intern in the delivery of internship services. Assistance and direction must comply with the American Psychology Association Guidelines and Principles for Accreditation of Programs in Professional Psychology and the Arkansas Psychology Board Rules and Regulations;
    3. Internship services will be provided under the license of the supervising psychologist; and
    4. The supervising psychologist must assure compliance with Medicaid laws, rules, and regulations, and be accountable for any noncompliance.
- As a condition of Medicaid payment, claims must list the supervising psychologist as the performing provider. Provisions must be made requiring:



# EXHIBIT G

A. The Arkansas Psychology Board to certify in writing that the psychology intern is receiving training in a qualified internship program for a prescribed period of time and this written certification shall be retained in the psychology intern's personnel record; and

B. The accredited program's training director to certify in writing and retain in the psychology intern's personnel record:

1. The requirements of the training program in which the intern is participating;
2. The training dates for each intern;
3. The name of each participating intern;
4. The name and Medicaid provider number of:
  - a. Each participant's supervising faculty member, or
  - b. The Medicaid-enrolled practice clinic in which the supervising faculty member participates; and

5. All services for which a Medicaid claim will be filed are provided under the supervision of a licensed psychologist who is in good standing with the Arkansas Psychology Board.

**Response:** In the current OBH manual there is a provision for the enrollment of Provisionally Licensed Psychologists. The appropriate licensing board should be consulted.

## **Dr. Jennifer L. Guess and Maurice Rigsby at UAMS**

### **Comment:**

1. Director of Psychology Training at UAMS and have been alerted to a change in status of psychology interns under the new OBHS rules. Extremely concerned about the changes and ask that the following language be reinstated to the OBHS Manual:

- Psychology Interns
- Supervision of Psychology interns in the OBHS

2. Dr. Gess and several other clinical psychologists have submitted comments according to the notice requirements during the last week. I wanted to emphasize that the UAMS program is a nationally respected fellowship program. The program produces many of the specialized clinical child psychologist in the State. The term "internship" is a bit of a misnomer and inconsistent with our traditional understanding of the term. In the academic sense, these doctors have committed to achieving a higher level of focused training above standard training. Our goal is to keep this important academic and clinical program in place for the people of Arkansas. I will be happy to host your team to learn more about the state-wide impact of the Psychological Research Institute (PRI) academic and clinical programs. Thanks.

**Response:** In the current OBH manual there is a provision for the enrollment of Provisionally Licensed Psychologists. The appropriate licensing board should be consulted.

## **Cindy Brown**

**Comment:** 252.114 Of the Proposed OBHS-3-18 Provider Manual: Martial/Family Behavioral Health Counseling without Beneficiary present does not show an allowance for 90846 for 0-47 month population.

# EXHIBIT G

**Response:** Treatment for 0-47 months is intended to provide dyadic treatment which requires the beneficiary to be present.

**Comment:** 252.113 Of the Proposed OBHS-3-18 Provider Manual: Evidence based interventions such as child parent psychotherapy & parent child interaction often require 20 or more sessions.

**Response:** Providers may request extension of benefits for services deemed to be medically necessary once the 12 encounter benefit per fiscal year is exhausted.

## ARKANSAS HOSPITAL ASSOCIATION

### **Comment:**

1. Hospitals have long recognized the need for greater access to behavioral health services for our patients. Accordingly, we applaud and encourage the Outpatient Behavioral Health Services (OBHS) program and the PASSE program in seeking to expand such access. The OBHS program at DHS has undergone recent changes. As of June 30, 2018, Arkansas Medicaid eliminated the Rehabilitative Services for Persons with Mental Illness (RSPMI), Licensed Mental Health Practitioner (LMHP) and the Substance Abuse Treatment Services (SATS) programs, transitioning all patients under these programs to OBHS. As this transition occurred, DHS overlooked the fact that hospitals were not referenced in these previous provider manuals. Therefore, the Department may have inadvertently left out any reference to hospitals in the OBHS manual. Hospitals regularly provide excellent outpatient behavioral health services and should be recognized as an appropriate and easily accessible provider for Medicaid Fee-for-Service and PASSE patients. In fact, for many Arkansans, their local hospital may be the only nearby provider available.

2. In recognition of the fact that hospitals are a core component to assure access to behavioral health services, both the current hospital manual and the proposed OBHS manual should be amended to expressly allow hospitals to provide and be reimbursed for outpatient behavioral health in both the fee-for-service and PASSE models.

**Response:** The Outpatient Provider Manual allows for multiple POS codes. Emergency room was added for provision of crisis services within a hospital setting.

The Outpatient Behavioral Services Program is intended to serve people with mental illness and the Inpatient Manual covers allowable services to be provided within a hospital setting. In addition, physicians associated with a hospital that are housed in clinics can serve clients or allow co-location of Mental Health Professionals in that setting through POS codes including those covering independent clinics, FQHC, public health clinics and rural clinics.

The PASSEs will be able to develop services in additional settings based on member's needs.

## FAMILIES INC.

**Comment:** Non Refusal Requirement - 211.500

If a provider does not possess the services or program to adequately treat the beneficiary's behavioral health needs, the provider must communicate this with the Primary Care PCP or PCMH for beneficiaries receiving Counseling Services so that appropriate provisions can be made. Will the provider's medical record be audited for notification of PCPs?

**Response:** All requirements outlined in the OBH manual are subject to audit.

# EXHIBIT G

**Comment:** Reimbursement - 240.100

Regarding the 15 Minute Unit table, would you please clarify why the Timeframes are not 15 minutes in duration?

**Response:** The table was developed in alignment with the requirement that no more than 4 units can be billed in a single hour.

**Comment:** POS:

212.000 - Under COUNSELING SERVICES and in 214.000 Role of Providers, the Manual refers to Group Home as an applicable place of service for Individual Therapy, Group Therapy, Families with and without Client, Psychoeducation, Mental Health Diagnosis (Intake), Interpretation of Diagnosis, Psychological Evaluation, Pharmacologic Management, Psychiatric Assessment, and Crisis Intervention, but does not list Group Home in the Service Code definition, Place of Service section. Please clarify.

**Response:** Appropriate POS codes are indicated within the Applicable Populations section of the service definitions in this manual.

**Comment:** Additionally, is the POS code for Other (99) an acceptable place of service for any/all services noted above?

**Response:** No. POS codes for each service are listed within the service definition.

**Comment:** CMS lists the Other POS as (99) whereas the OBHS Manual lists (99) as Outpatient Behavioral Health Services Clinic (Telemedicine). Which is correct?

**Response:** This will be corrected to indicate POS code (99) as Other.

**Comment:** 252.111

The IT service states 'residents of long term care facilities' as an applicable population yet does not list a POS code in this section and it is stricken-through on p.173. Please clarify, will this POS apply to Tier 1 clients?

**Response:** Appropriate POS codes are indicated within the Applicable Populations section of the service definitions in this manual.

**Comment:** 252.114 - What defines the POS, 'independent clinic'?

**Response:** CMS defines Independent Clinic as "a location, not part of a hospital and not described by any other POS code, that is organized and operated to provide preventative, diagnostic, therapeutic, rehabilitative, or palliative services to outpatients only."

**Comment:** Service Codes

Encounter-based services that should be referred to as 'encounters' in the Manual are frequently referred to as UNITS. Please consider correcting the Manual to avoid confusion.

**Response:** DHS will edit the manual to correctly identify units and encounters.

**Comment:** 252.115

Regarding psychoeducation, the Draft for Public Comment contradicts the 8-1-18 Manual when it states that the service may be provided to the beneficiary and/or spouse/family. Please clarify who the recipient(s) of this service should be.

**Response:** The manual will be corrected to state beneficiary AND spouse/family.

# EXHIBIT G

DHS has sought approval from CMS, and formal approval is pending.

The proposed effective date of the rule is January 1, 2019.

**FINANCIAL IMPACT:** There is no financial impact.

**LEGAL AUTHORIZATION:** DHS is authorized to “make rules and regulations and take actions as are necessary or desirable to carry out the provisions of this chapter [Public Assistance] and that are not inconsistent therewith.” Arkansas Code Annotated § 20-76-201(12). DHS may promulgate rules as necessary to conform to federal rules that affect its programs as necessary to receive any federal funds. *See* Ark. Code Ann. § 25-10-129(b). DHS may promulgate rules to implement state statutes that provide fairness and due process for Medicaid providers. *See* Ark. Code Ann. § 20-77-1716. DHS may rely, by reference, on federal rules and regulations that apply to the Medicaid program. *See* Ark. Code Ann. § 20-77-107.

Act 775 of 2017, sponsored by Representative Aaron Pilkington, required DHS to submit an application for any federal waivers, federal authority, or state plan amendments necessary to implement the Medicaid Provider-Led Organized Care System. The Act authorized DHS to promulgate rules necessary to implement the system. *See* Ark. Code Ann. § 20-77-2708.

# EXHIBIT G

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

DEPARTMENT/AGENCY Department of Human Services  
DIVISION Division of Adult, Aging and Behavioral Health Services  
DIVISION DIRECTOR Jay Hill  
CONTACT PERSON Patricia Gann  
ADDRESS \_\_\_\_\_  
PHONE NO. 501-686-9431 FAX NO. \_\_\_\_\_ E-MAIL patricia.gann@dhs.arkansas.gov  
NAME OF PRESENTER AT COMMITTEE MEETING Patricia Gann  
PRESENTER E-MAIL patricia.gann@dhs.arkansas.gov

### INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Donna K. Davis  
Administrative Rules Review Section  
Arkansas Legislative Council  
Bureau of Legislative Research  
One Capitol Mall, 5<sup>th</sup> Floor  
Little Rock, AR 72201

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1. What is the short title of this rule? Outpatient Behavioral Health Services Program Provider Manual 3-18 and Certification Manual

2. What is the subject of the proposed rule? Removing home and community behavioral health services from current program manual and moving to PASSE manual and defining certification manual to include fee-for-service only

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."**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. Ark. Code Ann. 20-77-107; 20-77-1701 et seq.

7. What is the purpose of this proposed rule? Why is it necessary? *This amendment coincides with the implementation of the Provider-Led Arkansas Shared Savings Entity (PASSE) model of organizes care. Under the PASSE model, beneficiaries who are in need of a full array of home and community based behavioral health services have received or will receive an BH Independent Assessment and have or will be attributed to a PASSE if the assessment shows a functional deficit. The services to treat those deficits will be provided through a 1915(i) state plan amendment and be subject to the home and community based services requirements. Providers who provide 1915(i) services to beneficiaries in a PASSE will be credentialed through the PASSE as home and community based service (HCBS) providers.*

*The services that remain in the Outpatient Behavioral Health Services program manual will be available to individuals with a behavioral health diagnosis who need counseling and medication management services only and will be accessible without an Independent Assessment and the Certification manual will apply only to services provided in fee-for-service environment.*

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://medicaid.mmis.arkansas.gov/General/Comment/Comment.aspx>

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

Date: August 20, 2018; September 6, 2018

Time: 5:00 PM  
Central Library, Darragh Auditorium,  
100 Rock Street  
Little Rock, AR

Hempstead Hall, Blevins Suite,  
University of Arkansas at Hope  
Place: 2500 South Main Street

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Hope, AR

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

September 12, 2018

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

January 1, 2019

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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. Attached

13. Please provide proof of filing the rule with the Secretary of State and the Arkansas State Library as required pursuant to Ark. Code Ann. § 25-15-204(e). 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. *Position unknown: Certified Outpatient Behavioral Health Service providers and PASSE entities.*

**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT** Department of Human Services

**DIVISION** Aging, Adult and Behavioral Health Services

**PERSON COMPLETING THIS STATEMENT** Patricia Gann

**TELEPHONE** 501-686-9431 **FAX** \_\_\_\_\_ **EMAIL:** patricia.gann@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** Outpatient Behavioral Health Services Program 3-18 and Certification 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?

**Current Fiscal Year**

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

**Next Fiscal Year**

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



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

**Current Fiscal Year**

**Next Fiscal Year**

0 \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

0 \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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**

\$ 0 \_\_\_\_\_

\$ 0 \_\_\_\_\_

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

**Current Fiscal Year**

**Next Fiscal Year**

\$ 0 \_\_\_\_\_

\$ 0 \_\_\_\_\_

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes  No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
  - (a) justifies the agency's need for the proposed rule; and
  - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;

- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
  - (a) the rule is achieving the statutory objectives;
  - (b) the benefits of the rule continue to justify its costs; and
  - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

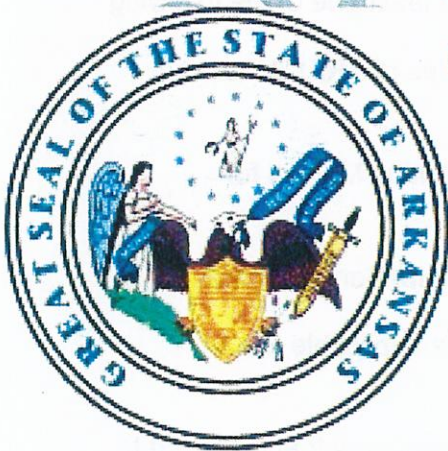


# Arkansas Department of Human Services

## Behavioral Health Agency Certification Manual

Revised: 7/1/17

[www.arkansas.gov/dhs/dhs](http://www.arkansas.gov/dhs/dhs)



**I. PURPOSE:**

- A. To assure that Outpatient Behavioral Health Services (“OBHS”) care and services provided by certified Behavioral Health Agencies comply with applicable laws, which require, among other things, that all care reimbursed by the Arkansas Medical Assistance Program (“Medicaid”) must be provided efficiently, economically, only when medically necessary, and is of a quality that meets professionally recognized standards of health care.
- B. The requirements and obligations imposed by §§ I-XIII of this rule are substantive, not procedural.

**II. SCOPE:**

- A. Current Behavioral Health Agency certification under this policy is a condition of Medicaid provider enrollment.
- B. Department of Human Services (“DHS”) Behavioral Health Agency certification must be obtained for each site before application for Medicaid provider enrollment. An applicant may submit one application for multiple sites, but DHS will review each site separately and take separate certification action for each site.
- C. This certification policy applies only to providers in the provision of services in the AR Medicaid fee for service program.

**III. DEFINITIONS:**

- A. “50 mile radius” means 50 miles from a certified site by driving distance. Driving distance is calculated by a method of utilizing a standardized mapping application.
- B. “Accreditation” means full accreditation (preliminary, expedited, probationary, pending, conditional, deferred or provisional accreditations will not be accepted) as an outpatient behavioral health care provider issued by at least one of the following:
  - Commission on Accreditation for Rehabilitative Facilities (CARF) Behavioral Health Standards Manual
  - The Joint Commission (TJC) Comprehensive Accreditation Manual for Behavioral Health Care
  - Council on Accreditation (COA) Outpatient Mental Health Services Manual

Accreditation timing for specific programs is defined in the applicable DHS Certification manual for that program.

- C. “Adverse license action” means any action by a licensing authority that is related to client care, any act or omission warranting exclusion under DHS Policy 1088, or that imposes any restriction on the licensee’s practice privileges. The action is deemed to exist when the licensing entity imposes the adverse action except as provided in Ark. Code Ann. § 25-15-211 (c).

- D. "Applicant" means an outpatient behavioral health care agency that is seeking DHS certification as a Behavioral Health Agency.
- E. "Certification" means a written designation, issued by DHS, declaring that the provider has demonstrated compliance as declared within and defined by this rule.
- F. "Client" means any person for whom a Behavioral Health Agency furnishes, or has agreed or undertaken to furnish, Outpatient Behavioral Health services.
- G. "Client Information System" means a comprehensive, integrated system of clinical, administrative, and financial records that provides information necessary and useful to deliver client services. Information may be maintained electronically, in hard copy, or both.
- H. "Compliance" means conformance with:
1. Applicable state and federal laws, rules, and regulations including, without limitation:
    - a. Titles XIX and XXI of the Social Security Act and implementing regulations;
    - b. Other federal laws and regulations governing the delivery of health care funded in whole or in part by federal funds, for example, 42 U.S.C. § 1320c-5;
    - c. All state laws and rules applicable to Medicaid generally and to Outpatient Behavioral Health services specifically;
    - d. Title VI of the Civil Rights Act of 1964 as amended, and implementing regulations;
    - e. The Americans With Disabilities Act, as amended, and implementing regulations;
    - f. The Health Insurance Portability and Accountability Act ("HIPAA"), as amended and implementing regulations.
  2. Accreditation standards and requirements.
- I. "Contemporaneous" means by the end of the performing provider's first work period following the provision of care of services to be documented, or as provided in the Outpatient Behavioral Health Services manual, whichever is longer.
- J. "Coordinated Management Plan" means a plan that the provider develops and carries out to assure compliance and quality improvement.
- K. "Corrective Action Plan" (CAP) means a document that describes both short-term remedial steps to achieve compliance and permanent practices and procedures to sustain compliance.
- L. "Covered Health Care Practitioner" means: Any practitioner providing Outpatient Behavioral Health Services that is allowable to be reimbursed pursuant to the Outpatient Behavioral Health Services Medicaid Manual.
- M. "Cultural Competency" means the ability to communicate and interact effectively with people of different cultures, including people with disabilities and atypical lifestyles.
- N. "Deficiency" means an item or area of noncompliance.

- O. "DHS" means the Arkansas Department of Human Services.
- P. "Emergency Behavioral Health Agency services" means nonscheduled Behavioral Health Agency services delivered under circumstances where a prudent layperson with an average knowledge of behavioral health care would reasonably believe that Behavioral Health Agency services are immediately necessary to prevent death or serious impairment of health.
- Q. "Medical Director" means a physician that oversees the planning and delivery of all Behavioral Health Agency services delivered by the provider.
- R. "Mental health professional" or "MHP" means a person who possesses an Arkansas license to provide clinical behavioral health care. The license must be in good standing and not subject to any adverse license action.
- S. "Mobile care" means a face-to-face intervention with the client at a place other than a certified site operated by the provider. Mobile care must be:
1. Either clinically indicated in an emergent situation or necessary for the client to have access to care in accordance with the care plan;
  2. Delivered in a clinically appropriate setting; and
  3. Delivered where Medicaid billing is permitted if delivered to a Medicaid eligible client.
- Mobile care may include medically necessary behavioral health care provided in a school that is within a fifty (50) mile radius of a certified site operated by the provider.
- T. "Multi-disciplinary team" means a group of professionals from different disciplines that provide comprehensive care through individual expertise and in consultation with one another to accomplish the client's clinical goals. Multi-disciplinary teams promote coordination between agencies; provide a "checks and balances" mechanism to ensure that the interests and rights of all concerned parties are addressed; and identify service gaps and breakdowns in coordination or communication between agencies or individuals.
- U. "NPDB" means the United States Department of Health and Human Services, Health Resources and Services Administration National Provider Data Bank.
- V. "Performing provider" means the individual who personally delivers a care or service directly to a client.
- W. "Professionally recognized standard of care" means that degree of skill and learning commonly applied under all the circumstances in the community by the average prudent reputable member of the profession. Conformity with Substance Abuse and Mental Health Services Administration (SAMHSA) evidence-based practice models is evidence of compliance with professionally recognized standards of care.
- X. "Provider" means an entity that is certified by DHS and enrolled by DMS as a Behavioral Health Agency

Y. "Qualified Behavioral Health Provider" means a person who:

1. Does not possess an Arkansas license to provide clinical behavioral health care;
2. Works under the direct supervision of a mental health professional;
3. Has successfully completed prescribed and documented courses of initial and annual training sufficient to perform all tasks assigned by a mental health professional;
4. Acknowledges in writing that all qualified behavioral health provider services are controlled by client care plans and provided under the direct supervision of a mental health professional.

Z. "Quality assurance (QA) meeting" means a meeting held at least quarterly for systematic monitoring and evaluation of clinic services and compliance. See also, Medicaid Outpatient Behavioral Health Services Manual, § 212.000.

AA. "Reviewer" means a person employed or engaged by:

1. DHS or a division or office thereof;
2. An entity that contracts with DHS or a division or office thereof.

BB. "Site" means a distinct place of business dedicated to the delivery of Outpatient Behavioral Health Services within a fifty (50) mile radius. Each site must be a bona fide Behavioral Health Agency, meaning a behavioral health outpatient clinic providing all the services specified in this rule and the Medicaid Outpatient Behavioral Health Services Manual. Sites may not be adjuncts to a different activity such as a school, a day care facility, a long-term care facility, or the office or clinic of a physician or psychologist.

CC. "Site relocation" means closing an existing site and opening a new site no more than a fifty (50) mile radius from the original site.

DD. "Site transfer" means moving existing staff, program, and clients from one physical location to a second location that is no more than a fifty (50) mile radius from the original site.

EE. "Supervise" as used in this rule means to direct, inspect, observe, and evaluate performance.

FF. "Supervision documentation" means written records of the time, date, subject(s), and duration of supervisory contact maintained in the provider's official records.

IV. **COMPLIANCE TIMELINE:**

- A. Entities currently certified as Rehabilitative Services for Persons with Mental Illness (RSPMI) providers will be grandfathered in as certified Behavioral Health Agencies. Current RSPMI agency recertification procedures are based upon national accreditation timelines. Behavioral Health Agency recertification will also be based upon national accreditation timelines.
- B. All entities in operation as of the effective date of this rule must comply with this rule within forty-five (45) calendar days in order to maintain certification.
- C. DHS may authorize temporary compliance exceptions for new accreditation standards that require independent site surveys and specific service subset accreditations. Such compliance exceptions expire at the end of the provider's accreditation cycle and may not be renewed or reauthorized.

V. **APPLICATION FOR DHS BEHAVIORAL HEALTH AGENCY CERTIFICATION:**

- A. New Behavioral Health Agency applicants must complete DHS BEHAVIORAL HEALTH AGENCY CERTIFICATION Form 100, DHS BEHAVIORAL HEALTH AGENCY FORM 200, and DHS BEHAVIORAL HEALTH AGENCY Form 210
- B. DHS BEHAVIORAL HEALTH AGENCY CERTIFICATION Form 100, DHS BEHAVIORAL HEALTH AGENCY FORM 200, and DHS BEHAVIORAL HEALTH AGENCY Form 210 can be found at the following website: [www.arkansas.gov/dhs/dhs](http://www.arkansas.gov/dhs/dhs)
- C. Applicants must submit the completed application forms and all required attachments for each proposed site to:  

Department of Human Services  
Division of Behavioral Health Services  
Attn. Certification Office  
305 S. Palm  
Little Rock, AR 72205
- D. Each applicant must be an outpatient behavioral health care agency:
  - 1. Whose primary purpose is the delivery of a continuum of outpatient behavioral health services in a free standing independent clinic;
  - 2. That is independent of any DHS certified Behavioral Health Agency.
- E. Behavioral Health Agency certification is not transferable or assignable.
- F. The privileges of a Behavioral Health Agency certification are limited to the certified site.



- G. Providers may file Medicaid claims only for Outpatient Behavioral Health Services delivered by a performing provider engaged by the provider.
- H. Applications must be made in the name used to identify the business entity to the Secretary of State and for tax purposes.
- I. Applicants must maintain and document accreditation, and must prominently display certification of accreditation issued by the accrediting organization in a public area at each site. Accreditation must recognize and include all the applicant's Behavioral Health Agency programs, services, and sites.
  - 1. Initial accreditation must include an on-site survey for each service site for which provider certification is requested. Accreditation documentation submitted to DHS must list all sites recognized and approved by the accrediting organization as the applicant's service sites.
  - 2. Accreditation documentation must include the applicant's governance standards for operation and sufficiently define and describe all services or types of care (customer service units or service standards) the applicant intends to provide including, without limitation, crisis intervention/stabilization, in-home family counseling, outpatient treatment, day treatment, therapeutic foster care, intensive outpatient, medication management/pharmacotherapy.
  - 3. Any outpatient behavioral health program associated with a hospital must have a free-standing behavioral health outpatient program national accreditation.
- J. The applicant must attach the entity's family involvement policy to each application.

## **VI. APPLICATION REVIEW PROCESS:**

### **A. Timeline:**

- 1. DHS will review Behavioral Health Agency application forms and materials within ninety (90) calendar days after DHS receives a complete application package. (DHS will return incomplete applications to senders without review.)
- 2. For approved applications, a site survey will be scheduled within forty-five (45) calendar days of the approval date.
- 3. DHS will mail a survey report to the applicant within twenty-five (25) calendar days of the site visit. Providers having deficiencies on survey reports must submit an approvable corrective action plan to DHS within thirty-five (35) calendar days after the date of a survey report.
- 4. DHS will accept or reject each corrective action plan in writing within twenty (20) calendar days after receipt.
- 5. Within thirty (30) calendar days after DHS approves a corrective action plan, the applicant must document implementation of the plan and correction of the deficiencies listed in the survey report. Applicants who are unable, despite the exercise of reasonable diligence, to correct deficiencies within the time permitted

may obtain up to ten (10) additional days based on a showing of good cause.

6. DHS will furnish site-specific certificates via postal or electronic mail within ten (10) calendar days of issuing a site certification.
- B. Survey Components: An outline of site survey components is available on the DHS website: [www.arkansas.gov/dhs/dhs](http://www.arkansas.gov/dhs/dhs) and is located in appendix # 7.
- C. Determinations:
1. Application approved.
  2. Application returned for additional information.
  3. Application denied. DHS will state the reasons for denial in a written response to the applicant.

#### **VII. DHS Access to Applicants/Providers:**

- A. DHS may contact applicants and providers at any time;
- B. DHS may make unannounced visits to applicants/providers.
- C. Applicants/providers shall provide DHS prompt direct access to applicant/provider documents and to applicant/provider staff and contractors, including, without limitation, clinicians, paraprofessionals, physicians, administrative, and support staff.
- D. DHS reserves the right to ask any questions or request any additional information related to certification, accreditation, or both.

#### **VIII. ADDITIONAL CERTIFICATION REQUIREMENTS:**

- A. Care and Services must:
1. Comply with all state and federal laws, rules, and regulations applicable to the furnishing of health care funded in whole or in part by federal funds; to all state laws and policies applicable to Arkansas Medicaid generally, and to Outpatient Behavioral Health Services specifically, and to all applicable Department of Human Services ("DHS") policies including, without limitation, DHS Participant Exclusion Policy § 1088.0.0. The Participant Exclusion Policy is available online at <https://dhsshare.arkansas.gov/DHS%20Policies/Forms/By%20Policy.aspx>
  2. Conform to professionally recognized behavioral health rehabilitative treatment models.
  3. Be established by contemporaneous documentation that is accurate and demonstrates compliance. Documentation will be deemed to be contemporaneous if recorded by the end of the performing provider's first work period following the provision of the care or services to be documented, or as provided in the Outpatient Behavioral Health Services manual, § 252.110, whichever is longer.

B. Applicants and Behavioral Health Agencies must:

1. Be a legal entity in good standing;
2. Maintain all required business licenses;
3. Adopt a mission statement to establish goals and guide activities;
4. Maintain a current organizational chart that identifies administrative and clinical chains of command.

C. Applicants/providers must establish and comply with operating policy that at a minimum implements credible practices and standards for:

1. Compliance;
2. Cultural competence;
3. Provision of services, including referral services, for clients that are indigent, have no source of third party payment, or both, including:
  - a. Procedures to follow when a client is rejected for lack of a third-party payment source or when a client is discharged for nonpayment of care.
  - b. Coordinated referral plans for clients that the provider lacks the capacity to provide medically necessary Outpatient Behavioral Health Services. Coordinated referral plans must:
    - i. Identify in the client record the medically necessary Outpatient Behavioral Health Services that the provider cannot or will not furnish;
    - ii. State the reason(s) in the client record that the provider cannot or will not furnish the care;
    - iii. Provide quality-control processes that assure compliance with care, discharge, and transition plans.

## IX. STAFFING REQUIREMENTS FOR CERTIFICATION

A. At a minimum, Behavioral Health Agency staffing shall be sufficient to establish and implement services for each Behavioral Health Agency client, and must include the following:

1. **Chief Executive Officer/Executive Director (or functional equivalent) (full-time position or full-time equivalent positions):** The person or persons identified to carry out CEO/ED functions:
  - a. Is/are ultimately responsible for applicant/provider organization, staffing, policies and practices, and Behavioral Health Agency service delivery;

- b. Must possess a master's degree in behavioral health care, management, or a related field and experience, and meet any additional qualifications required by the provider's governing body. Other job-related education, experience, or both, may be substituted for all or part of these requirements upon approval of the provider's governing body.

**2. Clinical Director (or functional equivalent) (full-time position or full-time equivalent positions):** The person or persons identified to carry out clinical director functions must:

- a. Report directly to the CEO/ED;
- b. Be the DHS contact for clinical and practice-related issues;
- c. Be accountable for all clinical services (professional and paraprofessional);
- d. Be responsible for Behavioral Health Agency care and service quality and compliance;
- e. Assure that all services are provided within each practitioner's scope of practice under Arkansas law and under such supervision as required by law for practitioners not licensed to practice independently;
- f. Assure and document in the provider's official records the direct supervision of MHP's, either personally or through a documented chain of supervision.
- g. Assure that licensed mental health professionals directly supervise Qualified Behavioral Health Providers. Direct supervision ratios must not exceed one licensed mental health professional to ten (10) Qualified Behavioral Health Providers;
- h. Possess independent Behavioral Health licensure in Arkansas as a Licensed Psychologist, Licensed Certified Social Worker, (LCSW), Licensed Psychological Examiner – Independent (LPE-I), Licensed Professional Counselor (LPC), Licensed Marriage and Family Therapist (LMFT), or an Advanced Practice Nurse or Clinical Nurse Specialist (APN or CNS) with a specialty in psychiatry or mental health and a minimum of two years clinical experience post master's degree.

**3. Mental Health Professionals (Independently Licensed Clinicians, Non-Independently Licensed Clinicians):**

- a. MHP's may:
  - i. Provide direct behavioral health care;
  - ii. Delegate and oversee work assignments of Qualified Behavioral Health Provider's;
  - iii. Delegate and oversee work assignments of Certified Peer Specialists, Certified Youth Support Specialists, and Certified Family Support Partners

- iv. Ensure compliance and conformity to the provider's policies and procedures;
- v. Provide direct supervision of Qualified Behavioral Health Provider's;
- vi. Provide direct supervision of Certified Peer Specialists, Certified Youth Support Specialists, and Certified Family Support Partners
- vii. Provide case consultation and in-service training;
- viii. Observe and evaluate performance of Qualified Behavioral Health Provider's.
- ix. Observe and evaluate performance of Certified Peer Specialists, Certified Youth Support Specialists, and Certified Family Support Partners

b. MHP Supervision:

- i. Communication between an MHP and the MHP's supervisor must include each of the following at least every twelve (12) months:
  - 1. Assessment and referral skills, including the accuracy of assessments;
  - 2. Appropriateness of treatment or service interventions in relation to the client needs;
  - 3. Treatment/intervention effectiveness as reflected by the client meeting individual goals;
  - 4. Issues of ethics, legal aspects of clinical practice, and professional standards;
  - 5. The provision of feedback that enhances the skills of direct service personnel;
  - 6. Clinical documentation issues identified through ongoing compliance review;
  - 7. Cultural competency issues;
  - 8. All areas noted as deficient or needing improvement.
- ii. Documented client-specific face-to-face and other necessary communication regarding client care must occur between each MHP's supervisor and the MHP periodically (no less than every ninety (90) calendar days) in accordance with a schedule maintained in the provider's official records.

#### **4. Qualified Behavioral Health Providers (Including Certified Peer Support**

**Specialist,):**

- a. Are MHP service extenders;
- b. Qualified Behavioral Health Provider supervision must conform to the requirements for MHP supervision (See § IX (3)(b)) except that all requirements must be met every six (6) months, and one or more licensed health care professional(s) acting within the scope of his or her practice must have a face-to-face contact with each Qualified Behavioral Health Provider for the purpose of clinical supervision at least every fourteen (14) days, must have at least twelve (12) such face-to-face contacts every ninety (90) days, and such additional face-to-face contacts as are necessary in response to a client's unscheduled care needs, response or lack of response to treatment, or change of condition;
- c. Providers must establish that Qualified Behavioral Health Provider supervision occurred via individualized written certifications created by a licensed mental health professional and filed in the provider's official records on a weekly basis, certifying:
  - i. That the licensed mental health professional periodically (in accordance with a schedule tailored to the client's condition and care needs and previously recorded in the provider's official records) communicated individualized client-specific instructions to the mental health paraprofessional describing the manner and methods for the delivery of paraprofessional services;
  - ii. That the licensed mental health professional periodically (in accordance with a schedule tailored to the client's condition and care needs and previously recorded in the provider's official records, but no less than every 30 days) personally observed the mental health paraprofessional delivering services to a client; that the observations were of sufficient duration to declare whether paraprofessional services complied with the licensed mental health professional's instructions;
  - iii. The date, time, and duration of each supervisory communication with and observation of a Qualified Behavioral Health Provider.
- d. The Behavioral Health Agency is responsible for ensuring Qualified Behavioral Health Providers that are not certified as Certified Peer Support Specialists, successfully complete training in behavioral health services provision from a licensed medical person experienced in the area of behavioral health, a certified Behavioral Agency, or a facility licensed by the State Board of Education before providing care to Medicaid beneficiaries.
  - i. The Qualified Behavioral Health Provider must receive orientation to the Behavioral Health Agency.
  - ii. The Qualified Behavioral Health Provider training course offered for those individuals not certified as Certified Peer Support Specialist, must total a minimum of forty (40) classroom hours and must be successfully completed within a maximum time of the first two (2) months of employment by the

Behavioral Health Agency.

- iii. The training curriculum must contain information specific to the population being served, i.e. adult, dually diagnosed, etc. The curriculum must include, but is not limited to:
  1. Communication skills.
  2. Knowledge of behavioral health illnesses.
  3. How to be an appropriate role model.
  4. Behavior management.
  5. Handling emergencies.
  6. Record keeping: observing beneficiary, reporting or recording observations, time, or employment records.
  7. Knowledge of clinical limitations.
  8. Knowledge of appropriate relationships with beneficiary.
  9. Group interaction.
  10. Identification of real issues.
  11. Listening techniques.
  12. Confidentiality.
  13. Knowledge of medications and side effects.
  14. Daily living skills.
  15. Hospitalization procedures single-point-of-entry.
  16. Knowledge of the Supplemental Security Income (SSI) application process.
  17. Knowledge of day treatment models proper placement levels.
  18. Awareness of options.
  19. Cultural competency.
  20. Ethical issues in practice.
  21. Childhood development, if serving the child and adolescent population.
- iv. A written examination of the Qualified Behavioral Health Provider's that are not certified as Certified Peer Support Specialists, knowledge of the 40-hour classroom training curriculum must be successfully completed.
- v. Evaluation of the Qualified Behavioral Health Provider's ability to perform daily living skills (DLS) for mental health services must be successfully completed by means of a skills test.
- vi. The Qualified Behavioral Health Provider who successfully completes the training must be awarded a certificate. This certificate must state the person is qualified to work in an agency under professional supervision as a Qualified Behavioral Health Provider.
- vii. In-service training sessions are required at a minimum of once per 12-month period after the successful completion of the initial 40-hour classroom training for Qualified Behavioral Health Specialists not certified as Certified Peer Support Specialist, The in-service training must total a minimum of eight (8) hours each 12-month period beginning with the date of certification as a Qualified Behavioral Health Provider and each 12-month period thereafter.

The in-service training may be conducted, in part, in the field. Documentation of in-service hours will be maintained in the employee's personnel record and will be available for inspection by regulatory agencies.

**5. Corporate Compliance Officer:**

- a. Manages policy, practice standards and compliance, except compliance that is the responsibility of the medical records librarian;
- b. Reports directly to the CEO/ED (except in circumstances where the compliance officer is required to report directly to a director, the board of directors, or an accrediting or oversight agency);
- c. Has no direct responsibility for billings or collections;
- d. Is the DHS and Medicaid contact for DHS certification, Medicaid enrollment, and compliance.

**6. Medical Director:**

- a. Oversees Behavioral Health Agency care planning, coordination, and delivery, and specifically:
  - i. Diagnoses, treats, and prescribes for behavioral illness;
  - ii. Is responsible and accountable for all client care, care planning, care coordination, and medication storage;
  - iii. Assures that physician care is available 24 hours a day, 7 days a week;
  - iv. May delegate client care to other physicians, subject to documented oversight and approval;
  - v. Assures that a physician participates in treatment planning and reviews;
  - vi. If the medical director is not a psychiatrist, a psychiatrist certified by one of the specialties of the American Board of Medical Specialties must serve as a consultant to the medical director and to other staff, both medical and non-medical. If the provider serves clients under the age of twenty-one (21), the medical director shall have access to a board certified child psychiatrist, for example, through the Psychiatric Research Institute child/Adolescent Telephone Consultation Service;
  - vii. Medical director services may be acquired by contract.
- b. If the medical director is not a psychiatrist then the medical director shall contact a consulting psychiatrist within twenty-four (24) hours in the following situations:
  - i. When antipsychotic or stimulant medications are used in dosages



higher than recommended in guidelines published by the Arkansas Department of Human Services Division of Medical Services;

- ii. When two (2) or more medications from the same pharmacological class are used;
  - iii. When there is significant clinical deterioration or crisis with enhanced risk of danger to self or others.
- c. The consulting psychiatrist(s) shall participate in quarterly quality assurance meetings.
- 7. Privacy Officer:** Develops and implements policies to assure compliance with privacy laws, regulations, and rules. Applicants/providers may assign privacy responsibilities to the Corporate Compliance Officer, Grievance Officer, or Medical Records Librarian, but not the CEO/ED.
- 8. Quality Control Manager:** Chairs the quality assurance committee and develops and implements quality control and quality improvement activities. Applicants/providers may assign quality control manager responsibilities to the Corporate Compliance Officer or Medical Records Manager, but not the CEO/ED.
- 9. Grievance Officer:**
- a. Develops and implements the applicant's/provider's employee and client grievance procedures.
  - b. Effectively communicates grievance procedures to staff, contractors, prospective clients, and clients. Communications to clients who are legally incapacitated shall include communication to the client's responsible party.
  - c. The grievance officer shall not have any duties that may cause him/her to favor or disfavor any grievant.
- 10. Medical Records Librarian:**
- a. Must be qualified by education, training, and experience to understand and apply:
    - i. Medical and behavioral health terminology and usages covering the full range of services offered by the provider;
    - ii. Medical records forms and formats;
    - iii. Medical records classification systems and references such as The American Psychiatric Association's Diagnostic and Statistical Manual – IV-TR (DSM-IV-TR) and subsequent editions, International Classification of Diseases (ICD), Diagnostic Related Groups (DRG's), Physician's Desk Reference (PDR), Current Procedural Terminology (CPT), medical dictionaries, manuals, textbooks, and glossaries.

- iv. Legal and regulatory requirements of medical records to assure the record is acceptable as a legal document;
  - v. Laws and regulations on the confidentiality of medical records (Privacy Act and Freedom of Information Act) and the procedures for informed consent for release of information from the record.
  - vi. The interrelationship of record services with the rest of the facility's services.
- b. Develops and implements:
- i. The client information system;
  - ii. Operating methods and procedures covering all medical records functions.
  - iii. Insures that the medical record is complete, accurate, and compliant.

**11. Licensed Psychologist, Licensed Psychological Examiner (LPE), or Licensed Psychological Examiner – Independent (LPE-I):**

- a. Provides psychological evaluations;
  - b. Each licensed psychological examiner or licensed psychological examiner-I must have supervision agreements with a doctoral psychologist to provide appropriate supervision or services for any evaluations or procedures that are required under or are outside the psychological examiner's scope of independent practice. Documentation of such agreements and of all required supervision and other practice arrangements must be included in the psychological examiner's personnel record;
  - c. Services may be acquired by contract.
- B. Multidisciplinary Team(s): Any client identified as Tier 2 by the independent assessment shall be assigned a multidisciplinary team that includes professionals and qualified behavioral health providers as necessary to ensure coordination of each client's Outpatient Behavioral Health Services. All Tier 2 clients require the development of a Master Treatment Plan with ongoing reviews at least every one-hundred and eighty (180) calendar days.

For clients not eligible for Rehabilitative (Tier 2) Level or Intensive (Tier 3) Level services, the services offered in the Counseling Level (Tier 1) are a limited array of counseling services provided by a master's level clinician. Establishment of goals and a plan to reach those goals is part of good clinical practice and can be developed with the client during the Mental Health Diagnostic Assessment and Interpretation of Diagnosis. Clinicians should assess client's response to treatment at each session which should include a review of progress towards mutually agreed upon goals.

- C. Quality Assurance Meetings:

Each provider must hold a quarterly quality assurance meeting.

D. Health Care Professional Notification/Disqualification:

1. Notice of covered health care practitioners:

- a. Within twenty (20) days of the effective date of this rule, applicants/providers must notify the Office of Medicaid Inspector General (OMIG) of the names of covered health care practitioners who are providing Outpatient Behavioral Health Services.
- b. On or before the tenth day of each month, providers must notify the Office of Medicaid Inspector General (OMIG) of the names of all covered health care practitioners who are providing Outpatient Behavioral Health Services and whose names were not previously disclosed.

2. Licensed health care professionals may not furnish Outpatient Behavioral Health Services during any time the professional's license is subject to adverse license action.

3. Applicants/providers may not employ/engage a covered health care practitioner after learning that the practitioner:

- a. Is excluded from Medicare, Medicaid, or both;
- b. Is debarred under Ark. Code Ann. § 19-11-245;
- c. Is excluded under DHS Policy 1088; or
- d. Was subject to a final determination that the provider failed to comply with professionally recognized standards of care, conduct, or both. For purposes of this subsection, "final determination" means a final court or administrative adjudication, or the result of an alternative dispute resolution process such as arbitration or mediation.

E. Applicants/providers must maintain documentation identifying the primary work location of all mental health professionals and qualified behavioral health providers providing services on behalf of the Behavioral Health Agency.

F. Providers must maintain copies of disclosure forms signed by the client, or by the client's parent or guardian before Outpatient Behavioral Health Services are delivered except in emergencies. Such forms must at a minimum:

1. Disclose that the services to be provided are Outpatient Behavioral Health Services;
2. Explain Outpatient Behavioral Health Services eligibility, SED and SMI criteria;
3. Contain a brief description of the Behavioral Health Agency services;
4. Explain that all Outpatient Behavioral Health Services care must be medically

necessary;

5. Disclose that third party (e.g., Medicaid or insurance) Outpatient Behavioral Health Service payments may be denied based on the third party payer's policies or rules;
  6. Identify and define any services to be offered or provided in addition to those offered by the Behavioral Health Agency, state whether there will be a charge for such services, and if so, document payment arrangements;
  7. Notify that services may be discontinued by the client at any time;
  8. Offer to provide copies of Behavioral Health Agency and Outpatient Behavioral Health Services rules;
  9. Provide and explain contact information for making complaints to the provider regarding care delivery, discrimination, or any other dissatisfaction with care provided by the Behavioral Health Agency;
  10. Provide and explain contact information for making complaints to state and federal agencies that enforce compliance under § III(G)(1).
- G. Outpatient Behavioral Health Services maintained at each site must include:
1. Psychiatric Evaluation and Medication Management;
  2. Outpatient Services, including individual and family therapy at a minimum;
  3. Crisis Services.
- L. Providers must tailor all Outpatient Behavioral Health Services care to individual client need. If client records contain entries that are materially identical, DHS and the Division of Medical Services will, by rebuttable presumption, that this requirement is not met.
- M. Outpatient Behavioral Health Services for individuals under age eighteen (18): Providers must establish and implement policies for family identification and engagement in treatment for persons under age eighteen (18), including strategies for identifying and overcoming barriers to family involvement.
- N. Emergency Response Services: Applicants/providers must establish, implement, and maintain a site-specific emergency response plan, which must include:
1. A 24-hour emergency telephone number;
  2. The applicant/provider must:
    - a. Provide the 24-hour emergency telephone number to all clients;
    - b. Post the 24-hour emergency number on all public entries to each site;
    - c. Include the 24-hour emergency phone number on answering machine greetings;

- d. Identify local law enforcement and medical facilities within a 50-mile radius that may be emergency responders to client emergencies.
  3. Direct access to a mental health professional within fifteen (15) minutes of an emergency/crisis call and face-to-face crisis assessment within two (2) hours;
  4. Response strategies based upon:
    - a. Time and place of occurrence;
    - b. Individual's status (client/non-client);
    - c. Contact source (family, law enforcement, health care provider, etc.).
  5. Requirements for a face-to-face response to requests for emergency intervention received from a hospital or law enforcement agency regarding a current client.
  6. All face-to-face emergency responses shall be:
    - a. Available 24 hours a day, 7 days a week;
    - b. Made by a mental health professional within two (2) hours of request (unless a different time frame is within clinical standards guidelines and mutually agreed upon by the requesting party and the MHP responding to the call).
  7. Emergency services training requirements to ensure that emergency services are age-appropriate and comply with accreditation requirements. Providers shall maintain documentation of all emergency services training in each trainee's personnel file.
  8. Requirements for clinical review by the clinical supervisor or emergency services director within 24 hours of each after-hours emergency intervention with such additional reporting as may be required by the provider's policy.
  9. Requirements for documentation of all crisis calls, responses, collaborations, and outcomes;
  10. Requirements that emergency responses not vary based on the client's funding source. If a client is eligible for inpatient behavioral health care funded through the community mental health centers and the provider is not a community mental health center with access to these funds, the provider must:
    - a. Determine whether the safest, least restrictive alternative is psychiatric hospitalization; and
    - b. Contact the appropriate community mental health center (CMHC) for consult and to request the CMHC to access local acute care funds for those over 21.
- O. Each applicant/provider must establish and maintain procedures, competence, and capacity:

1. For assessment and individualized care planning and delivery;
  2. For discharge planning integral to treatment;
  3. For mobile care;
  4. To assure that each mental health professional makes timely clinical disposition decisions;
  5. To make timely referrals to other services;
  6. To refer for inpatient services or less restrictive alternative;
  7. To identify clients who need direct access to clinical staff, and to promptly provide such access.
- P. Each applicant/provider must establish, maintain, and document a quality improvement program, to include:
1. Evidence based practices;
  2. Use of agency wide outcomes measures to improve both client care and clinical practice that are approved by the agency's national accrediting organization. The following must be documented:
    - a. Measured outcomes
    - b. Sample report
    - c. Collection of outcomes, beginning at the initial mental health diagnosis service, which would be completed very close to the client's intake.
  3. Requirements for informing all clients and clients' responsible parties of the client's rights while accessing services.
  4. Regular (at least quarterly) quality assurance meetings that include:
    - a. Clinical Record Reviews: medical record reviews of a minimum number of randomly selected charts. The minimum number is the lesser of a statistically valid sample yielding 95% confidence with a 5% margin of error; or 10% of all charts open at any time during the past three (3) months;
    - b. Program and services reviews that:
      - i. Assess and document whether care and services meet client needs;
      - ii. Identify unmet behavioral health needs;
      - iii. Establish and implement plans to address unmet needs.

**X. HOME OFFICE:**

- A. Each provider must maintain and identify a home office in the State of Arkansas;
- B. The home office may be located at a site or may be solely an administrative office not requiring site certification;
- C. The home office is solely responsible for governance and administration of all of the provider's Arkansas sites;
- D. Home office governance and administration must be documented in a coordinated management plan;
- E. The home office shall establish policies for maintaining client records, including policies designating where the original records are stored.

**XI. SITE REQUIREMENTS**

- A. All sites must be located in the State of Arkansas;
- B. Accreditation documentation must specifically include each site.

**XII. SITE RELOCATION, OPENING, AND CLOSING** (Note: temporary service disruptions caused by inclement weather or power outages are not "closings.")

A. Planned Closings:

- 1. Upon deciding to close a site either temporarily or permanently, the provider immediately must provide written notice to clients, DHS, the Division of Medical Services, the Medicaid fiscal agent, and the accrediting organization.
- 2. Notice of site closure must state the site closure date;
- 3. If site closure is permanent, the site certification expires at 12:00 a.m. the day following the closure date stated in the notice;
- 4. If site closing is temporary, and is for reasons unrelated to adverse governmental action, DHS may suspend the site certification for up to one (1) year if the provider maintains possession and control of the site. If the site is not operating and in compliance within the time specified in the site certification suspension, the site certification expires at 12:00 a.m. the day after the site certification suspension ends.

B. Unplanned Closings:

- 1. If a provider must involuntarily close a site due to, for example, fire, natural disaster, or adverse governmental action, the provider must immediately notify clients and families, DHS, the Division of Medical Services, the Medicaid fiscal agent, and the accrediting organization of the closure and the reason(s) for the closure.

2. Site certification expires in accordance with any pending regulatory action, or, if no regulatory action is pending, at 12:00 a.m. the day following permanent closure.

C. All Closings:

1. Providers must assure and document continuity of care for all clients who receive Outpatient Behavioral Health Services at the site;
2. Notice of Closure and Continuing Care Options:
  - a. Providers must assure and document that clients and families receive actual notice of the closure, the closure date, and any information and instructions necessary for the client to obtain transition services;
  - b. After documenting that actual notice to a specific client was impossible despite the exercise of due diligence, providers may satisfy the client notice requirement by mailing a notice containing the information described in subsection (a), above, to the last known address provided by the client; and
  - c. Before closing, providers must post a public notice at each site entry. The public notice must include the name and contact information for all Behavioral Health Agencies within a fifty (50) mile radius of the site.
3. An acceptable transition plan is described below:

**Transition Plan:**

- 1. Identify and list all certified sites within a 50 mile radius. Include telephone numbers and physical addresses on the list.**
- 2. Provide clients/families with the referral information and have them sign a transfer of records form/release of information to enable records to be transferred to the provider of their choice.**
- 3. Transfer records to the designated provider.**



4. Designate a records retrieval process as specified in Section I of the Arkansas Medicaid Outpatient Behavioral Health Services Provider Policy Manual § 142.300.

5. Submit a reporting of transfer to DHS (Attn: Policy & Certification Office) including a list of client names and the disposition of each referral. See example below:

Name	Referred to:	Records Transfer Status:	RX Needs Met By:
Johnny	OP Provider Name	to be delivered 4/30/20XX	Provided 1 month RX
Mary	Private Provider Name	Delivered 4/28/20XX	No Meds
Judy	Declined Referral	XX	

6. DHS may require additional information regarding documentation of client transfers to ensure that client needs are addressed and met.

DHS BEHAVIORAL HEALTH AGENCY Form 220 shall be used when a site is to be closed.

D. New Sites: Use DHS BEHAVIORAL HEALTH AGENCY Form 250 to apply for new sites, which would include a new Medicaid provider ID number for that site.

E. Site Transfer:

1. At least forty-five (45) calendar days before a proposed transfer of an accredited site, the provider must apply to DHS to transfer site certification. The application must include documentation that:
  - a. The provider notified the accrediting entity, and the accrediting entity has extended or will extend accreditation to the second site; or
  - b. The accrediting entity has established an accreditation timeframe.
2. The provider must notify clients and families, DHS, the Division of Medical Services, the Medicaid fiscal agent, and the accrediting organization at least thirty (30) calendar days before the transfer;
3. DHS does not require an on-site survey, nor does the Division of Medical Services require a new Medicaid provider number. Please use DHS BEHAVIORAL HEALTH AGENCY Form 220 for a site move or transfers.

F. Site Relocation: The provider must follow the rules for closing the original site, and the rules for opening a new site.

### XIII. PROVIDER RE-CERTIFICATION:

A. The term of DHS site certification is concurrent with the provider's national accreditation cycle, except that site certification extends six (6) months past the accreditation

expiration month if there is no interruption in the accreditation. (The six-month extension is to give the Behavioral Health Agency time to receive a final report from the accrediting organization, which the provider must immediately forward to DHS.)

B. Providers must furnish DHS a copy of:

1. Correspondence related to the provider's request for re-accreditation:
  - a. Providers shall send DHS copies of correspondence from the accrediting agency within five (5) business days of receipt;
  - b. Providers shall furnish DHS copies of correspondence to the accrediting organization concurrently with sending originals to the accrediting organization.
2. An application for provider and site recertification:
  - a. DHS must receive provider and site recertification applications at least fifteen (15) business days before the DHS Behavioral Health Agency certification expiration date;
  - b. The Re-Certification form with required documentation is DHS BEHAVIORAL HEALTH AGENCY Form 230 and is available at [www.arkansas.gov/dhs/dhs](http://www.arkansas.gov/dhs/dhs).

C. If DHS has not recertified the provider and site(s) before the certification expiration date, certification is void beginning 12:00 a.m. the next day.

**XIV. MAINTAINING DHS BEHAVIORAL HEALTH AGENCY CERTIFICATION:**

A. Providers must:

1. Maintain compliance;
2. Assure that DHS certification information is current, and to that end must notify DHS within thirty (30) calendar days of any change affecting the accuracy of the provider's certification records;
3. Furnish DHS all correspondence in any form (e.g., letter, facsimile, email) to and from the accrediting organization to DHS within thirty (30) calendar days of the date the correspondence was sent or received except:
  - a. As stated in § XII;
  - b. Correspondence related to any change of accreditation status, which providers must send to DHS within three (3) calendar days of the date the correspondence was sent or received.
  - c. Correspondence related to changes in service delivery, site location, or organizational structure, which providers must send to DHS within ten (10) calendar days of the date the correspondence was sent or received.
4. Display the Behavioral Health Agency certificate for each site at a prominent public

location within the site

B. Annual Reports:

1. Providers must furnish annual reports to DHS before July 1 of each year that the provider has been in operation for the preceding twelve (12) months. Community Mental Health Centers and specialty clinics may meet this requirement by submitting the Annual Plan/Basic Services Plan to DHS.
1. Annual report shall be prepared by completing forms provided by DHS. Please use DHS BEHAVIORAL HEALTH AGENCY Form 240 for the Behavioral Health Agency annual report.

**XV. NONCOMPLIANCE**

A. Failure to comply with this rule may result in one or more of the following:

1. Submission and implementation of an acceptable corrective action plan as a condition of retaining Behavioral Health Agency certification;
2. Suspension of Behavioral Health Agency certification for either a fixed period or until the provider meets all conditions specified in the suspension notice;
3. Termination of Behavioral Health Agency certification.

**XVI. APPEAL PROCESS**

- A. If DHS denies, suspends, or revokes any Behavioral Health Agency certification (takes adverse action), the affected proposed provider or provider may appeal the DHS adverse action. Notice of adverse action shall comply with Ark. Code Ann. §§ 20-77-1701-1705, and §§1708-1713. Appeals must be submitted in writing to the DHS. The provider has thirty (30) calendar days from the date of the notice of adverse action to appeal. An appeal request received within thirty-five (35) calendar days of the date of the notice will be deemed timely. The appeal must state with particularity the error or errors asserted to have been made by DHS in denying certification, and cite the legal authority for each assertion of error. The provider may elect to continue Medicaid billing under the Behavioral Health Agency program during the appeals process. If the appeal is denied, the provider must return all monies received for Behavioral Health Agency services provided during the appeals process.
- B. Within thirty (30) calendar days after receiving an appeal DHS shall: (1) designate a person who did not participate in reviewing the application or in the appealed-from adverse decision to hear the appeal; (2) set a date for the appeal hearing; (3) notify the appellant in writing of the date, time, and place of the hearing. The hearing shall be set within sixty (60) calendar days of the date DHS receives the request for appeal, unless a party to the appeal requests and receives a continuance for good cause.
- C. DHS shall tape record each hearing.
- D. The hearing official shall issue the decision within forty-five (45) calendar days of the

date that the hearing record is completed and closed. The hearing official shall issue the decision in a written document that contains findings of fact, conclusions of law, and the decision. The findings, conclusions, and decision shall be mailed to the appellant except that if the appellant is represented by counsel, a copy of the findings, conclusions, and decision shall also be mailed to the appellant's counsel. The decision is the final agency determination under the Administrative Procedure Act.

- E. Delays caused by the appealing party shall not count against any deadline. Failure to issue a decision within the time required is not a decision on the merits and shall not alter the rights or status of any party to the appeal, except that any party may pursue legal process to compel the hearing official to render a decision.
- F. Except to the extent that they are inconsistent with this policy, the appeal procedures in the Arkansas Medicaid Outpatient Behavioral Health Services Provider Manual are incorporated by reference and shall control.

PROPOSED