

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

SUBJECT: SPA Amendment #2020-0021 Therapy Changes and Amendments to Occupational, Physical, & Speech-Language Therapy Services Medicaid Provider Manual, with Related Changes to ARKids First-B, Rehabilitative Hospital, Prosthetics, Home Health, Physician, and Nurse Practitioner Provider Manuals.

DESCRIPTION:**Statement of Necessity**

The revisions in this promulgation are necessary so that the Arkansas Medicaid State Plan and provider manuals reflect current procedural terminology and evaluation limits for occupation, physical, and speech-language therapy services. In addition, other revisions are necessary to reflect current practices and guidelines.

Rule Summary

The Arkansas Medicaid State Plan is being amended to update terminology and evaluation limits for occupational, physical, and speech-language therapy services.

The amendments to the Occupational, Physical, and Speech-Language Therapy Services Medicaid Provider Manual include the following:

- Change “Speech Therapy” to “Speech-Language Therapy” and “Augmentative Communication Device” to “Speech Generating Device” to mirror current language.
- Remove the opt-in requirements for the Part B program under Individuals with Disabilities Education Act (IDEA), because the program transferred back to the Arkansas Department of Education on July 1, 2019. The new language sets out referral requirements for children ages 3-5 in compliance with the IDEA.
- Remove the Intelligence Quotient testing requirement to provide speech-language therapy for children over 10, as this no longer complies with recommended practice guidelines.
- Update the evaluation requirements for Speech Generating Devices, based on provider concerns that the appropriate device was not being chosen for the child’s identified needs.
- Procedure codes are being removed from the manual pursuant to Ark. Code Ann. § 25-15-202(9)(B)(iv) and to allow for faster updates when national procedure codes change.
- Add place of service “49-independent-clinic” so that Early Intervention Day Treatment and Adult Developmental Day Treatment facilities may continue to provide therapy.

- Replace references to AFMC and their specific quality review process with generic language that is not vendor specific.

In addition, therapy references in the ARKids First-B, Rehabilitative Hospital, Prosthetics, Home Health, Physician, and Nurse Practitioner provider manuals have been updated to reflect the above changes in the Occupational, Physical, and Speech-Language Therapy Services provider manual.

PUBLIC COMMENT: No public hearing was held on this rule. The public comment period expired on November 2, 2020. The agency provided a summary of the public comments received and its responses thereto, which due to its length is attached separately.

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

1. What is the status on CMS approval? **RESPONSE:** CMS approved the SPA on November 9, 2020.

2. Section 208.000 of the Occupational, Physical, & Speech-Language Therapy Services Manual requires referral to LEA, pursuant to Part B of the IDEA. Could you provide me with the section of the IDEA requiring therapists to refer children to LEA?

RESPONSE: Part C of the individual with disabilities education act , Section 303.303(a)(2)(i) requires primary referral sources to refer child to the Part C program as soon as possible but no case more than seven days after identification

3. Section 215.000 of the Occupational, Physical, & Speech-Language Therapy Services Manual requires a client to complete a trial period with a speech-generating device before the device can be prior authorized for purchase. Is this a statutory requirement or just a policy decision? **RESPONSE:** A policy decision.

The proposed effective date is January 1, 2021.

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

LEGAL AUTHORIZATION: The Department of Human Services has the responsibility to administer assigned forms of public assistance and is specifically authorized to maintain an indigent medical care program (Arkansas Medicaid). *See* Ark. Code Ann. §§ 20-76-201(1), 20-77-107(a)(1). The Department has the authority to make rules that are necessary or desirable to carry out its public assistance duties. Ark. Code Ann. § 20-76-201(12). The Department and its divisions also have the authority to promulgate rules as necessary to conform their programs to federal law and receive federal funding. Ark. Code Ann. § 25-10-129(b). This rule implements Act 605 of 2017.

Act 605, sponsored by Representative Justin Boyd, codified the process for the review of rules impacting state Medicaid costs and exempted medical codes from the rulemaking process and legislative review and approval.