

EXHIBIT H

DEPARTMENT OF HUMAN SERVICES, BEHAVIORAL HEALTH SERVICES

SUBJECT: RSPMI Provider Certification Amendment 2

DESCRIPTION: There is a moratorium on the certification of new RSPMI sites except: replacement sites opened by an existing provider to provide ongoing continuity of RSPMI services when the provider is terminating services at a currently certified and operating RSPMI site; and sites in continuous lawful operation furnishing RSPMI services since May 31, 2008.

The moratorium shall be in effect until December 31, 2012, unless altered by amendment of this rule.

PUBLIC COMMENT: No public hearing was held. The public comment period expired on November 1, 2011. One comment was received, resulting in adding the following language:

4. This moratorium shall not prohibit existing RSPMI providers from delivering RSPMI services in public schools under § III(T) of the RSPMI Certification Manual.

The proposed effective date is January 1, 2012.

CONTROVERSY: This is not expected to be controversial.

FINANCIAL IMPACT: There is no financial impact.

LEGAL AUTHORIZATION: Arkansas Code § 20-76-201 and § 20-47-705 grants the Department of Human Services the general authority to supervise agencies and institutions caring for those with mental or physical disabilities and to make rules and regulations pertaining to the administration of those programs.

QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE

DEPARTMENT/AGENCY Department of Health
DIVISION Division of Behavioral Health Services
DIVISION DIRECTOR Jennifer Gallaher
CONTACT PERSON Charlotte Carlson
ADDRESS 305 South Palm Street, Little Rock, AR 72205
PHONE NO. 683-6903 **FAX NO.** 686-9182 **E-MAIL** charlotte.carlson@arkansas.gov
NAME OF PRESENTER AT COMMITTEE MEETING Charlotte Carlson
PRESENTER E-MAIL charlotte.carlson@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
Room 315, State Capitol
Little Rock, AR 72201

1. What is the short title of this rule?
RSPMI Provider Certification Amendment 2

2. What is the subject of the proposed rule?
The purpose of the proposed rule is to stop the disorderly proliferation of behavioral health provider sites in the state pending implementation of a system of behavioral health care, and to shift the Division of Behavioral Health's focus from certification to quality assurance and system reform.

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes ___ No X
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 X

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 X If yes, please provide a brief summary explaining the regulation.

Does this repeal an existing rule? Yes ____ No X 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 X 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 Arkansas Code citation.

Arkansas Statute 20-76-201

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

The purpose of the proposed rule is to continue a moratorium on the certification of new RSPMI sites until all existing sites are certified in accordance with new certification rules.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).

<https://www.arkansas.gov/dhs/dmhs>

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

Date: _____
Time: _____
Place: _____

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

November 1, 2011

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

January 1, 2012

12. Do you expect this rule to be controversial? Yes ____ No X If yes, please explain.

Providers seeking to open or expand services may object.

13. 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.

RSPMI Providers and potential provider applicants, interested persons and providers, Private Provider Association, Mental Health Council of Arkansas and Advocacy Organizations.
Their positions for or against are not known at this time.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Department of Human Services

DIVISION Division of Behavioral Health Services

PERSON COMPLETING THIS STATEMENT Charlotte Carlson

TELEPHONE NO. 683-6903 FAX NO. 686-9182 EMAIL: charlotte.carlson@arkanas.gov

To comply with Act 1104 of 1995, please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE – RSPMI Provider Certification Amendment 2

1. Does this proposed, amended, or repealed rule have a financial impact?
Yes _____ No X

2. Does this proposed, amended, or repealed rule affect small businesses?
Yes _____ No X

If yes, please attach a copy of the economic impact statement required to be filed with the Arkansas Economic Development Commission under Arkansas Code § 25-15-301 et seq.

3. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please give the incremental cost for implementing the rule. Please indicate if the cost provided is the cost of the program.

Current Fiscal Year

Next Fiscal Year

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

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

Total _____

Total _____

5. What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule? Identify the party subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

6. What is the total estimated cost by fiscal year to the agency to implement this rule? Is this the cost of the program or grant? Please explain.

Current Fiscal Year

Next Fiscal Year

None

None

Summary for
RSPMI Provider Certification Amendment 2

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DIVISION OF BEHAVIORAL HEALTH

REHABILITATION SERVICES FOR PERSONS WITH MENTAL ILLNESS

PROVIDER CERTIFICATION

AMENDMENT 3

Section V.s.

1. There is a moratorium on the certification of new RSPMI sites. "New site" means any site not certified as an RSPMI site as of October 31, 2008, except:

(i) sites for which a pending application was under review by the Division of Behavioral Health Services on October 31, 2008;

(ii) replacement sites opened by an existing provider to provide ongoing continuity of RSPMI services when the provider is terminating services at a currently certified and operating RSPMI site;

(iii) sites in continuous lawful operation furnishing RSPMI services since May 31, 2008.

2. The moratorium shall be in effect until **December 31, 2012**, unless altered by amendment of this rule.

3. If the Director of the Division of Behavioral Health Services determines that the moratorium is causing an undue hardship to persons with mental illness, the Director may authorize a reasonable accommodation. An undue hardship may exist if medically necessary services become unavailable due to closure of a site or an RSPMI provider ceasing operations.

~~4. The Division of Behavioral Health will promulgate certification procedures to be effective concurrent with the end of the moratorium.~~

4. This moratorium shall not prohibit existing RSPMI providers from delivering RSPMI services in public schools under § III (T) of the RSPMI Certification Manual.

DIVISION OF BEHAVIORAL HEALTH

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