

EXHIBIT P

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

DEPARTMENT/AGENCY Department of Human Services
DIVISION Division of Behavioral Health Services
DIVISION DIRECTOR Jennifer Gallaher
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NAME OF PRESENTER AT COMMITTEE MEETING Breck Hopkins / Marilyn Strickland
PRESENTER E-MAIL breck.hopkins@arkansas.gov, marilyn.strickland@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?

Rehabilitative Services for Persons with Mental Illness (RSPMI) Provider Certification
Amendment 3

2. What is the subject of the proposed rule?

The proposed rule will keep in place a moratorium on certification of new RSPMI sites by the
Division of Behavioral Health Services (DBHS).

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 Yes ____ No X If yes, a copy of the repealed rule is to be included with your completed questionnaire.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 by DBHS.

This proposed rule is necessary to control the expansion of new RSPMI sites in order to stop the disorderly proliferation of behavioral health provider sites in the state.

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).

http://humanservices.arkansas.gov/dbhs/Pages/dbhs_docs.aspx

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.)

October 16, 2012

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

January 1, 2013

12. Do you expect this rule to be controversial? Yes X No ____ 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 – Rehabilitative Services for Persons with Mental Illness (RSPMI) Provider Certification Amendment 3

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 _____

General Revenue _____

Federal Funds _____

Federal Funds _____

Cash Funds _____

Cash Funds _____

Special Revenue _____

Special Revenue _____

Other (Identify) _____

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 3

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, 2014, unless altered by amendment of this rule.

DIVISION OF BEHAVIORAL HEALTH SERVICES
REHABILITATION SERVICES FOR PERSONS WITH MENTAL ILLNESS
PROVIDER CERTIFICATION

PROPOSED

AMENDMENT 3

Findings:

(1) There are over 300 outpatient service sites in the state for the delivery of Rehabilitation Services for Persons With Mental Illness (RSPMI). The Division of Behavioral Health Services has no information that any eligible Medicaid beneficiary experiences difficulty obtaining medically necessary RSPMI care and services.

(2) Medicaid pays for RSPMI on a fee-for-service basis. Uncontrolled expansion of RSPMI sites will increase provider costs for staff and infrastructure. These inefficiencies will pressure providers to find ways to deliver more services and thereby unnecessarily increase costs to the Arkansas Medicaid Program.

(3) The Arkansas Medicaid Program projects that there will be insufficient state general revenues available to maintain the current level of Medicaid services beginning in state fiscal year 2014.

(4) Among other things, the Medicaid Program is seeking ways to improve efficiency, reduce costs, and maximize the use of federal funds as required under Ark. Code Ann. § 25-10-129.

However, no federal funding incentives are available for the expansion of the RSPMI program.

(5) For the above reasons it is necessary that the moratorium on new RSPMI sites remain intact as amended below.

As stated in Section VI of the DBHS RSPMI Certification Rule, DBHS will process all certification requests within ninety calendar days of receiving all information that is necessary to review and process the certification request. DBHS will notify each prospective provider/provider in writing of its determination and furnish a copy to DMS.

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, 2014, 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. This moratorium shall not prohibit existing RSPMI providers from delivering RSPMI services in public schools under § III(T) of the RSPMI Certification Manual.

PROPOSED