

EXHIBIT J

DEPARTMENT OF HUMAN SERVICES, MEDICAL SERVICES

SUBJECT: EPISODE 1-13; State Plan Amendment #2013-003 and Section I 2-13

DESCRIPTION: Effective October 1, 2013, Arkansas Medicaid proposes to add Tonsillectomy episodes, Cholecystectomy episodes, Colonoscopy episodes, and Oppositional Defiant Disorder (ODD) episodes to the Episodes of Care Medicaid manual and Arkansas State Plan to incentivize improved care quality, efficiency, and economy. The program uses episode-based data to evaluate the quality, efficiency, and economy of care delivered in the course of the episode, and to apply payment incentives. This proposed rule also updates formatting of the Episodes of Care Provider Manual and provides clarification to previous language.

PUBLIC COMMENT: A public hearing was held April 2, 2013. The public comment period expired on April 13, 2013. There were no public comments submitted to the Department.

The proposed effective date for the final rule is October 1, 2013.

CONTROVERSY: This rule is expected to be controversial. While the episode based payment improvement initiative does not change current reimbursement, there is risk that providers could incur a negative incentive adjustment that would require them to remit money back to Medicaid.

FINANCIAL IMPACT: For the current fiscal year (2014), the projected savings to the Medicaid program resulting from the Healthcare Payment Improvement Initiative is \$843,151 (\$250,311 state and \$592,840 federal) and for the next fiscal year (2015), the projected savings is \$1,101,344 (\$330,072 state and \$771,272 federal).

Economic Impact Statement:

1. The type or types of small businesses that will be directly affected by the proposed rule, bear the cost of the rule, or directly benefit from the proposed rule.

Health care providers providing services for conditions covered under episodes included in the Arkansas Health Care Payment Improvement Initiative.

2. A description of how small businesses will be adversely affected.

Some health care providers may benefit from the episode performance payment model while those providing services that do not meet certain cost and quality standards will see reduced provider revenue. Impact to any individual provider will depend on the provider's behavior and performance.

3. A reasonable determination of the dollar amounts the proposed rule will cost small businesses in terms of fees, administrative penalties, reporting, recordkeeping,

equipment, construction labor, professional services, revenue loss, or other costs associated with compliance.

No additional incremental costs to providers are expected. The net revenue impact to any individual provider will depend on their current standard of care and any improvement they make.

4. A reasonable determination of the dollar amounts of the costs to the agency of implementing the proposed rule, as well as the financial benefit to the agency of implementing the rule.

The department projects savings resulting from implementation of this initiative to be \$1,101,344 in SFY 2015. 2015 is the first year that the full impact of this initiative would be realized.

5. Whether and to what extent alternative means exist for accomplishing the objectives of the proposed rule that might be less burdensome to small businesses and why such alternatives are not being proposed.

Not applicable.

6. A comparison of the proposed rule with federal and state counterparts.

Not applicable.

LEGAL AUTHORIZATION: Arkansas Code § 20-76-201 authorizes the Department of Human Services to administer programs for the indigent and to "make rules and regulations" pertaining to the administration of those programs. Arkansas Code § 20-77-107 specifically authorizes the department to "establish and maintain an indigent medical care program."

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 Medical Services
DIVISION DIRECTOR Andrew Allison, PhD
CONTACT PERSON Robbie Nix
ADDRESS P.O Box 1437, Slot S295, Little Rock, AR 72203
PHONE NO. 320-6427 **FAX NO.** 682-2480 **E-MAIL** Robert.nix@arkansas.gov
NAME OF PRESENTER AT COMMITTEE MEETING Marilyn Strickland
PRESENTER E-MAIL 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?
EPISODE-1-13, State Plan Amendment #2013-003 and Section I 2-13
- 2. What is the subject of the proposed rule?
To add Tonsillectomy episodes, Cholecystectomy episodes, Colonoscopy episodes and Oppositional Defiant Disorder (ODD) episodes to both the Episodes of Care Medicaid manual and the Arkansas State Plan.
- 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 add Tonsillectomy episodes, Cholecystectomy episodes, Colonoscopy episodes and Oppositional Defiant Disorder (ODD) episodes to both the Episodes of Care Medicaid manual and the Arkansas State Plan. Medicaid has established a payment improvement initiative to incentivize improved care quality, efficiency, and economy. The program uses episode-based data to evaluate the quality, efficiency, and economy of care delivered in the course of the episode, and to apply payment incentives. This proposed rule also updates formatting of the Episodes of Care Provider Manual and provides clarification to previous language.

The proposed rule is necessary so that providers are aware of Arkansas Medicaid requirements for Tonsillectomy episodes, Cholecystectomy episodes, Colonoscopy episodes and Oppositional Defiant Disorder (ODD) episodes.

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.medicaid.state.ar.us/InternetSolution/general/comment/comment.aspx>

9. Will a public hearing be held on this proposed rule? Yes X No _____.

If yes, please complete the following:

Date: April 2, 2013

Time: 10:00 a.m. – 12:00 p.m.

Place: Donaghey Plaza South, 700 East Main Street, Little Rock – Conference Room A

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

April 13, 2013

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

October 1, 2013

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

While the episode based payment improvement initiative does not change current reimbursement, there is risk that providers could incur a negative incentive adjustment that would require them to remit money back to Medicaid.

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.

Medical associations, interested providers, and advocacy organizations. Their positions for or against is not known at this time.

ECONOMIC IMPACT STATEMENT
(As Required under Arkansas Code § 25-15-301)

Department: Arkansas Department of Human Services
Division: Medical Services
Person Completing this Statement: Tom Show
Telephone Number: 501-682-2483 **Fax Number:** 501-682-3889
EMAIL: Tom.Show@Arkansas.gov

Short Title of this Rule: EPISODE-1-13 and State Plan Amendment #2013-003

(1) The type or types of small businesses that will be directly affected by the proposed rule, bear the cost of the proposed rule, or directly benefit from the proposed rule.

Health Care providers providing services for conditions covered under episodes included in the Arkansas Health Care Payment Improvement Initiative.

(2) A description of how small businesses will be adversely affected.

Some health care providers may benefit from the episode performance payment model, while those providing services that do not meet certain cost and quality standards will see reduced provider revenue. Impact to any individual provider will depend on the provider's behavior and performance.

(3) A reasonable determination of the dollar amounts the proposed rule will cost small businesses in terms of fees, administrative penalties, reporting, recordkeeping, equipment, construction labor, professional services, revenue loss, or other costs associated with compliance.

No additional incremental costs to providers are expected. The net revenue impact to any individual provider will depend on their current standard of care and any improvement they make.

(4) A reasonable determination of the dollar amounts of the costs to the agency of implementing the proposed rule, as well as the financial benefit to the agency of implementing the rule.

The Department projects savings resulting from implementation of this initiative to be \$1,101,344 in SFY 2015. 2015 is the first year that the full impact of this initiative would be realized.

(5) Whether and to what extent alternative means exist for accomplishing the objectives of the proposed rule that might be less burdensome to small businesses and why such alternatives are not being proposed.

Not Applicable

(6) A comparison of the proposed rule with federal and state counterparts.

Not Applicable

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Department of Human Services

DIVISION Division of Medical Services

PERSON COMPLETING THIS STATEMENT Tom Show

TELEPHONE NO. 682-2483 **FAX NO.** 682-3889 **EMAIL:** tom.show@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 – EPISODE-1-13 and State Plan Amendment #2013-003

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

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

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) _____

Total _____

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

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. **(The Medicaid program projects program savings resulting from the Healthcare Payment Improvement Initiative in the following amounts)**

First Fiscal Year (2014)

Next Fiscal Year (2015)

(\$ 250,311) State
(\$ 592,840) Federal
(\$ 843,151) Total Savings

(\$ 330,072) State
(\$ 771,272) Federal
(\$1,101,344) Total Savings