

**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 Dr. Andrew Allison
 CONTACT PERSON Glenda Higgs
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 PHONE NO. (501)320-6425 FAX NO. (501)682-2480 E-MAIL glenda.higgs@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
 One Capitol Mall, 5th Floor
 Little Rock, AR 72201**

1. What is the short title of this rule? Notice 003-13

2. What is the subject of the proposed rule? Influenza Virus Vaccine coverage procedure codes are implemented for 2013

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? September 1, 2013

When does the emergency rule expire? December 29, 2013

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. See attached

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If yes, a copy of the repealed rule is to be included with your completed questionnaire.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. 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 ensure that Arkansas Medicaid beneficiaries will receive the influenza virus vaccine for the 2013 flu season.

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 No
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 26, 2013

11. What is the proposed effective date of this proposed rule? (Must provide a date.)
(Adopted by CDC September 1, 2013) APA effective date February 1, 2014

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

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.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Department of Human Service
DIVISION Division of Medical Services
PERSON COMPLETING THIS STATEMENT Brian Jones
TELEPHONE NO. (501)537-2064 **FAX NO.** (501)682-3889 **EMAIL:** brian.jones@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 Addition of Flu Vaccines 90654, 90685, 90686 and 90688

- 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

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 _____

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

Current Fiscal Year

Next Fiscal Year

General Revenue	\$ 7,000
Federal Funds	17,000
Cash Funds	
Special Revenue	
Other (Identify)	
Total	\$24,000

General Revenue	\$ 9,000
Federal Funds	20,000
Cash Funds	
Special Revenue	
Other (Identify)	
Total	\$29,000

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

Additional Flu Vaccines will provide needed protection for 4 types of viruses this flu season.

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

\$ 24,000

\$ 29,000

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.

Summary for Notice-003-13
Influenza Virus Vaccine Coverage Procedure Codes for 2013

The purpose of the proposed rule is to implement 2013-2014 influenza vaccines for Arkansas Medicaid beneficiaries. The FDA approval for these codes came in June and August of 2013; the Centers for Disease Control; (CDC) report of September 20, 2013; *Prevention and Control of Seasonal Influenza with Vaccines: Recommendations of the Advisory Committee on Immunization Practices for the Flu Season 2013-2014* (September 20, 2013 / 62(RR07);1-43) and the guidance from Arkansas Department of Health on the correct usage of the flu vaccines for the Vaccines for Children program coverage are all considered during the implementation of the influenza vaccines. This multi-step process will not allow us to ensure that Medicaid beneficiaries receive influenza vaccines in a timely manner; therefore requiring emergency promulgation in the interest of public health.



NOTICE OF RULE MAKING

TO: Health Care Providers – Ambulatory Surgical Center (ASC), Arkansas Department of Health, Area Health Education Centers (AHECs), ARKids First-B, Child Health Services/Early Periodic Screening Diagnosis and Treatment (EPSDT), Critical Access Hospital, Federally Qualified Health Center (FQHC), Hospital, Nurse Practitioner, Pharmacy, Physician, Rural Health Clinic (RHC)

DATE: September 1, 2013

SUBJECT: Coverage of Influenza Virus Vaccine *Current Procedural Terminology* (CPT®) Procedure Codes 90654, 90685, 90686, and 90688

I. General Information

Effective for dates of service on and after September 1, 2013, CPT® procedure code **90654**, "Influenza virus vaccine, split virus, preservative free, for intradermal use," is covered for healthy individuals ages 18 years through 64 years, **who are not pregnant**.

Effective for dates of service on and after September 1, 2013, CPT® procedure code **90685**, "Influenza virus vaccine, quadrivalent, split virus, preservative free, when administered to children 6-35 months of age, for intramuscular use," is covered for healthy individuals ages 6 months through 35 months of age.

Effective for dates of service on and after September 1, 2013, CPT® procedure code **90686**, "Influenza virus vaccine, quadrivalent, split virus, preservative free, when administered to individuals 3 years of age and older, for intramuscular use," is covered for healthy individuals ages 3 years and above, **who are not pregnant**.

Effective for dates of service on and after September 1, 2013, CPT® procedure code **90688**, "Influenza virus vaccine, quadrivalent, split virus, when administered to individuals 3 years of age and older, for intramuscular use," is covered for healthy individuals ages 3 years and above, **who are not pregnant**.

II. Conditions of Coverage and Billing Instructions

Arkansas Medicaid covers only the administration of immunizations that are available through the Vaccines for Children (VFC) Program.

Reimbursement for supply of vaccine product under a vaccine procedure code includes the administration fee.


Procedure Code	Required Modifiers	Age Restriction in Years	Special Instructions
90688	TJ	Ages 3y-18y	Covered for ARKids First-B providers under the Vaccines for Children (VFC) program
90688	EP TJ	Ages 3y-18y	Covered for ARKids First-A providers under the Vaccines for Children (VFC) program
90688		Ages 19y-99y	Covered for Arkansas Department of Health, AHECs, ASC, FQHC, Outpatient Hospital, Physician, and RHC providers
90688		Ages 19y-99y	Covered for Nurse Practitioner providers
90688		Ages 21y-99y	Covered for Pharmacy providers

If you have questions regarding this notice, please contact the HP Enterprise Services Provider Assistance Center at 1-800-457-4454 (Toll-Free) within Arkansas or locally and Out-of-State at (501) 376-2211.

If you need this material in an alternative format, such as large print, please contact the Program Development and Quality Assurance Unit at 501-320-6429.

Arkansas Medicaid provider manuals (including update transmittals), official notices, notices of rule making and remittance advice (RA) messages are available for download from the Arkansas Medicaid website: www.medicaid.state.ar.us.

Thank you for your participation in the Arkansas Medicaid Program.



Andrew Allison, PhD
Director