

# EXHIBIT J

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

DEPARTMENT/AGENCY Arkansas Department of Human Services  
DIVISION Division of County Operations  
DIVISION DIRECTOR Joni Jones  
CONTACT PERSON Linda Greer  
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NAME OF PRESENTER AT COMMITTEE MEETING Joni Jones  
PRESENTER E-MAIL Joni.Jones@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, 5<sup>th</sup> Floor  
Little Rock, AR 72201

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1. What is the short title of this rule? Medical Services Policy Sections B 330 and E-100; Form DCO-950, Workers With Disabilities Application for Medicaid

2. What is the subject of the proposed rule? To revise the Medical Services Policy and Workers With Disabilites Medicaid application to disregard income and resources when determining eligibility.

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? \_\_\_\_\_

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

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

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If yes, a copy of the repealed rule is to be included with your completed questionnaire.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 Act 1048 of the 89<sup>th</sup> General Assembly 2013

7. What is the purpose of this proposed rule? Why is it necessary? To revise the Medical Services Policy and Workers With Disabilities application for Medicaid to disregard income and resources when determining eligibility. This change is required to be in compliance with Arkansas Act 1048 of the 89<sup>th</sup> General Assembly, 2013.

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/Pages/LegalNotices.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 13, 2013

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

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**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT**     Department of Human services  
**DIVISION**         Division of Medical Services  
**PERSON COMPLETING THIS STATEMENT**     Lynn Burton  
**TELEPHONE NO.**     501-682-1857     **FAX NO.**     501-682-2480     **EMAIL:**     Lynn.Burton@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**     Medical Services Policy Sections B 330 and E-100; Form DCO-950, Workers With Disabilities Application for Medicaid

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**

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

**Next Fiscal Year**

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 \_\_\_\_\_  
 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 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**

\$ \_\_\_\_\_

\$ \_\_\_\_\_

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**

302,000  
 Federal  
 \$ 129,000 State  
 \$431,000 Total

605,000  
 Federal  
 257,000  
 State  
 Total  
 \$ 862,000

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.



### **B-330 Workers with Disabilities**

MS Manual 01/01/14

This group consists of individuals at least 16 years of age, but less than 65 years of age, who, except for earned income, would be eligible to receive Supplemental Security Income (SSI). The intent of this group is to allow SSI eligibles to go to work or increase their earnings without losing their eligibility for Medicaid.

Individuals who lose SSI and SSI related Medicaid due to earnings, are potentially eligible for Medicaid under the Workers with Disabilities policy. There is no requirement that an individual must have at one time been an SSI recipient to be eligible for Medicaid under this category. However, if an individual was not an SSI or SSA disability recipient, a disability determination must be made by MRT (MS F 122). Substantial Gainful Activity (SGA) is not considered for the disability determination. In addition, the individual's unearned income must be under the SSI payment amount for one person. Refer to Appendix S.

Recipients of Medicaid in the Workers with Disabilities category will be eligible for the full range of Medicaid services.

# MEDICAL SERVICES POLICY MANUAL, SECTION E

## E-100 FINANCIAL ELIGIBILITY

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### E-100 FINANCIAL ELIGIBILITY

MS Manual 01-01-14

Each individual applying for or receiving Medicaid benefits must have a financial eligibility determination made at application and, if eligible, on an on-going annual basis or when a change affecting eligibility occurs. Financial eligibility consists of an income test and if the category requires, a resource or asset test.

Most Medicaid eligibility groups have an income limit which an individual's countable income must fall under in order to be eligible for coverage in that group. Income limits and the manner in which countable income is determined vary by eligibility groups. The groups to which an income limit does not apply, and therefore no income determination is made, are the following:

- Newborns (MS B-220);
- Former Foster Children (MS B-260);
- Workers with Disabilities (MS B-330).

**NOTE:** For the Workers with Disabilities category, income is disregarded in the financial eligibility determination, but earned and unearned income will be used to determine cost sharing. See MS B-330.

A resource limit applies to most of the eligibility groups that do not use MAGI methodologies for financial eligibility. For these groups, the value of an individual's countable resources must be determined. There is no resource limit, and therefore no resource determination is made, for the following groups:

- Those using MAGI methodologies (MS E-110);
- Newborns (MS B-220);
- Former Foster Children (MS B-260);
- Workers with Disabilities (MS B-330).

Workers with Disabilities	No income test	No resource test
PICKLE	Under the current SSI/SPA level <u>Appendix S</u>	Individual \$2000
Disabled Widows & Widowers	Under the current SSI/SPA level <u>Appendix S</u>	Individual \$2000
Disabled Adult Child (DAC)	Under the current SSI/SPA level <u>Appendix S</u>	Individual \$2000