

EXHIBIT K

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 County Operations
DIVISION DIRECTOR Joni Jones
CONTACT PERSON Linda Greer
ADDRESS P.O. Box 1437, Slot S333 Little Rock, AR 72203
PHONE NO. 501-682-8257 FAX NO. 501-682-1597 E-MAIL Linda.Greer@arkansas.gov
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, 5th Floor
Little Rock, AR 72201

1. What is the short title of this rule? Medical Services Policy Sections C-112 and D-370

2. What is the subject of the proposed rule? To allow a Medicaid payment for an eligible inmate who is in the custody of a local correctional facility and has been admitted to and received treatment at an inpatient facility. Also to allow the Department of Corrections, Community Corrections or a local correctional facility to serve as the Authorized Representative of an inmate in accordance with Arkansas Act 1117 of the 89th General Assembly, 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? _____

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If yes, a copy of the repealed rule is to be included with your completed questionnaire.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 1117 of the 89th General Assembly, 2013

7. What is the purpose of this proposed rule? Why is it necessary? To allow a Medicaid payment for an inmate who is in the custody of a local correctional facility and has been admitted and received treatment at an inpatient facility. Also to designate the Department of Corrections, Community Corrections and a local correctional facility as an Authorized Representative for an inmate. The proposed rule is necessary to be in compliance with Arkansas Act 1117 of the 89th 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.)

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Department of Human Services
DIVISION Division of County Operations
PERSON COMPLETING THIS STATEMENT Lynn Burton
TELEPHONE NO. 501-682-1857 **FAX NO.** 501-682-3889 **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 C-112 and D-370

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 _____

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 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

\$ _____

\$ _____

At this time, we are unable to determine a fiscal impact on the rule change implemented by Act 1117 of the 89th General Assembly. We have contacted the Arkansas Association of Counties. At this time, a projection of the number of individuals that might be eligible for Medicaid after implementing this Act is not available. This change will have a positive impact on local municipalities. Implementation of this rule will have a positive impact on the State because of our ability to draw Federal funds to pay for a portion of these expenditures.

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.

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C-112 Authorized Representatives

C-112 Authorized Representatives

MS Manual 01/01/14

An authorized representative is:

1. An individual or facility designated by the client, in writing, as authorized to request and receive confidential information that would otherwise be disclosed only to that client; or
2. An individual or facility identified by the court when the client is mentally, physically or legally unable to designate a representative; or
3. An individual designated by an inmate of the Department of Corrections, Community Corrections or a local correctional facility for purposes of filing a Medicaid application and complying with Medicaid requirements for determining eligibility; or
4. The Department of Corrections, Community Corrections or a local correctional facility when an inmate who has received medical services that meet the criteria for Medicaid coverage does not designate a representative within three business days following a request to designate a representative or the inmate's assigned representative does not file a Medicaid application within three business days after appointment as that inmate's representative.

See MS A-131 for more information regarding when information can be released to an Authorized Representative.

MEDICAL SERVICES POLICY MANUAL, SECTION D

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D-370 Inmates of Public Institutions

D-370 Inmates of Public Institutions

MS Manual 01/04/14

An inmate of a public institution is not eligible for Medicaid payment.

EXCEPTION: An inmate in the custody of the Arkansas Department of Corrections, the Department of Community Corrections or a local correctional facility who has been admitted and received treatment at an inpatient facility may be eligible for Medicaid payment provided all eligibility requirements are met. Eligibility will be determined in accordance with MS Sections D, E and F. Only the inmate will be included in the Medicaid household.

Public institution means an institution that is the responsibility of a government unit or over which a governmental unit exercises administrative control.

“Public Institutions” include:

1. Institutions for the mental diseases which are hospitals, nursing facilities, or other institutions of more than 16 beds that are primarily engaged in providing diagnosis, treatment or care of persons with mental diseases.
2. Institutions for tuberculosis, which are primarily engaged in providing diagnosis, treatment, or care of persons with tuberculosis.
3. Correctional or holding facilities for individuals, who are prisoners, arrested, or detained pending dispositions of charges, or are being held under court order as material witness or juveniles. Correctional facilities include prisons, jails, juvenile detention centers and other facilities operated primarily for the detention of children who are determined to be delinquent. Wilderness camps and boot camps are considered public institutions if a government unit has any degree of administration control.

If an individual in a public institution must be temporarily transferred to a medical treatment or evaluation facility, or if he/she is given temporary furlough, the individual is still considered to be under custody of the penal system and is not eligible for a Medicaid payment (**See above exception**).

An individual will be considered in a public institution until the indictment against the individual is dismissed, or until he/she is released from custody either as “not guilty” or for some other reason (bail, parole, pardon, suspended sentence, home release program, probation, etc.).

MEDICAL SERVICES POLICY MANUAL, SECTION D

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D-370 Inmates of Public Institutions

"Public institutions" do not include:

1. Inpatient psychiatric facilities for individuals under age 21 (22, if an inpatient on the 21st birthday) and over age 65.
2. Medical institutions which are organized to provide medical, nursing, and convalescent care, which have the professional staff, equipment and facilities to manage the medical, nursing and other health needs of patients in accordance with accepted standards, and which are authorized under State law to provide medical care. Medical institutions include hospitals and nursing facilities.
3. Intermediate care facilities for those individuals with intellectual disabilities which meet the standards under 42 CFR 483.440 (a) for providing active treatment for such individuals or individuals with related conditions.
4. Child-care institutions which are private, non-private, or public that accommodate no more than twenty five (25) children and are licensed by the State or approved by the State agency responsible for licensing or approval of such institutions.
5. Therapeutic Group Homes, Residential Treatment facilities, Emergency Shelters and Therapeutic Foster Homes which meet facility and staffing requirements of the Minimum Licensing Standards for Child Welfare Agencies published by the Child Welfare Agency Review Board.
6. Publically operated community residences that serve no more than 16 residents are facilities that provide some services beyond food and shelter such as social services, help with personal living activities, or training in socialization and life skills. They cannot be on the grounds of or immediately adjacent to any large institution or multiple purpose complexes such as educational or vocational training institutions, correctional or holding facilities, or hospitals, nursing facilities or intermediate care facilities for individuals with intellectual disabilities.

1348 Inmates of Public Institutions

MS Manual 01/01/11

An inmate of a public institution is not eligible for Medicaid.

Exception: An inmate in the custody of the Arkansas Department of Corrections, or the Department of Community Corrections or local correctional facilities who has been admitted and received treatment at an inpatient facility may be eligible for a Medicaid payment provided all eligibility requirements are met. Income, resource and categorical eligibility will be determined in accordance with MS 3310, MS 12000 and MS 16000. Only the income and resources of the applicant will be considered.

Public institution means an institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control.

“Public Institutions” include:

1. Institutions for the mental diseases which are hospitals, nursing facilities, or other institutions of more than 16 beds that are primarily engaged in providing diagnosis, treatment or care of persons with mental diseases.
2. Institutions for tuberculosis, which are primarily engaged in providing diagnosis, treatment, or care of persons with tuberculosis.
3. Correctional or holding facilities for individuals, who are prisoners, arrested or detained pending dispositions of charges, or are being held under court order as material witnesses or juveniles. Correctional facilities include prisons, jails, juvenile detention centers and other facilities operated primarily for the detention of children who are determined to be delinquent. Wilderness camps and boot camps are considered public institutions if a governmental unit has any degree of administrative control.

If an individual in a public institution must be temporarily transferred to a medical treatment or evaluation facility, or if he/she is given temporary furlough, the individual is still considered to be under custody of the penal system and is not eligible for a Medicaid payment (See above Exception).

An individual will be considered in a public institution until the indictment against the individual is dismissed or until he/she is released from custody either as “not guilty” or for some other reason (bail, parole, pardon, suspended sentence, home release program, probation, etc.).

“Public institutions” **do not** include:

1. Inpatient psychiatric facilities for individuals under age 21 (22 if an inpatient on the 21st birthday) and over age 65.
2. Medical Institutions which are organized to provide medical, nursing and convalescent care, which have the professional staff, equipment and facilities to manage the medical, nursing and other health needs of patients in accordance with accepted standards, and which are authorized

under State law to provide medical care. Medical institutions include hospitals and nursing facilities.

3. Intermediate care facilities for the mentally retarded which meet the standards under 42 CFR 483.440(a) for providing active treatment for persons with mental retardation or for persons with related conditions.
4. Child-care institutions which are private, non private or public that accommodate no more than twenty-five children and are licensed by the State or approved by the State agency responsible for licensing or approval of such institutions.
5. Therapeutic Group Homes, Residential Treatment facilities, Emergency Shelters and Therapeutic Foster Homes which meet facility and staffing requirements of the Minimum Licensing Standards for Child Welfare Agencies published by the Child Welfare Agency Review Board.
6. Publically operated community residences that serve no more than 16 residents are facilities that provide some services beyond food and shelter such as social services, help with personal living activities, or training in socialization and life skills. They cannot be on the grounds of or immediately adjacent to any large institution or multiple purpose complexes such as educational or vocational training institutions, correctional or holding facilities, or hospitals, nursing facilities or intermediate care facilities for the mentally retarded.

