

EXHIBIT J

DEPARTMENT OF HUMAN SERVICES, MEDICAL SERVICES

SUBJECT: State Plan Amendment #2013-009; Workers with Disabilities

DESCRIPTION: Effective January 1, 2014, with the implementation of Act 1048 of 2013, this will remove the earned income and resource limits for determining Medicaid eligibility for persons in the Workers with Disabilities Program.

PUBLIC COMMENT: A public hearing was not held on this rule. The public comment period expired November 12, 2013. The Department received no public comments.

Isaac Linam, an attorney with the Bureau of Legislative Research, asked the following question:

QUESTION: Acts 2013, No. 1048, § 3, states that, “[i]f necessary, the department shall apply for a waiver from the Centers for Medicare and Medicaid Services for approval of the rules adopted” to implement that Act. Did the Department find it necessary to apply for a waiver? If yes, was that waiver granted? **RESPONSE:** The Department did not apply for a waiver.

The proposed effective date for the rule is January 1, 2014.

CONTROVERSY: This is not expected to be controversial.

FINANCIAL IMPACT: The cost to implement the rule is \$431,000 for the current fiscal year (\$129,000 in general revenue and \$302,000 in federal funds); and \$862,000 for the next fiscal year (\$257,000 in general revenue and \$605,000 in federal funds).

The agency also filed the following information:

“7. (1) a statement of the rule’s basis and purpose;

To remove earned income and resource limits for the Workers with Disabilities Program as required by Act 1048 of the 89th General Assembly.

(2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;

Implementation of the rule is required to be in compliance with Arkansas Act 1048 of the 89th General Assembly.

(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 cost;

The rule is necessary to comply with Act 1048 of the 89th General Assembly.

EXHIBIT J

(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;
There are no alternatives to 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;
Not Applicable

(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
Current rules require the income and resources to be counted when determining eligibility for the Workers with Disabilities program. This rule is being amended to disregard the income and resources as required by Act 1048 of the 89th General Assembly.

(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 cost; and
- (c) the rule can be amended or repealed to reduce cost while continuing to achieve the statutory objectives.

The agency monitors State and Federal rules and policies for opportunities to reduce and control cost.”

LEGAL AUTHORIZATION: Ark. Code Ann. § 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. Ark. Code Ann. § 20-77-107 specifically authorizes the department to "establish and maintain an indigent medical care program."

Acts 2013, No. 1048, removed the limit on earned income for Medicaid benefits for workers with disabilities in Ark. Code Ann. § 20-77-1203. The unearned income requirements under Ark. Code Ann. § 20-77-1203 were retained.

The federal regulations concerning unearned income standards to receive supplemental security income are at 20 CFR §§ 416.1120-416.1124.

**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 Glenda Higgs
ADDRESS P.O. Box 1437, Slot S295, Little Rock, AR 72203-1437
PHONE NO. 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? State Plan Amendment #2013-009

2. What is the subject of the proposed rule? To remove earned income and resource limits for the Workers with Disabilities Program as required by Act 1048 of the 89th General Assembly.

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 Statute 20-76-201

7. What is the purpose of this proposed rule? Why is it necessary? The rule is necessary to remove earned income limits and resource limits for the Workers with Disabilities Program. The rule is necessary to comply with Act 1048 of the 89th General Assembly.

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 12, 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.

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 State Plan Amendment #2013-009

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	<u>\$129,000</u>
Federal Funds	<u>\$302,000</u>
Cash Funds	_____
Special Revenue	_____
Other (Identify)	_____
Total	<u>\$431,000</u>

General Revenue	<u>\$257,000</u>
Federal Funds	<u>\$605,000</u>
Cash Funds	_____
Special Revenue	_____
Other (Identify)	_____
Total	<u>\$862,000</u>

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

This rule will have a favorable impact on individuals.

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

\$ 431,000

\$ 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;
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- (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;
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**Attachment to APA Questionnaire
State Plan Amendment #2013-009**

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**Summary for
State Plan Amendment #2013-009 – Workers with Disabilities**

Effective January 1, 2014, implementation of Act 1048 of the 2013 Arkansas General Assembly will remove the earned income and resource limits for determining Medicaid eligibility for persons in the Workers with Disabilities Program.