

EXHIBIT I

DEPARTMENT OF HUMAN SERVICES, MEDICAL SERVICES

SUBJECT: State Plan Amendment #2013-027 and Pharmacy 2-13

DESCRIPTION: Effective January 1, 2014, section 2502 of the Affordable Care Act amends section 1927(d)(2) of the Social Security Act by removing barbiturates, benzodiazepines, and agents used to promote smoking cessation from the list of drugs a state Medicaid program may exclude from coverage or otherwise restrict. It also added section 1927(d)(7) of the act which explicitly prohibits states from excluding the following drugs, or their medical uses, from coverages: barbiturates, benzodiazepines, and agents when used to promote smoking cessation, including agents approved by the Food and Drug Administration under the over-the-counter (OTC) monograph process for purposes of promoting, and when used to promote, tobacco cessation.

PUBLIC COMMENT: This rule was promulgated under the emergency provisions of the Administrative Procedure Act. The effective date of the emergency rule was January 1, 2014. The emergency rule will expire April 30, 2014.

This rule is also being promulgated permanently under the Administrative Procedure Act. A public hearing was not held on this rule. The public comment period expired January 21, 2014. The Department received no public comments.

The proposed effective date for the final, permanent rule is April 1, 2014.

CONTROVERSY: This is not expected to be controversial.

FINANCIAL IMPACT: Prior to the effective date of this rule change, coverage of benzodiazepines, barbiturates, and smoking cessation medications was optional, but Arkansas Medicaid had elected to cover these medications. With this rule change, coverage of these medications is no longer optional. There is no budget impact because the coverage of these medications is the same before and after the rule change.

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."

Ark. Code Ann. § 25-10-129 directs the Department to promulgate rules to conform to federal law that affects "programs administered or funded by or through the department" as necessary to receive available federal funds.

The Affordable Care Act, Pub. L. No. 111-148, amended 42 U.S.C. § 1396r-8, to provide that smoking cessation drugs, barbiturates, and benzodiazepines may not be excluded by states in their Medicaid state plan prescription drug coverage.