

## DEPARTMENT OF HUMAN SERVICES, MEDICAL SERVICES

**SUBJECT:** Notice of Rule Making 001-14

**DESCRIPTION:** Previously covered CPT codes will be implemented into the Arkansas Medicaid Nurse Practitioner Program. These codes will be available for an enrolled nurse practitioner to bill.

**PUBLIC COMMENT:** A public hearing was not held on this rule. The public comment period expired April 29, 2014. The Department received the following public comment:

**James Semingson, APRN**

**COMMENT:** I am writing in support of the proposed rules change which will add CPT codes for reimbursement to APRNs. These codes are not all that need to be added, but it is a reasonable start. Thank you for including codes that represent labs, technical components of X-rays, and diagnostic tests and procedures that APRNs must perform in order to diagnose and treat the patients they serve. Thank you for taking the important step of recognizing APRNs to be reimbursed for services which are within our scope of practice. By doing this, you are improving access to care for the Medicaid population in Arkansas. **RESPONSE:** None.

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

**CONTROVERSY:** This rule is expected to be controversial. It defines the scope of Medicaid reimbursed nursing practice and is a matter of controversy to both nurses and physicians.

**FINANCIAL IMPACT:** There is no financial impact.

**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.

**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  
PHONE NO. 501-320-6425 FAX NO. 501-682-2480 E-MAIL glenda.higgs@dhs.arkansas.gov  
NAME OF PRESENTER AT COMMITTEE MEETING Marilyn Strickland  
PRESENTER E-MAIL marilyn.strickland@dhs.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? Notice of Rule Making 001-14
2. What is the subject of the proposed rule? Implementing additional CPT codes to the Nurse Practitioner Program
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 proposed rule is to implement additional Current Procedure Codes (CPT) to the Arkansas Nurse Practitioner Program.

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.)  
April 29, 2014

11. What is the proposed effective date of this proposed rule? (Must provide a date.)  
July 1, 2014

12. Do you expect this rule to be controversial? Yes  No   
If yes, please explain. This rule defines the scope of Medicaid reimbursed nursing practice and is a matter of controversy to both nurses and physicians.

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 Service  
**DIVISION**        Division of Medical Services  
**PERSON COMPLETING THIS STATEMENT** Lynn Burton  
**TELEPHONE NO.** (501)682-1857 **FAX NO.** 2480     **EMAIL:** lynn.burton@dhs.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**     Notice of Rule Making 001-14 - Implementation of Additional Nurse Practitioner CPT® Codes

- 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>0</u>
Federal Funds	<u>0</u>
Cash Funds	_____
Special Revenue	_____
Other (Identify)	_____
<b>Total</b>	<u>0</u>

General Revenue	<u>0</u>
Federal Funds	<u>0</u>
Cash Funds	_____
Special Revenue	_____
Other (Identify)	_____
<b>Total</b>	<u>0</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**

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

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

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**

\$ 0

\$ 0

The procedure codes being added to the Nurse Practitioner Program are currently covered in the Medicaid Program.

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.