

# EXHIBIT H

## DEPARTMENT OF HUMAN SERVICES, MEDICAL SERVICES

**SUBJECT:** State Plan Amendment #2015-003; Ambulatory Surgical Center

**DESCRIPTION:** Pending legislative approval, Arkansas Medicaid Ambulatory Surgical Center (ASC) reimbursement rates are revised in accordance with Act 1235 of 2015. These new reimbursement rates are based on 95% of the July 2015 Medicare reimbursement amounts for the like services.

**PUBLIC COMMENT:** No public hearing was held. The public comment period expired on September 19, 2015. The Department received no comments.

The proposed effective date is November 1, 2015.

**CONTROVERSY:** This is not expected to be controversial.

**FINANCIAL IMPACT:** The annualized budget impact associated with this change is projected at \$3,332,616 (\$992,453 general revenue and \$2,340,163 in federal funds for the current fiscal year) and \$3,332,616 (\$1,007,450 general revenue and \$2,325,166 federal funds for the next fiscal year).

These new reimbursement rates are based on 95% of the current 2015 Medicare reimbursement amounts for like services. The current reimbursement rates are based on 80% of the 2013 Medicare reimbursement amounts. The rule's basis and purpose is to lower the cost of care and increase access to care for Medicaid patients as required by Act 1236 of 2015.

**LEGAL AUTHORIZATION:** Arkansas Code Annotated § 20-76-201 (12) gives the Department the authority to "make rules and regulations and take actions as are necessary or desirable to carry out the provisions of this chapter and that are not inconsistent therewith."

This rule implements Act 1236 of 2015. The Act changes the reimbursement rate for surgical care under Medicare from eighty percent (80%) to ninety-five percent (95%), and specifically authorizes the Department of Human Services establish appropriate Current Procedural Terminology (CPT) codes.

**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 Dawn Stehle  
CONTACT PERSON Brian Jones  
ADDRESS PO Box 1437, Slot S295, Little  
Rock, AR 72203  
PHONE NO. 501-537-2064 FAX NO. 501-404-4619 E-MAIL Brian.Jones@dhs.arkansas.gov  
NAME OF PRESENTER AT COMMITTEE MEETING Tami Harlan  
PRESENTER E-MAIL tami.harlan@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? State Plan Amendment # 2015-003
2. What is the subject of the proposed rule? Arkansas Medicaid will adjust the reimbursement methodology for Ambulatory surgical centers.
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. Act 1236
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: This rule increases the Arkansas Medicaid reimbursement methodology to 95% of the Medicare rate for like services in the Ambulatory Surgical Center.**

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 purpose of the proposed rule is to adjust the reimbursement methodology for Ambulatory Surgical Centers. It is necessary to comply with Act 1236 of the 90<sup>th</sup> 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.)

September 19, 2015

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

November 1, 2015 (Adopted by Federal Regulation July 1, 2015)

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. All known venues will be in favor of this rule

**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT** Department of Human Services  
**DIVISION** Division of Medical Services  
**PERSON COMPLETING THIS STATEMENT** Brian Jones  
**TELEPHONE NO.** 501-537-2064 **FAX NO.** 501-404-4619 **EMAIL:** Brian.Jones@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** State Plan Amendment # 2015-003

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	\$ 992,453
Federal Funds	\$2,340,163
Cash Funds	_____
Special Revenue	_____
Other (Identify)	_____
<b>Total</b>	<b>\$3,332,616</b>

General Revenue	\$1,007,450
Federal Funds	\$2,325,166
Cash Funds	_____
Special Revenue	_____
Other (Identify)	_____
<b>Total</b>	<b>\$3,332,616</b>

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**

\$ 992,453

\$ 1,007,450

These new reimbursement rates are based on 95% of the current 2015 Medicare Reimbursement amounts for like services. Our current reimbursement rates are based on 80% of the 2013 Medicare Reimbursement amounts.

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; **This rule's basis and purpose is to lower the cost of care and increase access to care for Medicaid patients as required by Act 1236 of the 90<sup>th</sup> 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 Act 1236 of the 90<sup>th</sup> 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 costs;

**The rule is necessary to comply with Act 1236 of the 90<sup>th</sup> General Assembly.**

(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

**This rule is required by Act 1236 of the 90<sup>th</sup> 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 costs; and

(c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

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

### **Summary for SPA #2015-003**

**Effective for dates of service on or after July 1, 2015 pending legislative approval Arkansas Medicaid Ambulatory Surgical Center (ASC) reimbursement rates are revised in accordance with Act 1236 of the 2015 General Assembly. These new reimbursement rates are based on 95% of the July 2015 Medicare (ASC) reimbursement amounts for the like services. The annualized budget impact associated with this change is projected at \$3,332,616.**



METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES -  
OTHER TYPES OF CARE

Revised: July 1, 2015

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9. Clinic Services (Continued)

(2) Family Planning Clinic Services

Payment based on reasonable negotiated rate.

(3) Maternity Clinic Services

Payment based on reasonable negotiated rate.

Effective for claims with dates of service on or after July 1, 1992, the Title XIX maximum rates were decreased by 20%

(4) Ambulatory Surgical Center Services

Act 1352 of the 2013 Arkansas General Assembly established reimbursement for Ambulatory Surgery Centers based on 80% of the Medicare Ambulatory Surgery Center procedure code reimbursement rates. Reimbursement is based on the lesser of the provider's actual charges for the service or the Title XIX (Medicaid) maximum. These rates are effective for dates of service beginning July 1, 2013 **through June 30, 2015**. All rates are published on the agency's website ([www.medicaid.state.ar.us](http://www.medicaid.state.ar.us)). Except as otherwise noted in the plan, state developed fee schedule rates are the same for both governmental and private providers of Ambulatory Surgical Center services. Medicaid will follow Medicare procedure code updates.

**Effective July 1, 2015 Act 1236 as amended by the 2015 Arkansas General Assembly adjusted reimbursement for Ambulatory Surgery Centers to 95% of the Medicare Ambulatory Surgery Center procedure codes reimbursement rates. Also in accordance with this amendment Medicaid may adopt and assign a CPT code for a comparable procedure (if the procedure code is not listed on the Medicare ASC procedure code listing) only if the code was approved by Medicaid before the procedure was performed.**

In accordance with the Act, Implantable Devices which are not bundled as part of the appropriate procedure code will be reimbursed at a pass-through cost; if the combined documented cost of the appropriate implantable devices is greater than 50% of the appropriate Medicaid maximum procedure code reimbursement rate. If multiple devices are included for one patient, then the total provided devices' cost is calculated and then compared to the appropriate procedure code. The implantable devices' reimbursement provision is also effective for dates of service beginning July 1, 2013 **through June 30, 2015**. These implantable devices are listed in the provider manual which can be found on the agency's website at <https://www.medicaid.state.ar.us/InternetSolution/Provider/docs/asc.aspx>.

Mark UP

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT  
MEDICAL ASSISTANCE PROGRAM  
STATE ARKANSAS

ATTACHMENT 4.19-B  
PAGE 3aa

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES -  
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