EXHIBIT H

DEPARTMENT OF HUMAN SERVICES, MEDICAL SERVICES

SUBJECT: Pharmacy Manual #1-17 and Section 1 1-17

DESCRIPTION: CMS published the Covered Outpatient Drug final rule (CMS-2345-FC) on February 1, 2016 pertaining to reimbursement for covered outpatient drugs in the Medicaid program. It outlines key changes that states need to address when determining their reimbursement methodology for ingredient costs based on actual acquisition cost (AAC) plus a professional dispensing fee among other things.

PUBLIC COMMENT: No public hearing was held. The public comment period expired on May 15, 2017. The department received no comments.

This rule was filed and approved as an emergency rule on April 1, 2017. The emergency rule expires on July 29, 2017. The proposed effective date for the permanent rule is July 1, 2017.

FINANCIAL IMPACT: There is no financial impact.

LEGAL AUTHORIZATION: This rule is required in order to ensure compliance with CMS-2345-FC and 81 FR 5170. The Department of Human Services is authorized to "make rules and regulations and take actions as are necessary or desirable to carry out the provisions of this chapter [Public Assistance] and that are not inconsistent therewith." Arkansas Code Annotated § 20-76-201 (12). Arkansas Code § 20-77-107 specifically authorizes the department to "establish and maintain an indigent medical care program."

EXHIBIT H

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 Thomas Herndon

ADDRESS PO Box 1437, Slot S295, Little Rock, AR 72203

PHONE NO. 501-396-6013 **FAX NO.** 501-404-4619 **E-MAIL** thomas.herndon@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, 5th Floor
Little Rock, AR 72201

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1. What is the short title of this rule? Pharmacy Manual #1-17 and Section 1 1-17

2. What is the subject of the proposed rule? Pharmacy Update

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. CMS-2345-FC; 81 FR 5170

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? April 1, 2017

   When does the emergency rule expire? July 29, 2017

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? CMS published the Covered Outpatient Drug final rule (CMS-2345-FC) (81 FR 5170) on 02/01/2016, pertaining to reimbursement for covered outpatient drugs in the Medicaid program. It outlines key changes that States need to address when determining their reimbursement methodology for ingredient costs based on actual acquisition cost (AAC) plus a professional dispensing fee among other things.

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/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.)
May 15, 2017

11. What is the proposed effective date of this proposed rule? (Must provide a date.)
July 1, 2017 (Adopted by Federal Regulation April 1, 2017)

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.** 501-404-4619 **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 Pharmacy #3-15

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	$0	General Revenue	$0
Federal Funds	$0	Federal Funds	$0
Cash Funds		Cash Funds	
Special Revenue		Special Revenue	
Other (Identify)		Other (Identify)	

Total $0 Total $0

(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
$ 0	$ 0

This cost avoidance/savings was included in State Plan Amendment 2016-003 – Pharmacy Pricing Methodology. This is just the change to the manuals reflecting that change in methodology. Changing the manuals has no additional impact.

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.

Summary for
Pharmacy 1-17 & Section 1 1-17

CMS published the Covered Outpatient Drug final rule (CMS-2345-FC) (81 FR 5170) on 02/01/2016, pertaining to reimbursement for covered outpatient drugs in the Medicaid program. It outlines key changes that States need to address when determining their reimbursement methodology for ingredient costs based on actual acquisition cost (AAC) plus a professional dispensing fee among other things.