

# EXHIBIT M

## DEPARTMENT OF HUMAN SERVICES, DEVELOPMENTAL DISABILITIES SERVICES

### **SUBJECT: DDS Community and Employment Services Waiver Certification Standards**

**DESCRIPTION:** The Department of Human Services Division of Developmental Disability Services is proposing changes to the DDS Community and Employment Supports (CES) Waiver Certification Standards. The CES Waiver Certification Standards are being updated and amended to simplify and clarify the standards applicable to CES Waiver provider. The amendment includes, but is not limited to, the following changes:

1. Changes name from Alternative Community Services to reflect the emphasis on integrating participants into the community and providing supported employment opportunities.
2. Adds more detailed requirements for conflict free case management, including a stipulation that prohibits an organization from providing case management and any direct service to the same beneficiary and detailing the independent assessment tool that will be used to evaluate all waiver participant's level of need to develop their individualized person centered service plan, along with the functional assessments and application packet by a third party vendor.
3. Adds the home and community based setting rule requirements.
4. Adds solicitation prohibition.
5. Removes and simplifies numerous provisions that place burdens on providers that are unrelated to providing necessary home and community based services to beneficiaries.

**PUBLIC COMMENT:** A public hearing was held on March 29, 2017. The public comment period expired on April 1, 2017. The department received no comments.

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

**LEGAL AUTHORIZATION:** 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."

**QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS  
WITH THE ARKANSAS LEGISLATIVE COUNCIL**

**EXHIBIT M**

DEPARTMENT/AGENCY Department of Human Services  
DIVISION Division of Developmental Disabilities Services  
DIVISION DIRECTOR Melissa Stone  
CONTACT PERSON Elizabeth Pitman  
ADDRESS P.O. Box 1437, Slot N502  
PHONE NO. (501) 682-4936 FAX (501)682- E- NO. 8380 MAIL Elizabeth.pitman@dhs.arkansas.gov  
NAME OF PRESENTER AT COMMITTEE MEETING Melissa Stone  
PRESENTER E-MAIL Melissa.stone@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**

- \*\*\*\*\*
1. What is the short title of this rule? DDS Community and Employment Services (CES) Waiver Certification Standards (formerly the Alternative Community Services Waiver)
2. What is the subject of the proposed rule? Amend and update the certification standards applicable to DDS home and community based waiver service providers
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. Ark. Code Ann. § 20-76-201

7. What is the purpose of this proposed rule? Why is it necessary? Amend and update the certification standards applicable to DDS home and community based wavier service providers. Adds home and community based settings rule requirements, conflict free case management requirements and other clarifying changes throughout document.

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). http://humanservices.arkansas.gov/ddds/Pages/default.aspx

9. Will a public hearing be held on this proposed rule? Yes  No   
If yes, please complete the following:

Date: March 29, 2017  
Time: 4:30 p.m.  
Main Library, 100 Rock Street, Little Rock, AR in the Darragh Center  
Place: Auditorium

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)  
April 1, 2017

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

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice. \_\_\_\_\_

13. Please provide proof of filing the rule with the Secretary of State and the Arkansas State Library as required pursuant to Ark. Code Ann. § 25-15-204(e). \_\_\_\_\_

14. 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. For--Provider Organizations and Providers, specifically: Arkansas Waiver Association; Developmental Disabilities Provider Association-Judy Watson, President Developmental Disabilities Provider Association-Judy Watson, President

**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT** Arkansas Department of Human Services

**DIVISION** Division of Developmental Disabilities Services

**PERSON COMPLETING THIS STATEMENT** Elizabeth Pitman

**TELEPHONE** 501-682-4936      **FAX** 501-682-8380      **EMAIL:** Elizabeth.pitman@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** DDS Community and Employment Services (CES) Waiver Certification Standards (formerly the Alternative Community Services Waiver)

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	<u>0</u>
Federal Funds	<u>0</u>
Cash Funds	<u>0</u>
Special Revenue	<u>0</u>
Other (Identify)	<u>0</u>

**Next Fiscal Year**

General Revenue	<u>0</u>
Federal Funds	<u>0</u>
Cash Funds	<u>0</u>
Special Revenue	<u>0</u>
Other (Identify)	<u>0</u>

Total 0

Total 0

(b) What is the additional cost of the state rule?

**Current Fiscal Year**

**Next Fiscal Year**

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

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

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

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

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**

### **Community and Employment Supports (CES) Certification Standards DDS Community and Employment Services (CES) Waiver Certification Standards (formerly the Alternative Community Services Waiver)**

The Department of Human Services Division of Developmental Disability Services (DDS) is proposing changes to the DDS Community and Employment Supports (CES) Waiver Certification Standards. The CES Waiver Certification Standards are being updated and amended to simplify and clarify the standards applicable to CES Waiver provider. The amendment includes, but is not limited to, the following changes:

#### **Summary of Changes**

- Changed name from Alternative Community Services to reflect the emphasis on integrating participants into the community and providing supported employment opportunities.
- Added more detailed requirements for conflict free case management, including a stipulation that prohibits an organization from providing case management and any direct service to the same beneficiary and detailing the Independent Assessment tool that will be used to evaluate all Waiver Participant's level of need and to develop their individualized person centered service plan, along with the functional assessments and application packet by a third party vendor.
- Added the home and community based settings rule requirements.
- Added solicitation prohibition.
- Removed and simplified numerous provisions that place burdens on providers that are unrelated to providing necessary home and community based services to beneficiaries.