

EXHIBIT K

DEPARTMENT OF HUMAN SERVICES, MEDICAL SERVICES

SUBJECT: Independent Assessment Manual

DESCRIPTION: DHS is promulgating the Independent Assessment Manual for beginning independent assessments of the functional needs of beneficiaries with high levels of behavioral health and developmental/intellectual disabilities service needs.

This manual describes:

1. The process that will be used to independently assess these beneficiaries;
2. The tiering process that the independent assessment vendor will utilize to make a tier determination for these beneficiaries;
3. The qualifications that an independent assessor must have; and
4. The training that an independent assessor will have to undergo.

PUBLIC COMMENT: A public hearing was held on August 8, 2017. The public comment period expired on August 11, 2017. The Department received no public comments.

The agency states that CMS approval is not required for this rule. The proposed effective date is October 1, 2017.

FINANCIAL IMPACT: The cost to implement this rule is \$9,563,368 for the current fiscal year (\$2,785,809 in general revenue and \$6,777,559 in federal funds) and \$12,751,157 in the next fiscal year (\$3,714,412 in general revenue and \$9,036,745 in federal funds).

Since there is 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, the following information was submitted:

- (1) a statement of the rule's basis and purpose:

The IA system will determine the level of needed services to implement Act 775, support the state's Home and Community Based Services (HCBS) waivers, and avoid duplication of personal care services between the state plan services and waiver services. It is critical to implementation of the PASSEs and to help meet the savings goal of \$835 million for the Medicaid Transformation initiatives.

(2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute:

Federal law requires an IA for HCBS waivers. Act 775 requires an IA to identify the target populations for enrollment into the PASSEs.

(3) a description of the factual evidence that:
(a) justifies the agency's need for the proposed rule:

The role of and need for an IA system was included in the recommendations of The Stephen Group to the Legislative Task Force.

(b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs:

The cost of an IA system will offset by savings in Medicaid benefits.

(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:

The IA was procured through an RFP.

(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:

Some providers opposed the use of an IA system. That alternative would forfeit Medicaid savings.

(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:

The existing system is not on a stable IT platform which produces inefficiencies in program management.

(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:

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DHS will continue to monitor the cost and benefits to the IA system.

LEGAL AUTHORIZATION: Pursuant to Arkansas Code Annotated § 20-76-201, the Department of Human Services (“Department”) shall administer assigned forms of public assistance, supervise agencies and institutions caring for dependent or aged adults or adults with mental or physical disabilities, and administer other welfare activities or services that may be vested in it. *See* Ark. Code Ann. § 20-76-201(1). The Department shall also make rules and regulations and take actions as are necessary or desirable to carry out the provisions of Title 20, Chapter 76, Public Assistance Generally, of the Arkansas Code. *See* Ark. Code Ann. § 20-76-201(12).

EXHIBIT K

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

DEPARTMENT/AGENCY Department of Human Services
DIVISION Division of Medical Services
DIVISION DIRECTOR Dawn Stehle
CONTACT PERSON Brad Nye
ADDRESS P.O. Box 1437, Slot S295
PHONE NO. (501) 320-6306 FAX NO. (501) 4004-4619 E-MAIL Brad.nye@dhs.arkansas.gov
NAME OF PRESENTER AT COMMITTEE MEETING Melissa Stone
PRESENTER E-MAIL Melissa.stone@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

1. What is the short title of this rule? Independent Assessment Manual

2. What is the subject of the proposed rule? Effective October 1, 2017, Arkansas Medicaid proposes to implement an independent assessment for beneficiaries with Behavioral Health and Developmental/Intellectual Disabilities Services Needs.

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. The Independent Assessment Manual describes the assessment and tiering process that will be used to determine beneficiaries' functional needs for behavioral health and developmental disabilities services. It also sets forth the qualifications and training requirements for Independent Assessors.

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 et seq.

7. What is the purpose of this proposed rule? Why is it necessary? This Manual sets forth the process for the Independent Assessments, which will be undergone by behavioral health and developmental disabilities services clients with high needs. The purpose of the assessment is to determine the beneficiaries' functional needs so that they can access the most appropriate service array to meet those needs.

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: August 8, 2017

Time: 4:30 p.m.

Arkansas Enterprises for the
Developmentally Disabled
105 East Roosevelt Road

Place: Little Rock, AR 72206

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

August 11, 2017

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

October 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. Attached.

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). Attached

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. Providers (for)

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Department of Human Services

DIVISION Division of Medical Services

PERSON COMPLETING THIS STATEMENT Janet Mann

TELEPHONE 501-682-1573 **FAX** _____ **EMAIL:** Janet.mann@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 Independent Assessment Manual

- 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?

<u>Current Fiscal Year</u>		<u>Next Fiscal Year</u>	
General Revenue	<u>\$2,785,809</u>	General Revenue	<u>\$ 3,714,412</u>
Federal Funds	<u>\$6,777,559</u>	Federal Funds	<u>\$ 9,036,745</u>
Cash Funds	_____	Cash Funds	_____
Special Revenue	_____	Special Revenue	_____
Other (Identify)	_____	Other (Identify)	_____
Total	<u>\$9,563,368</u>	Total	<u>\$12,751,157</u>

Current Fiscal Year

General Revenue	<u>\$2,785,809</u>
Federal Funds	<u>\$6,777,559</u>
Cash Funds	<u> </u>
Special Revenue	<u> </u>
Other (Identify)	<u> </u>
 Total	 <u>\$9,563,368</u>

Next Fiscal Year

General Revenue	<u>\$ 3,714,412</u>
Federal Funds	<u>\$ 9,036,745</u>
Cash Funds	<u> </u>
Special Revenue	<u> </u>
Other (Identify)	<u> </u>
 Total	 <u>\$12,751,157</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

\$ 9,563,368

Next Fiscal Year

\$ 12,751,158

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;

The IA system will determine the level of needed services to implement Act 775, support the state's Home and Community Based Services (HCBS) waivers and avoid duplication of personal care services between the state plan services and waiver services. It is critical to implementation of the PASSEs and to help meet the savings goal of \$835 million for the Medicaid Transformation initiatives.
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the IA was procured through an RFP,
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- (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;
the existing system is not on a stable IT platform which produces inefficiencies in program management.
- (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.DHS will continue to monitor the cost and benefits to the IA system.

SUMMARY OF INDEPENDENT ASSESSMENT MANUAL

DHS is promulgating the Independent Assessment Manual for the purpose of beginning Independent Assessments of the functional needs of beneficiaries with high levels of behavioral health and developmental/intellectual disabilities service needs.

This manual describes:

- 1) The process that will be used to independently assess these beneficiaries;
- 2) The tiering process that the independent assessment vendor will utilize to make a tier determination for these beneficiaries;
- 3) The qualifications that an independent assessor must have; and
- 4) The training that an independent assessor will have to undergo.

Arkansas Medicaid Independent Assessment for Beneficiaries with Behavioral Health and Developmental/Intellectual Disabilities Services Needs

Section I: Assessment Overview

Arkansas will build upon the MnCHOICES comprehensive functional assessment developed by the State of Minnesota to customize an Independent Assessment and algorithms and tiering criteria used across two Arkansas Divisions: the Division of Behavioral Health Services (DBHS) and the Division of Developmental Disabilities Services (DDS). These two Divisions will use the MnCHOICES assessment and developmental screening tool, as well as the IT platform upon which they sit for eligibility determinations for long-term service and supports (LTSS), behavioral health services and developmental disabilities day treatment to support Arkansas' goal of consistency and efficiency in processes. This assessment provides compatibility across persons of all ages, abilities, and financial background, offering a person-centered, modular approach to support a streamlined, statewide strategy for determining eligibility for publicly funded LTSS and behavioral health services.

The MnCHOICES assessment will serve as the basis for an independent functional assessment and data collection tool across all populations and fulfills the Arkansas goal of implementing an assessment strategy and process across the two Divisions to support the creation of a sustainable, person-centered system that:

- 1) Improves the health of the population
- 2) Enhances the beneficiary experience of care, including quality, access and reliability
- 3) Uses limited resources more efficiently

The assessment focuses on individuals, not programs, gathering standardized information necessary to determine level of need and support individuals in making their own choices across a diversity of publicly-funded services. The tool will incorporate built-in algorithms customized for Arkansas that align individuals with program eligibility.

By implementing a single automated tool with supporting modules, Arkansas will realize efficiencies through reduced paperwork and avoidance of redundant data entry for individuals as they move across programs and services as they age, or as conditions change. The diverse and robust MnCHOICES assessment supports eligibility determination and support/care planning.

PROPOSED

The table below outlines the assessment instrument and supplemental forms by Division.

Division of Behavioral Health Services	Division of Developmental Disabilities Services
<p>INSTRUMENT: MnCHOICES</p> <p>Supplemental Form for Individuals under age 18</p>	<p>INSTRUMENT: MnCHOICES</p> <p>Supplemental Form for Individuals under age 18</p> <p>DEVELOPMENTAL SCREENING TOOL: Battelle Developmental Inventory™, 2nd Edition Normative Update or similar tool</p>

The following Domains comprise the MnCHOICES assessment:

Person Information	Sensory and Communication
Quality of Life	Safety and Self-Preservation
Activities of Daily Living (ADLs)	Employment, Volunteering and Training
Instrumental Activities of Daily Living (IADLs)	Housing and Environment
Health	Self-Direction
Psychosocial	Caregiver
Memory and Cognition	Assessor Conclusion

Section II: Assessment Process

Both of the two Divisions, DBHS and DDS, will identify the individuals in need of an Independent Assessment and provide contact information to Optum. Physicians will refer children with identified developmental delays and diagnoses to Optum for a developmental screen. Optum schedulers will schedule the interviews/assessment or screen with the individual and/or any other necessary and/or desired parties (e.g. legal guardian, representative, or desired family member). Prior to conducting the interview, the assessor will review any and all available information shared by the State, providers, or individual/families in order to pre-populate the assessment with demographic and historical data.

PROPOSED

The assessor will conduct the interview/assessment and enter the findings into the IT platform. Upon completion, the assessor will review any additional notes documented during the assessment to more accurately confirm responses and gather additional information made available by the State, providers and individuals/families before finalizing the assessment.

Once completed, the IT platform automatically calculates a Tier determination based upon the algorithms built into the platform. The assessor will share the Tier determination with the appropriate State Division. Optum will also transmit the independent assessment report to the appropriate State Division. Based upon the needs identified during the independent assessment, the appropriate State Division will authorize services within the tier determined.

The State or Designated Entity can then use all of the information in the MnCHOICES assessment to build a robust, person-centered plan outlining the desired and needed services based on the Tier recommendation of the individual's functional needs.

Section III: Tiering Process

Each Division has developed and defined Division-specific Tiers of services to address needs of the beneficiary. The need for these services drives the algorithms built within the IT platform in support of the Tier determination. This will result in an objective and unbiased Tier determination based solely on the assessor's input of responses provided during the Independent Assessment. Below outlines each Division's tiers of services:

Division of Behavioral Health Services

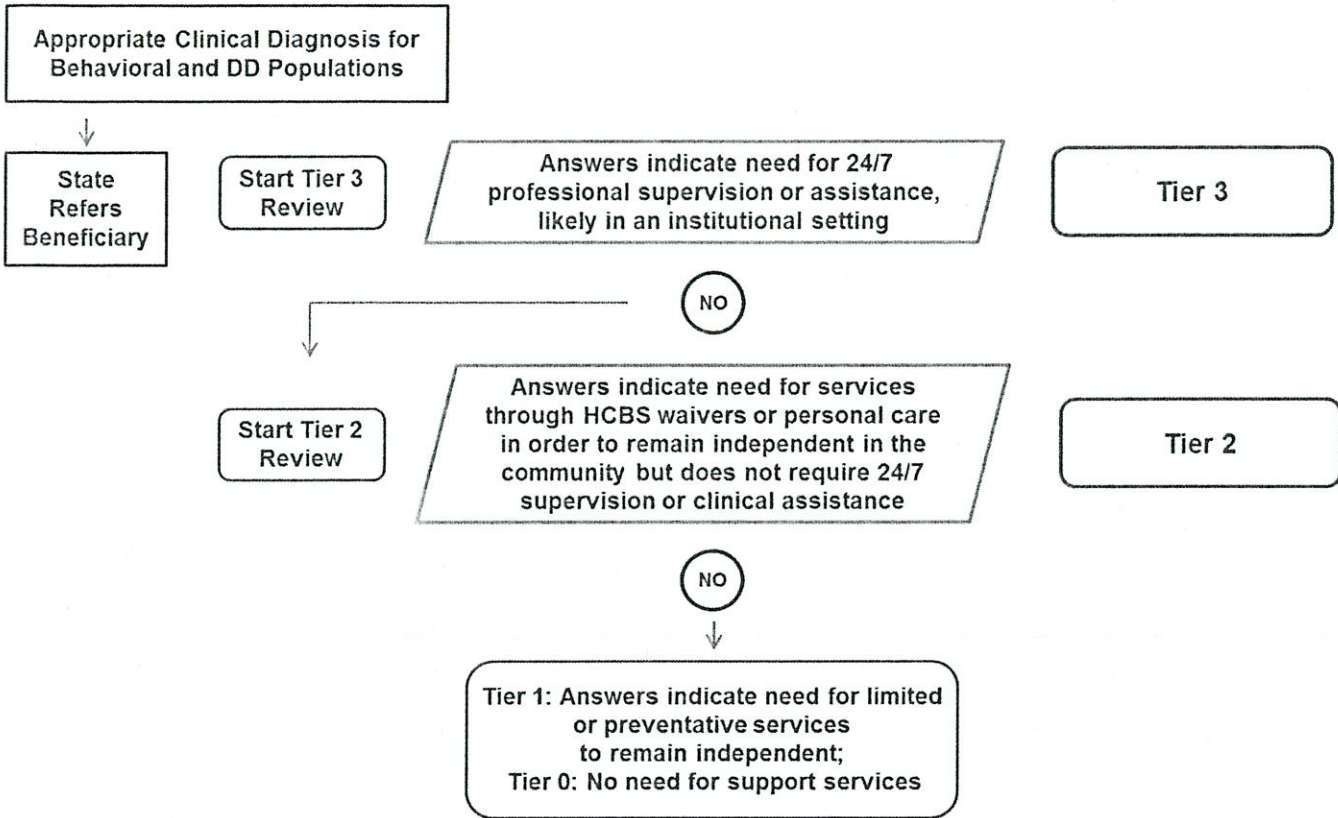
Tier 1	Time-limited behavioral health services provided by qualified licensed practitioners in an outpatient based setting for the purpose of assessing and treating mental health and/or substance abuse conditions. Tier 1 Services settings mean a behavioral health clinic/office, healthcare center, physician office, and/or school.
Tier 2	At this level of need, services are provided in a Tier 1 services setting but the level of need requires a broader array of services.
Tier 3	Eligibility for this level of need will be identified by additional criteria, which could lead to inpatient admission or residential placement.

Division of Developmental Disabilities Services

Tier 1	Individual receives services in a center-based clinic such as Developmental Day Treatment Clinic Services (DDTCS) or Child Health Management Services (CHMS) or successor program or receives services such as personal care, occupational therapy, physical therapy or speech therapy due to the developmental disability or delay.
Tier 2	The individual meets the institutional level of care criteria but does not currently require 24 hours a day of paid support and services to maintain his or her current placement.
Tier 3	The individual meets the institutional level of care criteria and does require 24 hours a day of paid support and services to maintain his or her current placement.

PROPOSED

Example of Tiering Process



PROPOSED

Section IV: Assessor Qualifications

Trained and qualified assessors will administer the Arkansas assessment tool. Assessors will have the following qualifications:

<p>All Divisions</p>	<ul style="list-style-type: none"> • At least one year experience working directly with the population with whom they will administer the assessment • Have the ability to request and verify information from individuals being assessed • Culturally sensitive to individuals assessed • Have the necessary knowledge, skills and abilities to successfully perform and manage Independent Assessments including organization, time management, ability to address difficult questions and problematic individuals, effective communication, and knowledge of adult learning strategies • Linguistically competent in the language of the individual being assessed or in American Sign Language or with the assistance of non-verbal forms of communication, including assistive technology and other auxiliary aids, as appropriate to the individual assessed or use the services of a telephonic interpreter service or other equivalent means to conduct assessments • Verify the information received from the individual and the individual's family members, caregivers, and/or guardians by cross-referencing all available information • Assessors SHALL NOT be related by blood or marriage to the individual or to any paid caregiver of the individual, financially responsible for the individual empowered to make financial or health-related decision on behalf of the individual, and would not benefit financially from the provision of assessed needs.
<p>DBHS</p>	<p>Four-year Bachelor's degree or Registered Nurse, both with at least one year of mental health experience</p>
<p>DDS</p>	<p>Two years' experience with the I/DD population and meet the qualifications of a Qualified Developmental Disability Professional (QDDP)</p>

More information on training – both initial and ongoing – for assessors is included in the Section V of this document.

PROPOSED

Section V: Training

Assessors administering the Independent Assessment will receive classroom and instructional training, as well as hands on experience through role playing and case studies to become proficient in administering the Independent Assessment as well as use of the IT platform.

AR providers of services and DHS State staff will have available in-person group training, web-based training, and onsite coaching in the Independent Assessment System for those who have attended training and require follow-up assistance during the first year of the transition.

Assessors:

Assessors will receive the following training:

Training Module	Description
Step 1: Foundations: Overview Foundations: Basics	Training on AR LTSS programs and services MnCHOICES background and overview Battelle Inventory
Step 2: Application	Training and hands on experience to learn how to access and become proficient in using MnCHOICES in the following four areas: <ul style="list-style-type: none">- Access and Navigation- Content- Practice and Certification- Tiering

PROPOSED