

EXHIBIT I

DEPARTMENT OF HUMAN SERVICES, COUNTY OPERATIONS AND MEDICAL SERVICES

SUBJECT: DHS/DMS/DCO Proposed Lawfully Residing Alien Children Under Age 21 and Pregnant Women Coverage Option

DESCRIPTION: These are Medical Services Policy changes and Medicaid and CHIP State Plans and MAGI Eligibility PDF Pages amendments for the State of Arkansas' election of the option, effective 01/01/2018, to provide Medicaid and CHIP coverage to otherwise eligible children under age 21 and pregnant women aliens, lawfully residing in the United States, as provided in section 1903(v)(4) of the Social Security Act and under section 214 of the Children's Health Insurance Program Reauthorization Act of 2009 ("CHIPRA").

The policies affected are Medical Services Policy Manual Section Appendix C; D-200 through 230; B-250; E-300 and E-445 and Medicaid SPA: AR 17-003; CHIP SPA: AR 17-004; Medicaid PDF page S89 MAGI Eligibility SPA: AR-17-0007; CHIP PDF page CS 18 MAGI Eligibility SPA: AR-17-0006 for Medicaid and CHIP Coverage for Lawfully Residing Alien Children Under Age 21 and Pregnant Women.

The proposed rule changes revise Medical Services policy to provide Medicaid coverage to certain children and pregnant women who are lawfully residing in the United States. In addition, the policy is being revised to comply with federal regulations and law regarding verification of citizenship and immigration status, and the state is electing the option to provide Medicaid and CHIP coverage to otherwise eligible children under age 21 and pregnant women aliens, lawfully residing in the United States, as provided in section 1903(v)(4) of the Social Security Act and under section 214 of the CHIPRA.

PUBLIC COMMENT: No public hearing was held. The public comment period expired on August 27, 2017. The Department provided the following summary of the public comment it received and its response:

Commenter: Cynthia S Parke

I have been hearing reports of proposed changes to adding legal immigrant children to the Medicaid rolls here as soon as they arrive in Arkansas. I am almost at a loss for words in hearing this. There are plenty of citizens here who do not "qualify" for Medicaid, immediately after coming to this state. I DO understand it is kids, believe me, but I think the current 5 year waiting period should stay the way it is, for at least the period of time it takes to figure out the healthcare cost issues that currently face our state and nation. If they come here, because one of the processing plants has offered them jobs, then those plants should also be providing them and their families with healthcare. Some of these companies are reporting huge profit margins in their operations in this state (and others) but are not required to provide healthcare for these families that they so willingly bring to our state. In the meantime, for instance, the chicken industry here, which employs most of the Marshallese immigrants, are under close scrutiny for river pollution, (AR Dept of Fish

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and Game [sic] studies on rivers); land pollution, (Concerned departments: ADEQ, with spreading of manure around the state); and this exact issue, of their employees not having healthcare, and housing. If you bring the industries here, I believe you should also, somehow, require the companies making these huge profits, provide healthcare. I believe the regulations with a 5 year waiting period for immigrants, and their children, should stay in place, with the issue looked at again in a few years. Thank you for taking the time to hear the public about this issue.

RESPONSE: Thank you for responding to the Public Comment period for the CHIPRA 214 Medicaid policy changes regarding providing Medicaid coverage to children and pregnant women who are lawfully residing within Arkansas. I will try to address all your concerns with this response.

Arkansas has made great strides through the ARKids First program in reducing the uninsured rate for children in the state from 22 percent in 1997 to less than 5 percent today. This 5 percent of Arkansas' children that are not covered today include children whose families are lawfully residing and working here in Arkansas. The proposed rule change will allow Arkansas to extend coverage to children and pregnant women who are legally residing in Arkansas but otherwise may not have access to health services, especially the preventative care that is essential for children to grow up and reach their full potential. This preventative care is of utmost importance during the first five years of the child's life. These years are the foundation that shapes a child's future health, happiness, growth, development and learning achievement at school, in the family and community, and in life in general. As residents of Arkansas, it is important that every child be given every available opportunity to grow and flourish within the State. This is good for the child and good for Arkansas. Subsequently, it is the goal of the Department of Human Services to ensure all eligible children have access to consistent, comprehensive health care coverage.

In addition to meeting lawfully residing status, children and pregnant women in this group will also be required to meet all other Medicaid eligibility guidelines in order to be determined eligible for Medicaid coverage. These guidelines include income limits, state residency and Social Security Enumeration requirements.

Unfortunately, DHS is unable to address your concerns regarding health care coverage or environmental issues potentially associated with the chicken industry as those issues are outside of the Department's purview.

The agency states that the instant rules will require CMS approval; that approval is pending as of September 25, 2017. The proposed effective date is January 1, 2018.

FINANCIAL IMPACT: The cost in the current fiscal year (January through June) is \$714,189 in federal funds and for the next fiscal year is \$4,474,904 in federal funds. There is no impact on general revenue.

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The agency provided the following additional information:

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

The proposed rule changes revise Medical Services policy to provide Medicaid coverage to certain children and pregnant women who are lawfully residing in the United States. In addition, policy is being revised to comply with federal regulations and law regarding verification of citizenship and immigration status.

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

The proposed rule changes revise Medical Services policy to comply with Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) and 8 U.S.C. 1612(b)(2)(B) of the Social Security Act; 435.956(c)(2) of Federal Register; and POMS RM 10210.810.

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

The proposed rule changes revise Medical Services policy to provide Medicaid coverage to certain children and pregnant women who are lawfully residing in the United States. In addition, policy is being revised to comply with federal regulations and law regarding verification of citizenship and immigration status.

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

The proposed rule changes revise Medical Services policy to provide Medicaid coverage to certain children and pregnant women who are lawfully residing in the United States. In addition, policy is being revised to comply with federal regulations and law regarding verification of citizenship and immigration status.

- (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;

No less costly alternatives exist.

- (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;

There were no alternatives proposed.

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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; and

N/A

(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 agency, in compliance with ACA 25-15-204, will review the rule every 10 years.

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). Per the agency, these rules are further being promulgated to comply with federal law, specifically, the Children’s Health Insurance Program Reauthorization Act of 2009 (“CHIPRA”), 8 U.S.C. § 1612(b)(2)(B) of the Social Security Act, 435.956(c)(2) of the Federal Register, and POMS RM 10210.810.

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

DEPARTMENT/AGENCY Arkansas Department of Human Services
 DIVISION Division of County Operations (DCO) and Division of Medical Services (DMS)
 DIVISION DIRECTOR Mary Franklin (DCO Medical Services Policy) and Dawn Stehle (DMS Medicaid & CHIP SPAs & MAGI Eligibility PDF Pages SPAs)
 CONTACT PERSON Larry Crutchfield (DCO Medical Services Policy) and Brad Nye (DMS Medicaid & CHIP SPAs & MAGI Eligibility PDF Pages SPAs)
 ADDRESS PO Box 1437, Slot S332, Little Rock AR 72203 (Larry Crutchfield, DCO) and PO Box 1437, Slot S295, Little Rock AR 72203 (Brad Nye, DMS)

501-682-8257 (Larry Crutchfield, DCO) and 501-320-6306 (Brad Nye, DMS) 501-682-1597 (Larry Crutchfield, DCO) and 501-404-4619 (Brad Nye, DMS) E-MAIL larry.crutchfield@dhs.arkansas.gov and brad.nye@dhs.arkansas.gov

PHONE NO. FAX NO. NAME OF PRESENTER AT COMMITTEE MEETING Dave Mills (Division of County Operations) and Tami Harlan (Division of Medical Services)

PRESENTER E-MAIL dave.mills@dhs.arkansas.gov (Division of County Operations) and tami.harlan@dhs.arkansas.gov (Division of Medical Services)

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

RECEIVED
 JUL 23 2017
 BUREAU OF
 LEGISLATIVE RESEARCH

 Medical Services Policy Manual Section Appendix C; D-200 through 230; B-250; E-300 and E-445 and Medicaid SPA: AR 17-003; CHIP SPA: AR 17-004; Medicaid PDF page S89 MAGI Eligibility SPA: AR-17-0007; CHIP PDF page CS18 MAGI Eligibility SPA AR-17-0006 for Medicaid and CHIP Coverage for Lawfully Residing Alien Children Under Age 21 and Pregnant Women

1. What is the short title of this rule?

2. What is the subject of the proposed rule?

The proposed rule changes revise Medical Services policy to provide Medicaid coverage to certain children and pregnant women who are lawfully residing in the United States. In addition, policy is being revised to comply with federal regulations and law regarding verification of citizenship and

immigration status; and The State is electing the option to provide Medicaid and CHIP coverage to otherwise eligible children under age 21 and pregnant women aliens, lawfully residing in the United States, as provided in section 1903(v)(4) of the Social Security Act and under section 214 of the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA).

3. Is this rule required to comply with a federal statute, rule, or regulation?

Yes No
CHIPRA, PL 111-3 section 214
and 8 U.S.C. 1612(b)(2)(B),
435.956(c)(2) and POMS RM
10210.810

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 Code 20-76-201

7. What is the purpose of this proposed rule? Why is it necessary? _____
The proposed rule changes revise Medical Services policy to comply with Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) and 8 U.S.C 1612(b)(2)(B) of the Social Security Act; 435.956 (c)(2) of Federal register and POMS RM 10210.810; and The State is electing the option to provide Medicaid and CHIP coverage to otherwise eligible children under age 21 and pregnant women aliens, lawfully residing in the United States, as provided in section 1903(v)(4) of the Social Security Act and under section 214 of the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA). If the State does not chose this option, Medicaid and CHIP coverage cannot be provided to

otherwise eligible children under age 21 and pregnant women aliens, lawfully residing in the United States and the State of Arkansas,

- 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/Pages/LegalNotices.aspx> (DCO website) and <https://www.medicaid.state.ar.us/general/comment/comment.aspx> (DMS Medicaid website)

- 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.)

08/27/2017

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

01/01/2018

- 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. See 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). See 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. _____

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Department of Human Services

DIVISION Division of Medical Services

PERSON COMPLETING THIS STATEMENT David McMahon

TELEPHONE 501-369-6421 **FAX** _____ **EMAIL:** David.McMahon1@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 Medical Services Policy Manual Section Appendix C; D-200 through 230; B-250; E-300 and E-445

- 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? Yes No

concerning the need for, consequences of, and alternatives to the rule?

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

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

<u>Current Fiscal Year SFY 2018 (Jan – June)</u>		<u>Next Fiscal Year SFY 2019</u>	
General Revenue	0	General Revenue	0
Federal Funds	\$714,189	Federal Funds	\$4,474,904
Cash Funds	_____	Cash Funds	_____
Special Revenue	_____	Special Revenue	_____
Other (Identify)	_____	Other (Identify)	_____
Total	\$714,189	Total	\$4,474,904

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.

<u>Current Fiscal Year</u>	<u>Next Fiscal Year</u>
\$ _____	\$ _____

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

\$ \$714,189

Next Fiscal Year

\$ \$4,474,904

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 proposed rule changes revise Medical Services policy to provide Medicaid coverage to certain children and pregnant women who are lawfully residing in the United States. In addition, policy is being revised to comply with federal regulations and law regarding verification of citizenship and immigration status.

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

The proposed rule changes revise Medical Services policy to comply with Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) and 8 U.S.C 1612(b)(2)(B) of the Social Security Act; 435.956 (c)(2) of Federal register and POMS RM 10210.810.

(3) a description of the factual evidence that:

(a) justifies the agency's need for the proposed rule; and

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

The proposed rule changes revise Medical Services policy to provide Medicaid coverage to certain children and pregnant women who are lawfully residing in the United States. In addition, policy is being revised to comply with federal regulations and law regarding verification of citizenship and immigration status.

(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;

No less costly alternatives exist.

- (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;

There were no alternatives proposed.

- (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

N/A

- (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 Agency in compliance with ACA 25-15-204 will review the rule every 10 years.