

# EXHIBIT J

## 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 Eugene Gessow  
CONTACT PERSON Randy Helms  
ADDRESS P.O Box 1437, Slot S295, Little Rock, AR 72203  
PHONE NO. 682-1857 FAX NO. 682-2480 E-MAIL randy.helms@arkansas.gov  
NAME OF PRESENTER AT COMMITTEE MEETING Jeffrey Wood  
PRESENTER E-MAIL jeffrey.wood@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  
Room 315, State Capitol  
Little Rock, AR 72201

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1. What is the short title of this rule?  
SPA #2011-006 – Rate Increase for Under 16 Bed ICF/MR Facilities
2. What is the subject of the proposed rule?  
Applies an inflationary adjustment to the current base rate for Under 16 Bed ICF/MR facilities.
3. Is this rule required to comply with a federal statute, rule, or regulation? Yes \_\_\_ No X.  
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 X.  
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 X If yes, please provide a brief summary explaining the regulation.

Does this repeal an existing rule? Yes \_\_\_\_ No X If yes, a copy of the repealed rule is to be included with your completed questionnaire.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 X 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 Arkansas Code citation.

Arkansas Statute 20-76-201

7. What is the purpose of this proposed rule? Why is it necessary?

Analysis of Cost Report information indicates that an inflationary adjustment as identified by the most currently available Skilled Nursing Facility Total Market Basket inflation index data of 2.6% to the existing rate is warranted.

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 X .  
If yes, please complete the following:

Date: \_\_\_\_\_

Time: \_\_\_\_\_

Place: \_\_\_\_\_

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

July 12, 2011

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

September 15, 2011

12. Do you expect this rule to be controversial? Yes \_\_\_\_ No X 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.

Medical associations, interested providers, and advocacy organizations. Their positions for or against is not known at this time.

**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT Department of Human Services**

**DIVISION Division of Medical Services**

**PERSON COMPLETING THIS STATEMENT Randy Helms**

**TELEPHONE NO. 682-1857 FAX NO. 682-2480 EMAIL: randy.helms@arkanas.gov**

To comply with Act 1104 of 1995, please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

**SHORT TITLE OF THIS RULE – SPA #2011-006 – Rate Increase for Under 16 Bed ICF/MR Facilities**

1. Does this proposed, amended, or repealed rule have a financial impact?  
Yes  X  No \_\_\_\_\_.

2. Does this proposed, amended, or repealed rule affect small businesses?  
Yes  X  No \_\_\_\_\_.

If yes, please attach a copy of the economic impact statement required to be filed with the Arkansas Economic Development Commission under Arkansas Code § 25-15-301 et seq.

3. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please give the incremental cost for implementing the rule. Please indicate if the cost provided is the cost of the program.

**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 party subject to the proposed, amended, or repealed rule? Identify the party 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 the agency to implement this rule? Is this the cost of the program or grant? Please explain.

**Current Fiscal Year (SFY 12)**

**Next Fiscal Year (SFY 13)**

\$ 162,947 State Share  
396,623 Federal Share  
\$ 559,570 Total

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**ECONOMIC IMPACT STATEMENT**  
**(As Required under Arkansas Code § 25-15-301)**

**Department:** Arkansas Department of Human Services  
**Division:** Medical Services  
**Person Completing this Statement:** Randy Helms  
**Telephone Number:** 501-682-1857      **Fax Number:** 501-682-3889  
**EMAIL:** Randy.Helms@Arkansas.gov

**Short Title of this Rule: SPA #2011-006 - Rate Increase for Under 16 Bed ICF/MR Facilities**

(1) The type or types of small businesses that will be directly affected by the proposed rule, bear the cost of the proposed rule, or directly benefit from the proposed rule.

**Under 16 Bed ICF/MR facilities.**

(2) A description of how small businesses will be adversely affected.

**There are 31, Under 16 Bed ICF/MR providers.**

(3) A reasonable determination of the dollar amounts the proposed rule will cost small businesses in terms of fees, administrative penalties, reporting, recordkeeping, equipment, construction labor, professional services, revenue loss, or other costs associated with compliance.

**No cost associated with compliance. Providers are receiving a rate increase.**

(4) A reasonable determination of the dollar amounts of the costs to the agency of implementing the proposed rule, as well as the financial benefit to the agency of implementing the rule.

**It is projected that the Department will pay out an additional \$559,570 to Under 16 Bed ICF/MR providers.**

(5) Whether and to what extent alternative means exist for accomplishing the objectives of the proposed rule that might be less burdensome to small businesses and why such alternatives are not being proposed.

**Not Applicable**

(6) A comparison of the proposed rule with federal and state counterparts.

**Not Applicable**

Arkansas Department of Health and Human Services  
SPA #2011-006 - Rate Increase for Under 16 Bed ICF/MR Facilities  
Summary of Substantive Changes

The base per diem rate for Under 16 Bed ICF/MR facilities will increase 2.6% for dates of service beginning July 1, 2011.

# PROPOSED

## B. Intermediate Care Facilities for the Mentally Retarded – Continued

### 3. Under 16 Beds:

- a. Small ICF/MR facilities certified as having 15 beds or fewer will be reimbursed on a prospective uniform class rate system. An inflationary adjustment, determined by the Division to be reasonable and adequate, will be applied to the existing rates and will be implemented by State Plan amendment as warranted by analysis of cost report data. Cost reports will be submitted annually for the preceding calendar year (January 1 – December 31) and will be reviewed prior to establishing new rates. The Division has established the per diem rate of \$190.85 for dates of service beginning July 1, 2011. This 2.6% increase in per diem rate is based on the most currently available Skilled Nursing Facility Total Market Basket inflation data applied as an inflation adjustment to the previous rate.

- b. Provider Fee

Act 433 of 2009 established the levy of a provider fee on Intermediate Care Facilities for Individuals with Developmental Disabilities. The reimbursement rate paid Under 16 Beds facilities will include a Provider Fee component. The Provider Fee component will be reimbursed at the amount established as the multiplier for the date of service billed.

The Provider Fee component is paid in addition to the rate identified in paragraph a. above.

- c. Enhanced Care Add-On

The Department recognizes that the current class rate structure limits the providers' ability to invest additional monies for the purpose of improving the quality of care. Additionally the recent increase in the minimum wage (an unfunded federal mandate) will make it difficult for providers to maintain current standards much less improve the quality of care. Therefore the Department will implement an enhanced care add-on in the amount of \$7.02 per day. This enhanced payment will provide additional funds for wage adjustments in the base salaries for new hires and incumbent salaries to address the increase of the federal minimum wage in July 2009. This will also directly increase benefits related to these salary increases such as FICA, LTD, Life insurance, retirement, etc. This add-on will also provide funding for additional initiative

Mark up

B. Intermediate Care Facilities for the Mentally Retarded – Continued

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