

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 2273 of the Regular Session

1 State of Arkansas

As Engrossed: S3/9/05 S4/5/05 S4/7/05 S4/12/05

2 85th General Assembly

A Bill

3 Regular Session, 2005

SENATE BILL 275

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5 By: Joint Budget Committee

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For An Act To Be Entitled

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AN ACT TO MAKE AN APPROPRIATION FOR PERSONAL

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SERVICES AND OPERATING EXPENSES FOR THE

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DEPARTMENT OF HUMAN SERVICES - DIVISION OF

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MEDICAL SERVICES FOR THE BIENNIAL PERIOD ENDING

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JUNE 30, 2007; AND FOR OTHER PURPOSES.

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Subtitle

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AN ACT FOR THE DEPARTMENT OF HUMAN

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SERVICES - DIVISION OF MEDICAL SERVICES

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APPROPRIATION FOR THE 2005-2007

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BIENNIUM.

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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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SECTION 1. REGULAR SALARIES. There is hereby established for the

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Department of Human Services - Division of Medical Services for the 2005-2007

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biennium, the following maximum number of regular employees whose salaries

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shall be governed by the provisions of the Uniform Classification and

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Compensation Act (Arkansas Code §§21-5-201 et seq.), or its successor, and

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all laws amendatory thereto. Provided, however, that any position to which a

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specific maximum annual salary is set out herein in dollars, shall be exempt

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from the provisions of said Uniform Classification and Compensation Act. All

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persons occupying positions authorized herein are hereby governed by the

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provisions of the Regular Salaries Procedures and Restrictions Act (Arkansas

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Code §21-5-101), or its successor.



					Maximum Annual	
				Maximum	Salary Rate	
	Item	Class		No. of	Fiscal Years	
	No.	Code	Title	Employees	2005-2006	2006-2007
6	(1)	9985	DHS DEP DIR MEDICAL SERVICES	1	\$98,315	\$100,699
7	(2)	9487	REGISTERED PHARMACIST III	2	\$87,500	\$92,500
8	(3)	9486	REGISTERED PHARMACIST II	1	\$84,500	\$89,500
9	(4)	9485	REGISTERED PHARMACIST I	3	\$82,500	\$87,500
10	(5)	8965	DHS/DMS ADD - MEDICAL SERVICES	1	\$81,858	\$83,963
11	(6)	8938	DHS/DMS ASST DEP DIR LONG TRM CARE	1	\$81,858	\$83,963
12	(7)	8936	DHS/DMS ADD PROG & ADMIN SUPPORT	1	\$81,858	\$83,963
13	(8)	022Z	DHS/DCO CHIEF PROGRAM ADMR	4	GRADE 26	
14	(9)	023Z	DHS/DCO ASST CHIEF PROGRAM ADMR	4	GRADE 25	
15	(10)	118Z	DHS NURSING SERVICES ADMINISTRATOR	1	GRADE 25	
16	(11)	923Z	DHS PRGM ADMINISTRATOR	9	GRADE 23	
17	(12)	D124	LEAD PROGRAMMER/ANALYST	1	GRADE 22	
18	(13)	L078	NURSE SUPERVISOR	1	GRADE 22	
19	(14)	X338	ENGINEER, PE	2	GRADE 22	
20	(15)	L082	NURSING SERVICES SPECIALIST	13	GRADE 21	
21	(16)	L106	PHYSICAL THERAPY SUPV	1	GRADE 21	
22	(17)	L030	DIETARY SERVICES DIRECTOR	1	GRADE 21	
23	(18)	D036	SR PROGRAMMER/ANALYST	1	GRADE 21	
24	(19)	A251	SR AUDITOR	7	GRADE 21	
25	(20)	697Z	DHS PRGM MANAGER	11	GRADE 21	
26	(21)	A250	JR AUDITOR	1	GRADE 20	
27	(22)	L070	NURSE II	10	GRADE 20	
28	(23)	M027	DHS/DCO COUNTY SUPV II	1	GRADE 20	
29	(24)	R266	MANAGEMENT PROJECT ANALYST II	10	GRADE 20	
30	(25)	M088	SOCIAL WORKER II	3	GRADE 20	
31	(26)	M116	UTILIZATION REVIEW NURSE	60	GRADE 20	
32	(27)	Q046	MEDICARE/MEDICAID SURVEY SPECIALIST	20	GRADE 20	
33	(28)	R145	DHS PROGRAM COORDINATOR	5	GRADE 20	
34	(29)	R084	DHS STAFF SUPERVISOR	4	GRADE 19	
35	(30)	M154	DHS FIELD REPRESENTATIVE	8	GRADE 19	
36	(31)	R332	DHS POLICY DEVELOPMENT COORD	5	GRADE 19	

1	(32)	X358	HLTH FACILITY SURVEYOR	2	GRADE 19
2	(33)	L028	DIETICIAN	3	GRADE 19
3	(34)	M078	DHS/DEMS SUPERVISOR	2	GRADE 18
4	(35)	D129	DP COORDINATOR	1	GRADE 18
5	(36)	X352	HLTH CARE ANALYST II	21	GRADE 17
6	(37)	R010	ADMINISTRATIVE ASSISTANT II	16	GRADE 17
7	(38)	R110	MEDICAL PROGRAM REPRESENTATIVE	3	GRADE 17
8	(39)	R162	STATISTICIAN/STATISTICIAN II	1	GRADE 17
9	(40)	D005	COMPUTER OPERATOR II	1	GRADE 15
10	(41)	A108	ACCOUNTING TECHNICIAN II	3	GRADE 15
11	(42)	K041	EXECUTIVE SECY/ADMINISTRATIVE SECY	7	GRADE 14
12	(43)	K117	MEDICAL OR LEGAL SECRETARY	6	GRADE 14
13	(44)	K153	SECRETARY II	11	GRADE 13
14	(45)	M067	SOCIAL SERVICE AIDE II	1	GRADE 13
15	(46)	K039	DOCUMENT EXAMINER II	18	GRADE 12
16	(47)	K155	SECRETARY I	<u>1</u>	GRADE 11
17			MAX. NO. OF EMPLOYEES	290	

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19 SECTION 2. EXTRA HELP. There is hereby authorized, for the Department of
 20 Human Services - Division of Medical Services for the 2005-2007 biennium, the
 21 following maximum number of part-time or temporary employees, to be known as
 22 "Extra Help", payable from funds appropriated herein for such purposes:
 23 seven (7) temporary or part-time employees, when needed, at rates of pay not
 24 to exceed those provided in the Uniform Classification and Compensation Act,
 25 or its successor, or this act for the appropriate classification.

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27 SECTION 3. APPROPRIATION - OPERATIONS. There is hereby appropriated, to
 28 the Department of Human Services - Division of Medical Services, to be
 29 payable from the paying account as determined by the Chief Fiscal Officer of
 30 the State, for personal services and operating expenses of the Department of
 31 Human Services - Division of Medical Services - Operations for the biennial
 32 period ending June 30, 2007, the following:

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34 ITEM	FISCAL YEARS	
35 <u>NO.</u>	<u>2005-2006</u>	<u>2006-2007</u>
36 (01) REGULAR SALARIES	\$ 11,519,845	\$ 11,859,648

1	(02) EXTRA HELP	126,892	126,892
2	(03) PERSONAL SERVICES MATCHING	3,395,515	3,462,464
3	(04) OVERTIME	5,000	5,000
4	(05) MAINT. & GEN. OPERATION		
5	(A) OPER. EXPENSE	3,152,863	3,152,863
6	(B) CONF. & TRAVEL	235,840	235,840
7	(C) PROF. FEES	355,132	355,132
8	(D) CAP. OUTLAY	195,000	195,000
9	(E) DATA PROC.	0	0
10	(06) DATA PROCESSING SERVICES	<u>89,800</u>	<u>89,800</u>
11	TOTAL AMOUNT APPROPRIATED	<u>\$ 19,075,887</u>	<u>\$ 19,482,639</u>

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13 SECTION 4. APPROPRIATION - GRANTS. There is hereby appropriated, to the
 14 Department of Human Services - Division of Medical Services, to be payable
 15 from the paying account as determined by the Chief Fiscal Officer of the
 16 State, for grant payments of the Department of Human Services - Division of
 17 Medical Services - Grants for the biennial period ending June 30, 2007, the
 18 following:

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21	ITEM	FISCAL YEARS	
22	<u>NO.</u>	<u>2005-2006</u>	<u>2006-2007</u>
23	(01) PRIVATE NURSING HOME CARE	\$ 551,888,013	\$ 603,733,137
24	(02) INFANT INFIRMARY	19,712,761	21,285,102
25	(03) PUBLIC NURSING HOME CARE	153,904,953	161,368,197
26	(04) PRESCRIPTION DRUGS	499,394,825	603,916,423
27	(05) HOSPITAL AND MEDICAL SERVICES	2,216,514,873	2,554,242,384
28	(06) CHILD AND FAMILY LIFE INSTITUTE	2,100,000	2,100,000
29	(07) PRESCRIPTION DRUG WAIVER FOR THE		
30	ELDERLY	<u>10,785,287</u>	<u>10,785,287</u>
31	TOTAL AMOUNT APPROPRIATED	<u>\$3,454,300,712</u>	<u>\$3,957,430,530</u>

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33 SECTION 5. APPROPRIATION - ARKIDS B PROGRAM. There is hereby appropriated,
 34 to the Department of Human Services - Division of Medical Services, to be
 35 payable from the paying account as determined by the Chief Fiscal Officer of
 36 the State, for grant payments of the Department of Human Services - Division

1 of Medical Services - ARKIDS B Program for the biennial period ending June
 2 30, 2007, the following:

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ITEM	FISCAL YEARS	
<u>NO.</u>	<u>2005-2006</u>	<u>2006-2007</u>
(01) ARKIDS B PROGRAM	<u>\$ 67,098,915</u>	<u>\$ 80,476,520</u>

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9 SECTION 6. APPROPRIATION - NURSING HOME CLOSURE COSTS. There is hereby
 10 appropriated, to the Department of Human Services - Division of Medical
 11 Services, to be payable from the Long-Term Care Trust Fund, for the payment
 12 of relocation costs of residents in long-term care facilities, maintenance
 13 and operation of a facility pending correction of deficiencies or closure,
 14 and reimbursement of residents for personal funds lost for the biennial
 15 period ending June 30, 2007, the following:

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ITEM	FISCAL YEARS	
<u>NO.</u>	<u>2005-2006</u>	<u>2006-2007</u>
(01) EXPENSES	<u>\$ 50,000</u>	<u>\$ 50,000</u>

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22 SECTION 7. APPROPRIATION - LONG TERM CARE FACILITY RECEIVERSHIP. There is
 23 hereby appropriated, to the Department of Human Services - Division of
 24 Medical Services, to be payable from the Long Term Care Facility Receivership
 25 Fund Account, for the payment of expenses of long-term care facility
 26 receivers as authorized by law of the Department of Human Services - Division
 27 of Medical Services - Long Term Care Facility Receivership for the biennial
 28 period ending June 30, 2007, the following:

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ITEM	FISCAL YEARS	
<u>NO.</u>	<u>2005-2006</u>	<u>2006-2007</u>
(01) EXPENSES	<u>\$ 100,000</u>	<u>\$ 100,000</u>

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35 SECTION 8. APPROPRIATION - NURSING ASSISTANT TRAINING PROGRAM. There is
 36 hereby appropriated, to the Department of Human Services - Division of

1 Medical Services, to be payable from the paying account as determined by the
 2 Chief Fiscal Officer of the State, for expansion of minimum training hours
 3 for nurses aide training programs for all long-term care facilities in the
 4 state of the Department of Human Services - Division of Medical Services for
 5 the biennial period ending June 30, 2007, the following:

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7 ITEM	FISCAL YEARS	
8 <u>NO.</u>	<u>2005-2006</u>	<u>2006-2007</u>
9 (01) PRIVATE NURSING HOME CARE – EXPANDED		
10 NURSING ASSISTANT TRAINING PROGRAM	\$ 230,000	\$ 230,000

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12 SECTION 9. APPROPRIATION - IN-HOME SERVICES, WIC, AND MERGER. There is
 13 hereby appropriated, to the Department of Human Services - Division of
 14 Medical Services, to be payable from the paying account as determined by the
 15 Chief Fiscal Officer of the State, to provide for the anticipated increases
 16 in the demand for In-Home services, Women’s, Infants and Children Program
 17 (WIC), and to provide federal matching funds and grants resulting from the
 18 merger of the Department of Human Services and the Department of Health for
 19 the biennial period ending June 30, 2007, the following:

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21 ITEM	FISCAL YEARS	
22 <u>NO.</u>	<u>2005-2006</u>	<u>2006-2007</u>
23 (01) IN-HOME SERVICES, WIC, AND MATCHING		
24 FUNDS AND GRANTS	\$ 15,000,000	\$ 15,000,000

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26 SECTION 10. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
 27 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. DEPARTMENT
 28 OF HUMAN SERVICES GRANTS FUND ACCOUNT. The Department of Human Services
 29 Grants Fund Account shall be used for the following grant programs to consist
 30 of general revenues and any other nonfederal funds, as may be appropriated by
 31 the General Assembly:

- 32 (i) Children’s Medical Services;
 33 (ii) Food Stamp Employment and Training Program;
 34 (iii) Aid to the Aged, Blind, and Disabled;
 35 (iv) Transitional Employment Assistance Program;
 36 (v) Private nursing home care;

- 1 (vi) Infant Infirmary - nursing home care;
2 (vii) Public Nursing Home Care;
3 (viii) Prescription Drugs;
4 (ix) Hospital and Medical Services;
5 (x) Child and Family Life Institute;
6 (xi) Community Services Block Grant;
7 (xii) ARKIDSFIRST;
8 (xiii) Child Health Management Services;
9 (xiv) Child Care Grant; and
10 (xv) Prescription Drug Elderly

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12 SECTION 11. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
13 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL
14 SERVICES - CARRY FORWARD. The unexpended balances in appropriations made
15 from federal funds, for Medical Services, as provided for in this Act on June
16 30, ~~2004~~ 2006 shall be carried forward and made available for expenditures
17 for the same purpose for the fiscal year ending June 30, ~~2005~~ 2007.

18 The provisions of this section shall be in effect only from July 1, ~~2003~~
19 2005 through June 30, ~~2005~~ 2007.

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21 SECTION 12. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
22 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL
23 SERVICES - CHILD AND FAMILY LIFE INSTITUTE. The Child Health and Family Life
24 Institute shall be administered under the direction of Arkansas Children's
25 Hospital. Arkansas Children's Hospital shall enter into a cooperative
26 agreement and/or contract with the University of Arkansas for Medical
27 Sciences - Department of Pediatrics for services required in delivering the
28 programs of the Child Health and Family Life Institute. Utilizing a
29 multidisciplinary collaboration of professionals, the Child Health and Family
30 Life Institute shall provide a statewide effort to explore, develop and
31 evaluate new and better ways to address medically, socially and economically
32 interrelated health and developmental needs of children with special health
33 care needs and their families. The Child Health and Family Life Institute's
34 priorities shall include, but are not limited to, wellness and prevention,
35 screen and diagnosis, treatment and intervention, training and education and
36 research and evaluation.

1 Arkansas Children's Hospital and the University of Arkansas for Medical
2 Sciences-Department of Pediatrics shall make ~~semi~~-annual reports to the
3 Arkansas Legislative Council on all matters of funding, existing programs and
4 services offered through the Child Health and Family Life Institute.

5 The provisions of this section shall be in effect only from July 1, ~~2003~~
6 2005 through June 30, ~~2005~~ 2007.

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8 SECTION 13. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
9 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL
10 SERVICES - PHARMACEUTICAL DISPENSING FEE SURVEY. No more than two years prior
11 to making any changes to the current pharmaceutical dispensing fee, the State
12 shall conduct an independent survey utilizing generally accepted accounting
13 principles, to determine the cost of dispensing a prescription by pharmacists
14 in Arkansas. Only factors relative to the cost of dispensing shall be
15 surveyed. These factors shall not include actual acquisition costs or
16 average profit or any combination of actual acquisition costs or average
17 profit. The survey results shall be the basis for establishing the
18 dispensing fee paid to participating pharmacies in the Medicaid prescription
19 drug program in accordance with Federal requirements. The dispensing fee
20 shall be no lower than the cost of dispensing as determined by the survey.
21 Nothing in this section shall be construed to prohibit the State from
22 increasing the dispensing fee at any time.

23 The provisions of this section shall be in effect only from July 1, ~~2003~~
24 2005 through June 30, ~~2005~~ 2007.

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26 SECTION 14. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
27 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL
28 SERVICES GENERAL MEDICAID RATE METHODOLOGY PROVISIONS. (a) Rates established
29 by the Division of Medical Services for the services or programs covered by
30 this Act shall be calculated by the methodologies approved by the Centers for
31 Medicare and Medicaid Services (CMS). The Division of Medical Services shall
32 have the authority to reduce or increase rates based on the approved
33 methodology. Further, the Division of Medical Services shall have the
34 authority to increase or decrease rates for good cause including, but not
35 limited to: (1) identification of provider(s) who can render needed services
36 of equal quality at rates less than traditionally charged and who meet the

1 applicable federal and state laws, rules and regulations pertaining to the
2 provision of a particular service, (2) identification that a provider or
3 group of providers has consistently charged rates to the Arkansas Medicaid
4 Program greater than to other purchasers of medical services of similar size,
5 (3) the Division determines that there has been significant changes in the
6 technology or process by which services are provided by a provider or group
7 of providers which has affected the costs of providing services, or (4) a
8 severe economic downturn in the Arkansas economy which has affected the
9 overall state budget of the Division of Medical Services.

10 The Division of Medical Services shall make available to requesting
11 providers, the CMS's inflationary forecasts (CMS Market Basket Index). Rates
12 established with cost of living increases based on the CMS Market Basket
13 Index or other indices will be adjusted annually except when the state budget
14 does not provide sufficient appropriation and funding to affect the change or
15 portion thereof.

16 (b) Any rate methodology changes proposed by the Division of Medical Services
17 both of a general and specific nature, shall be subject to prior review by
18 the Legislative Council or Joint Budget Committee.

19 The provisions of this section shall be in effect only from July 1, ~~2003~~
20 2005 through June 30, ~~2005~~ 2007.

21
22 SECTION 15. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
23 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL
24 SERVICES - STATE MEDICAID PROGRAM/PERSONAL CARE PROGRAM. (a) It is the
25 Legislative intent that the Department of Human Services in its
26 administration of the Arkansas Medicaid Program set forth Medicaid provider
27 participation requirements for "personal care providers" that will insure
28 sufficient available providers to meet the required needs of all eligible
29 recipients, to include insuring available in-home services twenty-four hours
30 a day and seven days a week for personal care.

31 (b) For the purposes of this section, "private care agencies" are defined as
32 those providers licensed by the Department of Labor, certified as
33 ElderChoices Providers and who furnish in-home staffing services for respite,
34 chore services, and homemaker services, and are covered by liability
35 insurance of not less than one million dollars (\$1,000,000.00) covering their
36 employees and independent contractors while they are engaged in providing

1 services, such as personal care, respite, chore services, and homemaker
2 services.

3 (c) The purpose of this section is to allow the private care agencies defined
4 herein to be eligible to provide Medicaid reimbursed personal care services
5 seven days a week, and does not supercede Department of Human Services rules
6 establishing monthly benefit limits and prior authorization requirements.

7 (d) The availability of providers shall not require the Department of Human
8 Services to reimburse for 24 hours per day of personal care services.

9 (e) The Arkansas Department of Human Services, Medical Services Division
10 shall take such action as required by the Centers for Medicare and Medicaid
11 Services to amend the Arkansas Medicaid manual to include, private care
12 agencies, as qualified entities to provide Medicaid reimbursed personal care
13 services.

14 (f) The private care agencies shall comply with rules and regulations
15 promulgated by the Arkansas Department of Health which shall establish a
16 separate licensure category for the private care agencies for the provision
17 of Medicaid reimbursable personal care services seven days a week.

18 (g) The Arkansas Department of Health shall supervise the conduct of the
19 private care agencies defined herein.

20 (h) The purpose of this section is to insure the care provided by the private
21 care agencies, is consistent with the rules and regulations of the Arkansas
22 Department of Health.

23 The provisions of this section shall be in effect only from July 1, ~~2003~~
24 2005 through June 30, ~~2005~~ 2007.

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26 SECTION 16. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
27 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL
28 SERVICES - BORDER CITY DDTCS AND ELDERCHOICES PROVIDERS. Approved Arkansas
29 Medicaid providers of Developmental Day Treatment Clinic Services (DDTCS) and
30 ElderChoices Services, or their successor programs, who have out-of-state
31 border city facilities may be licensed by the State of Arkansas and/or
32 contract with the State to be reimbursed for Medicaid eligible services
33 delivered to Arkansas residents who are Medicaid eligible.

34 The provisions of this section shall be in effect only from July 1, ~~2003~~
35 2005 through June 30, ~~2005~~ 2007.

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1 SECTION 17. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
2 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. FUND
3 USAGE AUTHORIZED. The Arkansas Children's Hospital may request the
4 Department of Human Services - Division of Medical Services to retain in the
5 Department of Human Services Grant Fund account an amount not to exceed
6 \$2,100,000 each fiscal year from funds made available by this Act for the
7 Child and Family Life Institute, *Section 4, item number 06* to be used to
8 match federal funds used for supplemental Medicaid payments to Arkansas
9 Children's Hospital. These retained funds shall not be recovered for transfer
10 to the General Revenue Allotment Reserve Fund.

11
12 SECTION 18. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
13 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. STATE
14 PLAN. The State Plan must include the provision of EPSDT services as those
15 services are defined in §1396d(r). See §§ 1396a(a)(10)(A),
16 1396d(a)(4)(B); see also 1396a(a)(43). Section 1396d(r) lists in detail the
17 screening services, vision services, dental services, and hearing services
18 that the State Plan must expressly include, but with regard to treatment
19 services, it states that EPSDT means "[s]uch other necessary health care,
20 diagnostic services, treatment, and other measures described in subsection
21 (a) of this section to correct or ameliorate defects and physical and mental
22 illnesses and conditions discovered by the screening services, whether or not
23 such services are covered under the State plan." 42 U.S.C. § 1396d(r)(5)
24 (emphasis added). Reading §1396a, § 1396d(a), and § 1396d(r) together, we
25 believe that the State Plan need not specifically list every treatment
26 service conceivably available under the EPSDT mandate.
27 The State Plan, however, must pay part or all of the cost of treatments to
28 ameliorate conditions discovered by the screening process when those
29 treatments meet. The definitions set forth in § 1396a. See § 1396d(r)(5);
30 see also §§ 1396a(a)(10), 1396a (a)(43), and 1396d(a)(4)(B). The Arkansas
31 State Plan states that the "State will provide other health care described in
32 [42 U.S.C. 1396d(a)] that is found to be medically necessary to correct or
33 ameliorate defects and physical and mental illnesses and conditions
34 discovered by the screening services, even when such health care is not
35 otherwise covered under the State Plan." See State Plan Under Title XIX of
36 the Social Security Act Medical Assistance Program, State Of Arkansas at §

1 4.b. This provision Meets the EPSDT mandate of the Medicaid Act.
2 We affirm the district court's decision to the extent that it holds that a
3 Medicaid-Eligible individual has a federal right to early intervention day
4 treatment when a physician recommends such treatment. Section 1396d(r)(5)
5 states that EPSDT includes any treatments or measures outlined in § 1396d(a).
6 There are twenty-seven sub-parts to § 1396d(a), and we find that sub-part
7 (a)(13), in particular, when read with the other sections of the Medicaid Act
8 listed above, mandates that early intervention day treatment be provided when
9 it is prescribed by a physician. See 42 U.S.C. § 1396d(a)(13) (defining
10 medical assistance reimbursable by Medicaid as "other diagnostic, screening,
11 preventive, and rehabilitative services, including any medical or remedial
12 services recommended by a physician...for the maximum reduction of physical and
13 mental disability and restoration of an individual to the best possible
14 functional level"). Therefore, after CHMS clinic staff perform a diagnostic
15 evaluation of an eligible child, if the CHMS physician prescribes early
16 intervention day treatment as a service that would lead to the maximum
17 reduction of medical and physical disabilities and restoration of the child
18 to his or her best possible functional level, the Arkansas State Plan must
19 reimburse the treatment. Because CHMS clinics are the only providers of
20 early intervention day treatment, Arkansas must reimburse those clinics.

21
22 SECTION 19. COMPLIANCE WITH OTHER LAWS. Disbursement of funds authorized
23 by this act shall be limited to the appropriation for such agency and funds
24 made available by law for the support of such appropriations; and the
25 restrictions of the State Procurement Law, the General Accounting and
26 Budgetary Procedures Law, the Revenue Stabilization Law, the Regular Salary
27 Procedures and Restrictions Act, or their successors, and other fiscal
28 control laws of this State, where applicable, and regulations promulgated by
29 the Department of Finance and Administration, as authorized by law, shall be
30 strictly complied with in disbursement of said funds.

31
32 SECTION 20. LEGISLATIVE INTENT. It is the intent of the General Assembly
33 that any funds disbursed under the authority of the appropriations contained
34 in this act shall be in compliance with the stated reasons for which this act
35 was adopted, as evidenced by the Agency Requests, Executive Recommendations
36 and Legislative Recommendations contained in the budget manuals prepared by

1 the Department of Finance and Administration, letters, or summarized oral
2 testimony in the official minutes of the Arkansas Legislative Council or
3 Joint Budget Committee which relate to its passage and adoption.

4
5 SECTION 21. EMERGENCY CLAUSE. It is found and determined by the General
6 Assembly, that the Constitution of the State of Arkansas prohibits the
7 appropriation of funds for more than a two (2) year period; that the
8 effectiveness of this Act on July 1, 2005 is essential to the operation of
9 the agency for which the appropriations in this Act are provided, and that in
10 the event of an extension of the Regular Session, the delay in the effective
11 date of this Act beyond July 1, 2005 could work irreparable harm upon the
12 proper administration and provision of essential governmental programs.
13 Therefore, an emergency is hereby declared to exist and this Act being
14 necessary for the immediate preservation of the public peace, health and
15 safety shall be in full force and effect from and after July 1, 2005.

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17 */s/ Joint Budget Committee*

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20 *APPROVED: 4/14/2005*
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