

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011  
4

As Engrossed: S3/17/11 H3/23/11

# A Bill

SENATE BILL 846

5 By: Senators J. Dismang, Laverty  
6

## For An Act To Be Entitled

8 AN ACT TO PROVIDE THAT PERSONS WITH DEVELOPMENTAL  
9 DISABILITIES HAVE EQUAL ACCESS TO MEDICAID PERSONAL  
10 CARE SERVICES IN DESIGNATED RESIDENTIAL SETTINGS; AND  
11 FOR OTHER PURPOSES.  
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### Subtitle

14 TO PROVIDE THAT PERSONS WITH  
15 DEVELOPMENTAL DISABILITIES HAVE EQUAL  
16 ACCESS TO MEDICAID PERSONAL CARE SERVICES  
17 IN DESIGNATED RESIDENTIAL SETTINGS.  
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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23 *SECTION 1. Arkansas Code § 20-47-301 is amended to read as follows:*  
24 *20-47-301. Legislative findings and intent.*

25 *(a)(1) The General Assembly recognizes that the state encouraged the*  
26 *placement of mentally ill residents into residential care facilities over a*  
27 *decade ago and has taken various approaches to funding since then. The*  
28 *General Assembly also recognizes that there are inherent problems with the*  
29 *current system that create disincentives for proper care and physical*  
30 *environments.*

31 *(2) The General Assembly further recognizes that:*

32 *(A) Individuals with developmental disabilities living in*  
33 *group homes, community residential housing, and apartments operated by*  
34 *nonprofit community programs as defined in § 20-48-101 face many of the same*  
35 *challenges in receiving proper care and assistance with activities of daily*  
36 *living as individuals with mental illness living in residential care*



1 facilities;

2 (B) An individual with mental illness who is Medicaid-  
3 eligible and lives in a residential care facility can receive Medicaid  
4 congregate-setting personal care services to assist with activities of daily  
5 living while an individual with developmental disabilities who is Medicaid-  
6 eligible and lives in a group home, community residential housing, or  
7 apartment operated by a nonprofit community program as defined in § 20-48-101  
8 is not able to receive similar services through the Medicaid Personal Care  
9 Program; and

10 (C) This inequity must be corrected in order to provide  
11 equal access to Medicaid congregate-setting personal care services for  
12 individuals with developmental disabilities.

13 (b) The purpose of this subchapter is to provide short-term solutions  
14 and long-term solutions to the problem of caring for ~~mentally ill persons~~  
15 individuals with mental illness, elderly persons, and other residents in  
16 residential care facilities and assisted living facilities and individuals  
17 with developmental disabilities living in group homes, community residential  
18 housing, and apartments operated by nonprofit community programs as defined  
19 in § 20-48-101.

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21 SECTION 2. Arkansas Code § 20-47-303 is amended to read as follows:

22 20-47-303. Per diem Multi-hour daily service rate reimbursement.

23 (a) As used in this section:

24 (1) "Congregate setting" means a location within a residential  
25 care facility, an assisted living facility, or a designated residential  
26 setting of a nonprofit community program as defined in § 20-48-101 or its  
27 nonprofit affiliates;

28 (2) "Designated residential setting" includes the following when  
29 operated by a nonprofit community program as defined in § 20-48-101:

30 (A) A group home for individuals with developmental  
31 disabilities in operation and licensed by the Division of Developmental  
32 Disabilities Services of the Department of Human Services on or before July  
33 1, 1995;

34 (B) A community residential home established after July 1,  
35 1995, that serves individuals with developmental disabilities and provides  
36 housing for no more than four (4) unrelated persons; or

1 (C) An apartment complex established after July 1, 1995,  
2 that serves individuals with developmental disabilities; and

3 (3)(A) "Intermediate care facility for individuals with  
4 developmental disabilities" means a residential institution maintained for  
5 the care and training of individuals with developmental disabilities,  
6 including without limitation individuals with intellectual disabilities.

7 (B) "Intermediate care facility for individuals with  
8 developmental disabilities" has the same meaning as "intermediate care  
9 facility for the mentally retarded" or "ICF/MR" under federal law.

10 ~~(a)(b)(1)(A)~~ The Department of Human Services shall reimburse  
11 residential care facilities, on a per diem basis, subject to approval by the  
12 Health Care Financing Administration, and shall develop Medicaid provider  
13 regulations appropriate for a congregate setting and per diem reimbursement  
14 assisted living facilities, and qualified nonprofit community programs with a  
15 multi-hour daily service rate for personal care services delivered in  
16 congregate settings as provided in this section and approved by the Centers  
17 for Medicare and Medicaid Services.

18 (B) The application of subdivision (b)(1)(A) to nonprofit  
19 community programs is subject to available funds.

20 (2) The department shall maintain Medicaid provider regulations  
21 appropriate for the delivery of personal care services in congregate settings  
22 and the related multi-hour daily service rate reimbursement methodology.

23 (3) The department shall make ~~the~~ best efforts to obtain and  
24 maintain approval for a multi-hour daily service rate reimbursement for  
25 personal care services delivered in congregate settings from ~~the~~  
26 administration the Centers for Medicare and Medicaid Services.

27 ~~(b)(c)~~ The department shall provide copies to the Administrative Rules  
28 and Regulations Committee of the Legislative Council, providers, and the  
29 public of all state plan amendments, documentation, and correspondence  
30 submitted to or received from ~~the administration~~ the Centers for Medicare and  
31 Medicaid Services in regard to this section and shall work jointly with  
32 provider representatives in ~~seeking administration~~ obtaining and maintaining  
33 approval for a multi-hour daily service rate for personal care services  
34 delivered in congregate settings from the Centers for Medicare and Medicaid  
35 Services.

36 (d)(1) The Division of Medical Services of the Department of Human

1 Services shall use the same multi-hour daily service rate reimbursement  
2 methodology for personal care services delivered in a congregate setting  
3 located in a designated residential setting of a nonprofit community program  
4 as defined in § 20-48-101 as for personal care services delivered in a  
5 congregate setting located in a residential care facility and an assisted  
6 living facility.

7 (2) Reimbursement for personal care services under this section  
8 is not available to an individual with a developmental disability who resides  
9 in an intermediate care facility for individuals with developmental  
10 disabilities.

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12 /s/J. Dismang  
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15 **APPROVED: 04/04/2011**  
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