

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

As Engrossed: S3/1/11  
**A Bill**

SENATE BILL 341

5 By: Senators Laverty, D. Johnson, S. Harrelson, P. Malone, D. Wyatt  
6

7 **For An Act To Be Entitled**

8 *AN ACT TO ESTABLISH A MEDICAID PROVIDER FEE FOR*  
9 *SERVICES PROVIDED THROUGH OR IDENTICAL TO THOSE*  
10 *PROVIDED UNDER THE ALTERNATIVE COMMUNITY SERVICES*  
11 *WAIVER ADMINISTERED BY THE DIVISION OF DEVELOPMENTAL*  
12 *DISABILITIES SERVICES OF THE DEPARTMENT OF HUMAN*  
13 *SERVICES; TO DECLARE AN EMERGENCY; AND FOR OTHER*  
14 *PURPOSES.*

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17 **Subtitle**

18 *TO ESTABLISH A MEDICAID PROVIDER FEE FOR*  
19 *SERVICES PROVIDED UNDER THE ALTERNATIVE*  
20 *COMMUNITY SERVICES WAIVER ADMINISTERED BY*  
21 *DDS AND TO DECLARE AN EMERGENCY.*

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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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26 *SECTION 1. Arkansas Code Title 20, Chapter 48 is amended to add an*  
27 *additional subchapter to read as follows:*

28 *Subchapter 10 – Alternative Community Services Waiver Provider Fee*

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30 *20-48-1001. Definitions.*

31 *As used in this subchapter:*

32 *(1) “Alternative Community Services Waiver” means the home and*  
33 *community-based waiver program authorized by the Centers for Medicare and*  
34 *Medicaid Services under § 1915(c) of the Social Security Act, 42 U.S.C. §*  
35 *1396 et seq., and administered by the Division of Developmental Disabilities*  
36 *of the Department of Human Services;*



1 (2)(A) "Gross receipts" means compensation paid to a provider  
2 for services provided through, or identical to those provided under, the  
3 Alternative Community Services Waiver.

4 (B) "Gross receipts" does not include charitable  
5 contributions; and

6 (3) "Medicaid" means the medical assistance program established  
7 by Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq., and  
8 administered by the Division of Medical Services of the Department of Human  
9 Services.

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11 20-48-1002. Provider fee.

12 (a)(1) There is imposed a provider fee on services provided through,  
13 or identical to those provided under, the Alternative Community Services  
14 Waiver to be calculated in accordance with this section.

15 (2) The provider fee shall be an amount calculated by the  
16 Division of Medical Services of the Department of Human Services to produce a  
17 provider fee payment equal to six percent (6%) of the gross receipts received  
18 by each provider.

19 (b)(1)(A) The provider fee shall be payable in monthly payments.

20 (B) Each monthly payment shall be due and payable for the  
21 previous month by the thirtieth day of each month.

22 (2) The division shall seek approval from the Centers for  
23 Medicare and Medicaid Services to treat the provider fee as an allowable cost  
24 for Medicaid reimbursement purposes.

25 (c) A provider of services under the Alternative Community Services  
26 Waiver shall not be guaranteed, expressly or otherwise, that any additional  
27 moneys paid to the provider for services under the Alternative Community  
28 Services Waiver will equal or exceed the amount of its provider fee.

29 (d)(1) The division shall ensure that the rate of imposition of the  
30 provider fee established in this section equals, but does not exceed, the  
31 maximum rate of imposition established under federal law and rule for health  
32 care-related provider fees without reduction in federal financial  
33 participation in Medicaid.

34 (2) If the division determines that the rate of imposition of  
35 the provider fee established in this section exceeds the maximum rate of  
36 imposition that federal law and rule allow for health-create related provider

1 fees without reduction in federal financial participation in Medicaid, the  
2 division shall lower the rate of imposition of the provider fee to a rate  
3 that is equal to the maximum rate that federal law and rule allow for health-  
4 create related provider fees without reduction in federal financial  
5 participation in Medicaid.

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7 20-48-1003. Administration.

8 (a) The administration of this subchapter shall be exercised by the  
9 Director of the Division of Medical Services of the Department of Human  
10 Services and shall be subject to the provisions of the Arkansas  
11 Administrative Procedure Act, § 25-15-201 et seq.

12 (b)(1) In accordance with the Arkansas Administrative Procedure Act, §  
13 25-15-201 et seq., the Division of Medical Services of the Department of  
14 Human Services shall promulgate rules and prescribe forms for:

15 (A) The proper imposition and collection of the provider  
16 fee;

17 (B)(i) The enforcement of this subchapter, including  
18 without limitation certification nonrenewal, letters of caution, sanctions,  
19 or fines.

20 (ii)(a) The fine for failure to comply with payment  
21 and reporting requirements shall be at least one thousand dollars (\$1,000)  
22 but no more than one thousand five hundred dollars (\$1,500).

23 (b) The fine and, if applicable, the  
24 outstanding balance of the provider fee shall accrue interest at the maximum  
25 rate permitted by law from the date the fine and, if applicable, the provider  
26 fee is due until payment of the outstanding balance of the fine and, if  
27 applicable, the provider fee;

28 (C) The format for reporting gross receipts; and

29 (D) The administration of this subchapter.

30 (2) The rules shall not grant any exceptions to, or exceptions  
31 from, the provider fee.

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33 20-48-1004. Use of funds.

34 (a)(1) The provider fee imposed and collected under this subchapter  
35 shall be deposited into a designated account within the Arkansas Medicaid  
36 Program Trust Fund.

1           (2) The designated account shall be separate and distinct from  
2 the general fund and shall be supplementary to the trust fund.

3           (3) The designated account moneys in the trust fund and the  
4 matching federal financial participation under Title XIX of the Social  
5 Security Act, 42 U.S.C. § 1396 et seq., shall be used only as follows:

6           (A) For the amount resulting from the first five and one-  
7 half percent (5.5%) of the provider fee:

8           (i) A minimum of fifty percent (50%) shall be used  
9 for the support and enhancement of services under the Alternative Community  
10 Services Waiver to persons with developmental disabilities; and

11           (ii) An amount not to exceed fifty percent (50%) may  
12 be used by the Division of Medical Services of the Department of Human  
13 Services; and

14           (B) The amount resulting from the next five-tenths of one  
15 percent (0.5% of the provider fee shall be used by the Division of  
16 Developmental Disabilities Services of the Department of Human Services for  
17 the support of the state's Human Development Centers.

18           (b)(1) The designated account moneys in the trust fund from the  
19 provider fee imposed and collected under this subchapter that are unused at  
20 the end of a fiscal year shall be carried forward.

21           (2) The designated account moneys in the trust fund from the  
22 provider fee imposed and collected under this subchapter may not be used to  
23 supplant other local, state, or federal funds.

24           (3) The designated account moneys in the trust fund from the  
25 provider fee imposed and collected under this subchapter shall be exempt from  
26 budgetary cuts, reductions, or eliminations caused by a deficiency of general  
27 revenues.

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29           20-48-1005. Effectiveness and cessation.

30           The imposition imposed under § 20-48-1002 shall not take effect or  
31 shall cease to be imposed if the imposition is determined to be an  
32 impermissible tax or not eligible for federal financial participation under  
33 Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq.

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35           SECTION 2. EMERGENCY CLAUSE. It is found and determined by the  
36 General Assembly of the State of Arkansas that a large number of people with

1 disabilities are on a waiting list for home and community-based services;  
2 that the payments created in this act will help reduce the waiting list; and  
3 that the payments created in this act are immediately necessary to prevent  
4 irreparable harm to the individuals with disabilities who are on the waiting  
5 lists. Therefore, an emergency is declared to exist and this act being  
6 necessary for the preservation of the public peace, health, and safety shall  
7 become effective on:

8 (1) The date of its approval by the Governor;

9 (2) If the bill is neither approved nor vetoed by the Governor,  
10 the expiration of the period of time during which the Governor may veto the  
11 bill; or

12 (3) If the bill is vetoed by the Governor and the veto is  
13 overridden, the date the last house overrides the veto.

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15 /s/Laverty  
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18 **APPROVED: 03/15/2011**  
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