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November 17, 2021

Hon. Terry Rice, Co-Chair
Hon. Jeff Wardlaw, Co-Chair
Arkansas Legislative Council
1 Capitol Mall, Fifth Floor
Little Rock, Arkansas 72201

Dear Senator Rice and Representative Wardlaw:

Pursuant to Act 977 of 2021, the Arkansas Department of Human Services requests approval from the Arkansas Legislative Council to establish a COVID-19 vaccine policy for DHS employees working in healthcare facilities that are subject to the Centers for Medicare & Medicaid Services ("CMS") promulgated interim final rule ("IFR"). Act 977 of 2021 states as follows:

If a state-owned or state-controlled medical facility desires to mandate or require an individual to receive a vaccine or immunization for coronavirus 2019 (COVID-19), then the state-owned or state-controlled medical facility shall receive approval from the Legislative Council to mandate or require individual to receive a vaccine or immunization for coronavirus 2019 (COVID-19).

On November 5, 2021, CMS promulgated an IFR that requires all Medicaid-Certified Providers and Suppliers that are regulated under Conditions of Participation to ensure that staff are vaccinated for COVID-19. As currently written in the IFR, the first implementation steps must be completed by December 5th, 2021.

The State of Arkansas has joined other states in filing suit to block the CMS mandate. If the IFR is not blocked or delayed by the judiciary, DHS must be prepared to comply with the CMS mandate to avoid the loss of federal Medicaid and Medicare funding.

Therefore, DHS requests that the Arkansas Legislative Council, at its November 19, 2021, meeting, grant permission under Act 977 for DHS to comply with the IFR and any subsequent guidance from CMS. If judicial action blocks or delays the CMS mandate, DHS will not enforce the COVID-19 vaccine policy.

Sincerely,

A handwritten signature in blue ink, appearing to read "Cindy Gillespie".

Cindy Gillespie
Secretary of Human Services