

**ADMINISTRATIVE RULES SUBCOMMITTEE
OF THE
ARKANSAS LEGISLATIVE COUNCIL**

**Tuesday, July 20, 2021
9:00 a.m.
Room A, MAC
Little Rock, Arkansas**

- A. Call to Order.**
- B. Report on the Acts of the 2021 Regular Session Requiring New Rulemaking.**
- C. Reports of the Executive Subcommittee.**
- D. Rules Filed Pursuant to Ark. Code Ann. § 10-3-309.**

**1. DEPARTMENT OF COMMERCE, OFFICE OF SKILLS
DEVELOPMENT (Mr. Cody Waits, Ms. Stephanie Isaacs)**

a. SUBJECT: Secondary Career Center Rule Changes

DESCRIPTION: The Department of Commerce’s Office of Skills Development (“OSD”) proposes changes to its Rules for Secondary Technical Centers. The rules currently state that the funds shall be distributed once in the fall semester and once in the spring semester, based on a tiered funding formula for enrollment. These rule changes will provide additional flexibility to the OSD and Department of Education (“ADE”) with how to spend any excess funding remaining at the end of the fiscal year, as well as allow the OSD to cap the amount of funding a secondary center may carry forward at 20%. Additionally, it allows the tiered funding rates to be adjusted in cases where the budget isn’t sufficient to pay the enrollment funding.

Secondary Career Center enrollments are down roughly 25% statewide due to Covid-19 impacts. Funding for secondary career centers is driven by enrollment, and due to the 25% decrease, the OSD, in coordination with the ADE, has awarded \$16.5MM of the \$19.2MM available for the fiscal year. Typically, every penny of this fund is distributed based off the enrollments around the state, but this year has been quite different due to the decreases in enrollment, and there are no indicators at this point that the enrollments are going to rebound next fiscal year. The unallocated funding is needed by the secondary career centers as this is their only

funding stream, and the OSD needs to provide additional flexibility within the rules to allow for the use of these funds in other ways such as for equipment grants, professional development for instructors, or to carry forward into the next fiscal year. In cases where the enrollment funding exceeds the budget, the rules changes allow the OSD to adjust the tiered funding.

Also, the other significant piece to this rule is the capping of carry over for secondary career centers. A few centers have significant carry-over balances year over year, while some have difficulty breaking even from year to year. Beginning in the fall of 2022, if a center has an excess greater than 20% of its previous year's revenue, the fall payment will be reduced by the excess over 20%. The capping of carryover is a change that the OSD feels will allow its centers who struggle due to location and population limitations to have access to additional funding that is not being spent for long periods of time.

The ADE is supportive of these rule changes and the Career Education Workforce Development Board has also signed off on these changes. The OSD operates these centers through a Memorandum of Understanding with the ADE post-Transformation.

PUBLIC COMMENT: No public hearing was held. The public comment period expired on June 4, 2021. The OSD provided the following summary of the comments that it received and its responses thereto:

Greg Murry, Superintendent of Schools, Conway Public Schools

In paragraph 5, it is noted that a local program's carryover will not be able to exceed 20%. We would, of course, prefer that this 20% cap not be in play. A few years back, our local center received a significant mid-year funding cut. The carryover was reduced by approximately \$200,000 that year due to that cut. If it is indeed a philosophical certainty of the Board to put this cap in play, I would respectfully ask that a graduated approach to the 20% mark be implemented. If there is a sharp cliff approaching of loss of funding, centers will by nature want to spend the excess and do so quickly. I've not seen universal wisdom in people who are required to spend large amounts of dollars quickly. May I suggest that if there will indeed be a carryover cap, that a three-year phase-in be implemented as follows: 30% for 21-22, 25% for 22-23, and 20% for 23-24?

Response: The centers will have until June 30, 2022 to spend excess funding. There are only five centers who currently have carryover balances that exceed the 20% maximum. OSD is willing to work with the centers and their local employers and economic developers to determine workforce needs in the area to put equipment and programs in place that will benefit the community.

Rule Change: The board can discuss and vote to extend the time to spend excess funding to June 30, 2023, giving centers a full two years to spend down carryover.

Greg Murry, Superintendent of Schools, Conway Public Schools

The proposed rules state at the end of paragraph 5 that the remaining balances above 20% will be returned to the public-school fund. The wording is curious as any excess funding will go back into a fund that is expended at the discretion of the ADE. (Perhaps I don't correctly understand the contextual usage of "public school fund.") I would have thought that the excess funds would have gone directly into Career Education. If the intent is indeed for the excess funds to be "reused" by the OSD, I would suggest different wording. If it is returned to the OSD, how will that money be redistributed and for what purpose?

Response: The funds would go back into the vocational center aid, which is public-school funds. All the funds would be used exclusively for Secondary Area Technical Center programs primarily for equipment purchases, program upgrades, or to roll forward for use into the next year.

Rule Change: Re-worded to state that the excess carryover would be returned to the vocational center aid fund.

Greg Murry, Superintendent of Schools, Conway Public Schools

In paragraph 3, authority is given for mid-year funding corrections to be made. No conditions are set on when those mid-year corrections might be appropriate. During significant economic downturns any number of measures might be understandably necessary to balance budgets. However, to ask a local center to establish a budget based on expected funding while worrying as to whether funding will change mid-year is not reasonable, especially since carry over allowances are also being reduced. I would respectfully suggest that conditions be specified as to when a mid-year correction might be necessary. Otherwise, centers will have unnecessary concerns and worries related to potential mid-year funding cuts.

Response: Because the state vocational center aid budget is set and finite, there must be a mechanism in place to make mid-year corrections. Otherwise, there could be a scenario where there would not be adequate funding to pay the spring enrollment payments. The specific condition that would lead to a decrease in tiered funding would be due to a significant increase in enrollment that would result in a shortfall of funding.

Rule Change: None.

Greg Murry, Superintendent of Schools, Conway Public Schools

In paragraph 2, a multiplier is proposed for smaller centers. Housing a larger center on our campus will clearly jade my view of this change. Is there information or data that shows that a smaller center inherently needs

more per-student funding to provide services? If so, I'm assuming there are hard numbers that are not randomly calculated that will assist in the formulation of the multiplier and that those mathematically determined numbers will, of course, be annually reviewed and recalibrated. This should be spelled out in rules.

Response: The multiplier language has been stricken.

Rule Change: Yes. The updated rule includes the striking of this language.

Greg Murry, Superintendent of Schools, Conway Public Schools

In paragraph 4, it is noted that if there were more funding than was needed that the OSD would under the direction of the CEWDB disperse the excess funding based on need or carry that amount to the next year. How will the CEWDB and/or the OSD determine need? If it is carried forward to the next year, is there a correlated and logical increase in tier funding for all centers the next school year?

Response: OSD determines need based on the end-of-year reports submitted by the centers as well as the center's local workforce needs. Many centers must contribute institutional funds in order to offer the technical programs that are needed and vital to the local workforce and economy. Carrying forward excess VCA funds would not automatically or logically increase the tiered funding for the following year because in some years, as in the coming year, the state brings on increased enrollments because of new centers and programs.

Rule Change: None.

Greg Murry, Superintendent of Schools, Conway Public Schools

There is no mention of how new programs will be funded. On what basis and authority will start-up funding be distributed if there is no mention of start-up funding in the rules? If carryover funds are significantly reduced, how will a local center be expected to purchase equipment for start-up programs? I can't imagine a center starting a welding program with little or no carry-over and very limited amounts of start-up funding.

Response: State start-up funding is administered by the Division of Career & Technical Education within ADE. Secondary career centers under 6-51-305 have access to state start-up funding as well as within the policies and procedures of the Department of Education, Division of Career and Technical Education.

Rule Change: None.

Greg Murry, Superintendent of Schools, Conway Public Schools

The OSD plan is to take other center's excess funding and redistribute that funding based on need. It would be logical that the "need" of those centers is only present because their expenditures exceeded the funding they received. The law clearly states that any expenditure above the funded amount is the responsibility of the local institution or school. This

rule change would clearly be a subsidy for those centers and not allowable by law.

Response: This comment refers to ACA 6-51-305(b)(1), which provides that “funds expended above the maximum funded amount per student . . . will be the responsibility” of the center. This statute will continue to apply under the proposed rule, which addresses excess revenue, not excess spending once that revenue is distributed.

Rule Change: None.

Greg Murry, Superintendent of Schools, Conway Public Schools

There is a conflict with ACA 6-51-305(b)(2) and the proposed Rules because the law states that the funds shall be carried forward.

Response: The excess that is returned or pulled back into the vocational center aid fund is, in fact, carried forward for the purpose of conducting summer programs, community-based education, and vocational center operations in succeeding years as outlined in ACA 6-51-305(b)(2). The proposed rule states that centers can carry over some unused funding year to year, but the “amount of carryover allowed shall not exceed 20% of the annual tiered funding.” Unused funding greater than 20% of the amount allotted to a center shall be carried forward as 305(b)(2) outlines “for the purpose of conducting summer programs and community-based education centers or supporting vocational center operations in succeeding years.”

Rule Change: None.

Bruce Sikes, Chancellor, ATU-Ozark

In the proposed rule section II, A, item 5, there is concern regarding carry over charges. Over a period of 10 years ATCC has managed to build a carryover balance through careful planning and budgeting to improve and modernize programming. The center is having conversations with Russellville Chamber of Commerce and industries to further align ATCC program offerings with current and future needs. The carry-over balance is committed to meet the recommendations of the chamber’s workforce board to be outlined this coming August. Recommendation would be to mirror carry-over language defined under Act 1105 of 2017 in relation to other public school carry-over funds.

Response: The agency will present this comment to the board and take under consideration extending the period by which the vocational center aid carry-over balance shall be spent to meet the 20% threshold.

Rule Change: Update the date by which the center will have the ability to spend down the fund.

Eddie Crain, Director, NEA Career & Tech Center

NEACTC Total Revenue Received in FT21:	\$ 1,408,207
20% Revenue:	\$ 283,641
Salaries through October 30:	\$ 399,920
Result of 20% Carryover Limitation:	\$ -118,279

Several operational supplies must be purchased from June 30th until fall payment near the end of October – such as summer professional development and related travel expenses, learning management systems in NEACTC courses and other related supplies which are NOT included in the negative \$118,279 balance shown above. NEACTC and Jonesboro Public Schools are committed to providing the best technical skills training available. However, a 20% limitation on carryover as presented is simply not feasible.

Response: The majority of centers have zero or negative balances and face this same problem. This has more to do with cash flow than funding. It is not uncommon for school funds to be “in the red” at certain times of the year until revenue is received.

Rule Change: None.

Rebecca Miller-Rice, an attorney with the Bureau of Legislative Research, asked the following questions:

(1) In the submitted legislative questionnaire, the OSD has stated that Department of Education (“ADE”) is supportive of the rule changes. Can you provide any documentation of that support? **RESPONSE:** I don’t have that support in writing, however, the Secretary of Education is an ex-officio of the board and attended the board meeting at which these were approved as well as Deputy Commissioner Pfeffer and Taylor Dugan with their legal team. We have worked with Department of Education directly with these rules and they shared no concerns with us. If you need something in writing I am sure we can request that but we wouldn’t have submitted these rules to the board without their support.

(2) The OSD further states that, post-Transformation, the secondary technical centers are operated through a memorandum of understanding with the ADE. Can you please provide the MOU? **RESPONSE:** See attached. [BUREAU STAFF NOTE: The current MOU is on file.] We are in the process of updating/revising the MOU for FY22 with their new Director of CTE, Ross White.

(3) Act 545 of 2021, which amends provisions of the Arkansas Code concerning technical and vocational education, appears to change general supervision of vocational education in the state and the administration and apportionment of any funds for that purpose from the Career Education and Workforce Development Board under the Department of Commerce to the State Board of Education under the ADE. It also will change the approval for the determination of vocational center aid (“VCA”) from the Career Education and Workforce Development Board to the State Board of Education. Do you anticipate any changes to these rules after the Act goes into effect? If yes, please explain any anticipated changes. If no,

please explain why the Act would not result in any such changes.

RESPONSE: No, while the act changed the role of how that process will be completed, the intent was to bring all public school funds under the authority of the state board of education who have never had any oversight of the secondary career centers before transformation and now post-transformation. The MOU that we are going to be completing will spell out moving forward the approval process and rulemaking authority of OSD and the Career Education Workforce Development Board making recommendations to the State Board of Education for final approval. Also, capping the carryover at 20% is consistent across many other public school funds, which is where we mirrored the idea for this program.

(4) The proposed rules appear to change how the VCA is determined. Arkansas Code Annotated § 6-20-2305(b)(1)(B)(i)(b) currently provides that the VCA shall be determined by the Division of Career and Technical Education (“DCTE”) and approved by the Career Education and Workforce Development Board. (As noted above, this will change after Act 545, § 7, becomes effective and will provide that the VCA shall be determined by the DCTE, in consultation with the OSD, and approved by the State Board of Education.) While Arkansas Code Annotated § 6-51-305(a)(1) provides that vocational centers shall be financed by distributing VCA according to rules promulgated by the Career Education and Workforce Development Board, is the OSD comfortable that it is within its authority to change how the VCA is determined? **RESPONSE:** Yes, OSD has had the authority to approve and provide oversight of this funding pre-transformation and now post-transformation. I believe that language was updated during code revision and at the time shouldn’t have been done that way. However, with the new law, the MOU will spell out how OSD will continue to make decisions as it relates to the Vocational Center Aid.

(5) Pursuant to Ark. Code Ann. § 6-51-305(b)(2), “[a]ny” funds “received by an institution or school district operating a vocational center either from tuition or from state funds” unexpended at the end of the year shall be carried forward for the purpose of conducting summer programs and community-based education centers or supporting vocational center operations in succeeding years. Under the proposed rules, it appears that if these unexpended funds exceed 20% of the current-year tiered revenue, the secondary center will have its fall payment reduced by the amount in excess of 20%. **RESPONSE:** Yes, it was advised by legal that the Career Education Workforce Development Board had broad authority as to how this could be accomplished. Any funds above that amount would be used for the purposes mentioned above.

(a) Is the effect of the proposed change to only allow a center unexpended funds of up to 20% to be used for summer or succeeding-

years operations as permitted in the statute before seeing a reduction in VCA? **RESPONSE:** Yes, a center will have the ability to carry forward an amount not to exceed 20% of their previous years vocational center aid funding. Anything above that amount would be reduced in the succeeding years fall payment. Those funds would then be used according to needs across the state at secondary career centers for operations, equipment, etc.... Many of our centers do not have carryover funding to support any operations and run in the red while a select few have consistently had huge carryover amounts sometimes reaching as high as 75% of their vocational center aid funding. This will ensure those funds are expended according to statewide needs and not held onto for many years while the state has needs that need to be met.

(b) Is the OSD comfortable that this proposed change does not conflict with the provisions of § 6-51-305(b)(2)? **RESPONSE:** Yes, we have been advised by both Commerce and Education legal teams throughout this process.

(6) In response to a public comment, the OSD stated that the excess funds would go back into the vocational-center aid fund; however, the final, revised proposed rules seem to read that the funds will no longer be returned at all, but will instead be recovered through a reduction in VCA the following fall. Is that correct? **RESPONSE:** Yes, essentially, the money would go back through a claw back process. Instead of having a center write a check back to the state and deposit that money into the VCA, the more appropriate and efficient way to accomplish this was to reduce the vocational center aid payment by that amount. It is all vocational center aid funding so at the end of the day the goal is accomplished.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency states that the amended rules have a financial impact. The OSD avers that the total estimated cost by fiscal year to state, county, and municipal government to implement the rule is difficult to estimate because the amount of funding turned back would be determined based off enrollment funding against a secondary career center's expenditures. Certain secondary career centers that have built up huge carry-over balances over the last few years would be required to return any excess funding above 20% back to the vocational center aid for use in other areas of the state.

LEGAL AUTHORIZATION: The Career Education and Workforce Development Board shall have general supervision of vocational education in the state and shall administer and apportion any funds that

come to the state for that purpose.¹ *See* Ark. Code Ann. § 6-11-203. Pursuant to Arkansas Code Annotated § 6-51-305(a)(1), vocational centers shall be financed by distributing vocational center aid from the Public School Fund according to rules promulgated by the Career Education and Workforce Development Board. *See also* Ark. Code Ann. § 6-20-2305(b)(2)(B)(i)(b) (currently providing that vocational center aid under Ark. Code Ann. § 6-20-2305(b)(2)(b)(i)(a) shall be determined by the Division of Career and Technical Education and approved by the Career Education and Workforce Development Board); Ark. Code Ann. § 6-20-2305(b)(2)(B)(ii) (providing that the Division of Career and Technical Education shall promulgate rules for a tiered system of determining the amount of vocational center aid for each full-time equivalent student and the method of distribution of that aid).²

2. **DEPARTMENT OF CORRECTIONS (Ms. Lindsay Wallace)**

a. **SUBJECT: AR 005 Reporting of Incidents**

DESCRIPTION: The Department of Corrections is amending rules on the reporting of incidents. This is an existing rule that is being revised in order to capture organizational changes resulting from the Transformation and Efficiencies Act of 2019. This will ensure that all significant events or situations occurring within the Department of Corrections are completely documented by those present, and that the Board of Corrections and all appropriate personnel are informed of the incident in a timely manner.

PUBLIC COMMENT: A public hearing was not held in this matter. The public comment period expired on June 10, 2021. The Department of Corrections received no comments.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The Department of Corrections indicated that the proposed rules do not have a financial impact.

¹ Pursuant to Act 545 of 2021, § 2, amending Ark. Code Ann. § 6-11-203, the State Board of Education shall have general supervision of vocational education in the state and shall administer and apportion any funds that come to the state for that purpose. Because Act 545 lacks an emergency clause or specified effective date, it is expected that the Act will become effective on July 28, 2021. *See* Op. Ark. Att’y Gen. No. 029 (2021).

² Pursuant to Act 545 of 2021, § 7, amending Ark. Code Ann. § 6-20-2305(b)(2)(B)(i)(b), the vocational center aid shall be determined by the Division of Career and Technical Education, in consultation with the Office of Skills Development, and approved by the State Board of Education. Because Act 545 lacks an emergency clause or specified effective date, it is expected that the Act will become effective on July 28, 2021. *See* Op. Ark. Att’y Gen. No. 029 (2021).

LEGAL AUTHORIZATION: The Division of Correction has exclusive jurisdiction over the care, charge, custody, control, management, administration, and supervision of all persons and offenders committed to, or in the custody of, the state penitentiary. *See* Ark. Code Ann. § 12-27-103(b). The division's functions, powers, and duties are administered in accordance with the policies and rules promulgated by the Board of Corrections. *See* Ark. Code Ann. § 12-27-103(b). The Board of Corrections has general supervisory power and control over the Division of Correction and shall perform all functions with respect to the management and control of the adult correctional institutions of this state contemplated by Arkansas Constitution, Amendment 33. *See* Ark. Code Ann. § 12-27-105(b)(1). The Department of Corrections shall assist the Board of Corrections with complying with the general guidelines, policies, and rules of the department with respect to personnel and personnel policies, records, purchasing, bookkeeping, and other administrative procedures prescribed by the department. *See* Ark. Code Ann. § 25-43-401(d)(2).

b. **SUBJECT:** AR 014 Internal Affairs and Investigation

DESCRIPTION: This is an existing rule that is being revised in order to capture organizational changes resulting from the Transformation and Efficiencies Act of 2019. It shall be the policy of the Department of Corrections to investigate incidents, events, or occurrences in a timely, efficient and procedurally correct manner. The Secretary of the Department of Corrections shall issue any policies necessary for the implementation of this rule.

PUBLIC COMMENT: A public hearing was not held in this matter. The public comment period expired on June 10, 2021. The Department of Corrections received no comments.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that the proposed rules do not have a financial impact.

LEGAL AUTHORIZATION: The Division of Correction has exclusive jurisdiction over the care, charge, custody, control, management, administration, and supervision of all persons and offenders committed to, or in the custody of, the state penitentiary. *See* Ark. Code Ann. § 12-27-103(b). The division's functions, powers, and duties are administered in accordance with the policies and rules promulgated by the Board of Corrections. *See* Ark. Code Ann. § 12-27-103(b). The Board of Corrections has general supervisory power and control over the Division of Correction and shall perform all functions with respect to the

management and control of the adult correctional institutions of this state contemplated by Arkansas Constitution, Amendment 33. *See Ark. Code Ann. § 12-27-105(b)(1)*. The board is also authorized to establish a code of ethics for all employees, both institutional and community corrections. *See Ark. Code Ann. § 12-27-105(b)(13)*. The Department of Corrections shall assist the Board of Corrections with complying with the general guidelines, policies, and rules of the department with respect to personnel and personnel policies, records, purchasing, bookkeeping, and other administrative procedures prescribed by the department. *See Ark. Code Ann. § 25-43-401(d)(2)*.

c. **SUBJECT: AR 224 Tobacco**

DESCRIPTION: This is an existing rule that is being revised in order to capture organizational changes resulting from the Transformation and Efficiencies Act of 2019. In 2000, the Board of Corrections made all facilities and offices of the Divisions of Correction and Community Correction tobacco-free. This policy was implemented in recognition of the health risks associated with tobacco use. The rule is being amended to extend that policy to apply to electronic cigarettes, the use of which is commonly referred to as “vaping.” This change is being proposed in recognition of the potential health risks from “vaping.”

PUBLIC COMMENT: A public hearing was not held in this matter. The public comment period expired on June 10, 2021. The Department of Corrections received no comments.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that the proposed rules do not have a financial impact.

LEGAL AUTHORIZATION: The Division of Correction has exclusive jurisdiction over the care, charge, custody, control, management, administration, and supervision of all persons and offenders committed to, or in the custody of, the state penitentiary. *See Ark. Code Ann. § 12-27-103(b)*. The division’s functions, powers, and duties are administered in accordance with the policies and rules promulgated by the Board of Corrections. *See Ark. Code Ann. § 12-27-103(b)*. The Board of Corrections has general supervisory power and control over the Division of Correction and shall perform all functions with respect to the management and control of the adult correctional institutions of this state contemplated by Arkansas Constitution, Amendment 33. *See Ark. Code Ann. § 12-27-105(b)(1)*.

The Division of Community Corrections is responsible for the management of all community correction facilities and services, and also providing for the supervision, rehabilitation, and restoration of adult offenders as useful law-abiding citizens within the community. *See* Ark. Code Ann. § 12-27-124(a)(1). DCC is under the supervision and control of the Board of Corrections. *See* Ark. Code Ann. § 12-27-124(a)(2). DCC's functions, powers, and duties are administered in accordance with the policies and rules promulgated by the Board of Corrections. *See* Ark. Code Ann. § 12-27-125(b). The board is also authorized to establish a code of ethics for all employees, both institutional and community corrections. *See* Ark. Code Ann. § 12-27-105(b)(13).

The Department of Corrections shall assist the Board of Corrections with complying with the general guidelines, policies, and rules of the department with respect to personnel and personnel policies, records, purchasing, bookkeeping, and other administrative procedures prescribed by the department. *See* Ark. Code Ann. § 25-43-401(d)(2).

d. **SUBJECT: AR 2.2 Best Practices Fund**

DESCRIPTION: Act 249 of 2019 repealed the Best Practices Fund referenced in Administrative Rule 2.2, therefore, the rule is no longer necessary. This repeal is without financial impact on the agency.

PUBLIC COMMENT: A public hearing was not held in this matter. The public comment period expired on June 10, 2021. The Department of Corrections received no public comments.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that the proposed rules do not have a financial impact.

LEGAL AUTHORIZATION: The Division of Community Corrections (DCC) is responsible for the management of all community correction facilities and services, and also providing for the supervision, rehabilitation, and restoration of adult offenders as useful law-abiding citizens within the community. *See* Ark. Code Ann. § 12-27-124(a)(1). DCC is under the supervision and control of the Board of Corrections. *See* Ark. Code Ann. § 12-27-124(a)(2). DCC's functions, powers, and duties are administered in accordance with the policies and rules promulgated by the Board of Corrections. *See* Ark. Code Ann. § 12-27-125(b). The Department of Corrections shall assist the Board of Corrections with complying with the general guidelines, policies, and rules of the department with respect to personnel and personnel policies, records,

purchasing, bookkeeping, and other administrative procedures prescribed by the department. *See* Ark. Code Ann. § 25-43-401(d)(2).

3. **ARKANSAS ETHICS COMMISSION (Mr. Graham Sloan)**

a. **SUBJECT: Rules on Campaign Contribution Limit**

DESCRIPTION: The purpose of this amendment is to keep the campaign contribution limit in line with the consumer price index and rate of inflation. This proposed amendment is necessary to raise the contribution limit for candidates for public office in Arkansas for the 2021-2022 campaign cycle, as is required by Act 1280 of 2015 and seen in Ark. Code Ann. § 7-6-203(i).

Pursuant to Act 1280 of 2015, Ark. Code Ann. §7-6-203(i) provides as follows:

- (1) The contribution limits under subdivision (a)(1)(A) and subdivision (b)(1) of this section shall be adjusted at the beginning of each odd-numbered year in an amount equal to the percentage certified to the Federal Election Commission by the Bureau of Labor Statistics of the Department of Labor under 52 U.S.C. § 30116(c) as existing on January 1, 2015.
- (2) If the amount after adjustment under subdivision (i)(1) of this section is not a multiple of one hundred dollars (\$100), the Arkansas Ethics Commission shall round the amount to the nearest multiple of one hundred dollars (\$100).
- (3) The Arkansas Ethics Commission shall promulgate rules identifying the adjusted contribution limit under subdivision (i)(1) of this section.

On or about February 7, 2019, the Federal Election Commission announced updated contribution limits that have been indexed for inflation and are effective for the 2019-2020 federal elections. In 2019, an amendment was made to adjust the campaign contribution limit from \$2,700 to \$2,800 for candidates for public office in Arkansas.

On or about February 2, 2021, the Federal Election Commission announced updated contribution limits that have been indexed for inflation and are effective for the 2021-2022 federal elections. This proposed amendment is necessary to adjust the campaign contribution limit from \$2,800 to \$2,900 for candidates for public office in Arkansas.

PUBLIC COMMENT: A public hearing was held on May 21, 2021. The public comment period expired on May 21, 2021. The Arkansas Ethic Commission received no comments.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The Arkansas Ethics Commission indicated that the proposed rule does not have a financial impact.

LEGAL AUTHORIZATION: Arkansas Code Annotated § 7-6-203(a)(1)(A) provides that it shall be unlawful for any candidate for public office or for any person acting on the candidate’s behalf to accept campaign contributions in excess of \$2,700 per election from an individual, a political party, a county political party committee, a legislative caucus committee, or an approved political action committee. In addition, it shall also be unlawful for a candidate for public office or for any person acting on the candidate’s behalf to accept a campaign contribution from a prospective contributor other than the ones specifically mentioned above. *See Ark. Code Ann. § 7-6-203(b)(1).* The contribution limits under Ark. Code Ann. § 7-6-203(a)(1)(A) and (b)(1) shall be adjusted at the beginning of each odd-numbered year in an amount equal to the percentage certified to the Federal Election Commission by the United States Bureau of Labor Statistics under 52 U.S.C. § 30116(c) as existing on January 1, 2015. *See Ark Code Ann. § 7-6-203(i).* The Arkansas Ethic Commission has authority to promulgate rules identifying the adjusted contribution limit, rounding the amount to the nearest multiple of one hundred dollars (\$100). *See Ark. Code Ann. § 7-6-203(i)(2) and (i)(3).*

4. **DEPARTMENT OF HUMAN SERVICES, DIVISION OF MEDICAL SERVICES (Mr. Mark White, Ms. Elizabeth Pitman)**

a. **SUBJECT: Pharmacy 1-21**

DESCRIPTION:

Statement of Necessity

Arkansas Medicaid is adding the correct National Place of Service Code to the Pharmacy manual to comply with national standards and ensure pharmacies are billing with consistency. The current code of “99” is being replaced with Place of Service Code “01.” Place of Service Code “01” is the correct place of service for Pharmacy.

Rule Summary

Section 262.200 is included to change the Place of Service Code for billing services provided within the pharmacy location from “99” to “01” for dates of service effective on or after 8/01/2021.

PUBLIC COMMENT: A public hearing was held on this rule on May 26, 2021. The public comment period expired on June 12, 2021. The agency indicated that it did not receive any public comments.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that this rule does not have a financial impact.

LEGAL AUTHORIZATION: The Department of Human Services has the responsibility to administer assigned forms of public assistance and is specifically authorized to maintain an indigent medical care program (Arkansas Medicaid). *See* Ark. Code Ann. §§ 20-76-201(1), 20-77-107(a)(1). The Department has the authority to make rules that are necessary or desirable to carry out its public assistance duties. Ark. Code Ann. § 20-76-201(12). The Department and its divisions also have the authority to promulgate rules as necessary to conform their programs to federal law and receive federal funding. Ark. Code Ann. § 25-10-129(b).

b. SUBJECT: Technical Corrections – Vendor Name Removal from Medicaid Provider Manuals

DESCRIPTION:

Statement of Necessity

The Division of Medical Services (DMS) of the Arkansas Department of Human Services (DHS) issues technical corrections and updates. DMS replaces vendor names and associated business processes in provider manuals with hyperlinks to specific information that can be updated in a timely manner as needed. Also, DMS issues technical corrections to certain rules and the State Plan.

Rule Summary

DMS issues the following technical corrections to provider manuals and the State Plan. Vendor names and associated processes have been removed from the Medicaid Provider Manuals:

- Ambulatory Surgical Center
- Chiropractic
- Dental
- Federally Qualified Health Center
- Hospital/Critical Access Hospital (CAH)/End Stage Renal Disease (ESRD)
- Hyperalimentation
- Nurse Practitioner

- Patient-Centered Medical Home
- Pharmacy
- Physician/Independent Lab/CRNA/Radiation Therapy Center
- Podiatrist
- Portable X-Ray
- Prosthetics
- Rehabilitative Hospital
- Rehabilitative Services for Persons with Physical Disabilities
- Rural Health Clinic
- Targeted Case Management
- Transportation
- Ventilator Equipment
- Visual Care

Also, DMS updates the electronic billing requirements in the Dental Provider Manual and removes prior authorization from National Procedure Code E0705-Transfer device, any type, in the Prosthetics Manual. Finally, DMS issues a technical correction to the State Plan Amendment (Supplement 1 to Attachment 3.1-A, Page 5) to match recent updates to the Targeted Case Management Manual.

PUBLIC COMMENT: A public hearing was held on this rule on May 26, 2021. The public comment period expired on June 12, 2021. The agency indicated that it received no public comments.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that this rule does not have a financial impact.

LEGAL AUTHORIZATION: The Department of Human Services has the responsibility to administer assigned forms of public assistance and is specifically authorized to maintain an indigent medical care program (Arkansas Medicaid). *See* Ark. Code Ann. §§ 20-76-201(1), 20-77-107(a)(1). The Department has the authority to make rules that are necessary or desirable to carry out its public assistance duties. Ark. Code Ann. § 20-76-201(12). The Department and its divisions also have the authority to promulgate rules as necessary to conform their programs to federal law and receive federal funding. Ark. Code Ann. § 25-10-129(b).

E. Agency Updates on Delinquent Rulemaking under Act 517 of 2019.

- 1. Department of Agriculture, Arkansas Bureau of Standards (Act 501)
(REPORT BY LETTER PURSUANT TO MOTION ADOPTED AT JULY
22, 2020 MEETING)**

F. Adjournment.