

**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.**

1 State of Arkansas *As Engrossed: S3/7/01 S3/13/01 S3/16/01 S3/19/01 S3/20/01 S3/22/01 S3/26/01 S3/28/01*  
2 *S3/30/01 H4/6/01*

**Act 1792 of 2001**

**A Bill**

3 83rd General Assembly

4 Regular Session, 2001

SENATE BILL 815

5  
6 By: Senators Mahony, T. Smith, Hill, Baker, Faris, Gullett, Argue, Horn, Whitaker, Fitch, J. Jeffress, P.  
7 Malone, K. Smith, Riggs, Trusty, Wooldridge, Wilkinson, Webb, B. Walker, D. Malone

8 By: Representatives Lowery, Cook, M. Smith, Lewellen, Bradford, Bolin, Fite, House, Mack, Mathis,  
9 Seawel, Ormond, Boyd, Borhauer, Green, Salmon, T. Roebuck, Bond, Dangeau, W. Walker,

10 Hickinbotham, Prater, Haak, Rodgers, Milum, Milligan, Jackson, Parks, Files, Clemons, Rackley, Bright,  
11 G. Jeffress, Rankin, Glover, Carson, J. Elliott, Lendall, Scrimshire, White, Allison, Jacobs, Gillespie,  
12 Wood, C. Johnson, Scroggin, Womack, Altes, Eason, Hausam, Holt, Creekmore, Adams, Broadway,  
13 Hutchinson, Schall, Cowling, Pritchard, *Ledbetter, Gipson, Bledsoe, Judy*

14  
15 **For An Act To Be Entitled**

16 AN ACT TO DEFINE THE PARTNERSHIP BETWEEN THE  
17 STATE AND COMMUNITIES FOR THE PROVISION OF AN  
18 ARRAY OF COMMUNITY-BASED SERVICES FOR INDIVIDUALS  
19 WITH DEVELOPMENTAL DISABILITIES; TO DEFINE THE  
20 FUNDING MECHANISM FOR THOSE SERVICES; TO  
21 *ESTABLISH A THRESHOLD FOR PRIOR AUTHORIZATION OF*  
22 *SERVICES FOR COMMUNITY-BASED SERVICES; AND FOR*  
23 *OTHER PURPOSES.*

24  
25 **Subtitle**

26 AN ACT TO DEFINE THE RELATIONSHIP  
27 BETWEEN THE STATE AND COMMUNITIES.

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

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32 SECTION 1. The General Assembly finds that the State of Arkansas  
33 contracts with community-based programs serving individuals with  
34 developmental disabilities as quasi-governmental instrumentalities of the  
35 state, to provide a service that the state would otherwise provide for this  
36 population through state-operated programs and facilities.

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2 SECTION 2. (a)(1) To provide viable options for an array of  
3 community-based services for individuals with developmental disabilities, the  
4 Department of Human Services shall, subject to state and federal funding  
5 restrictions, establish a reimbursement rate structure for contracting with  
6 community programs licensed by Developmental Disabilities Services that will  
7 cover costs of all federal and state mandates for which they are held  
8 responsible by the Department of Human Services and for any additionally  
9 required processes the Department of Human Services may elect to implement  
10 for cost containment-management purposes over and above the established  
11 reimbursement rates for costs of treatment services.

12 (2) By January 1, 2002, the Department of Human Services will  
13 design and conduct a rate and cost of service review of the reasonable and  
14 efficient prospective costs necessarily incurred to provide Medicaid and  
15 State covered services within the community to individuals with developmental  
16 disabilities. Subject to federal and state funding restrictions the  
17 Department of Human Services will fund Medicaid services for persons with  
18 developmental disabilities in accordance with findings contained in the  
19 review, and provide state funds for those services to which the individuals  
20 are entitled under federal and state laws that are not covered by the  
21 Medicaid program. By June 30, 2002, the Department of Human Services will  
22 adopt regulations and standards, approved pursuant to this act which clearly  
23 define the state's responsibility to individuals eligible for services under  
24 federal laws, including but not limited to Americans With Disabilities Act  
25 (ADA) PL 99-457, PL 94-142, Rehabilitation Act of 1973, Section 504, and  
26 state laws, including §20-48-101, 20-48-603 and 20-14-502, and more  
27 specifically:

28 (A) The categories of services and service limits on each  
29 category which will be provided through the Medicaid State Plan; and

30 (B) The categories of services and service limits which  
31 will be provided for with state general revenue funds or funds that are  
32 applicable for provider client services, or both; and

33 (3) There shall be a quarterly progress report to the Joint  
34 Interim Committee on Public Health by the Department of Human Services on the  
35 categories of services and respective service limits, service eligibility  
36 guidelines for each service component, and the rate structure based on

1 prospective costs.

2 (4) Nothing in this act shall be construed to imply the adoption  
3 of cost reimbursement methodology as opposed to a reasonable and necessary  
4 rate structure based on prospective costs. However, in the event that the  
5 Department of Human Services Division of Medical Services develops a new  
6 funding mechanism for community-based services provided through the  
7 University of Arkansas for Medical Sciences (UAMS) which is a full cost  
8 reimbursement methodology with additional state matching funds provided by  
9 existing revenues within that system:

10 (A) The new service model shall be developed to interface  
11 with the existing community-based programs through interagency agreements  
12 that enhance and broaden the level of care without duplicating services in  
13 communities which already have an array of services for children, birth to  
14 twenty-one (21); and

15 (B) The University of Arkansas for Medical Sciences will  
16 staff twelve (12) regional clinics, provided the pediatric specialists are  
17 available at the University of Arkansas for Medical Sciences. These will be  
18 conducted in coordination with local providers, on a quarterly basis, to  
19 provide diagnostic, evaluation, and consultation by the pediatric specialists  
20 employed by the University of Arkansas for Medical Sciences to the local  
21 professional staffs of community programs. The reimbursement for the costs  
22 of conducting these Outreach Clinics must be fully funded by the cost  
23 reimbursement methodology under any new funding model developed for the  
24 University of Arkansas for part of any new funding model developed for the  
25 University of Arkansas for Medical Sciences by the Department of Human  
26 Services.

27 (b) Subject to state and federal funding restrictions the  
28 reimbursement rates shall be revised annually with market basket rate  
29 adjustments to provide resources to the community-based programs necessary to  
30 provide persons choosing community-based services quality care assurance in a  
31 safe, healthy environment.

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33 SECTION 3. (a) Eligibility for services and appropriate placement in  
34 the least restrictive environment for individuals with developmental  
35 disabilities under any of the service models included in the state's Medicaid  
36 Plan with Health Care Financing Administration or for services covered from

1 state general revenue dollars shall be made by the Interdisciplinary Team,  
2 composed in keeping with federal and state laws pertaining to individuals  
3 with special needs. This section does not negate nor preclude the rights of  
4 individuals with developmental disabilities under existing federal and state  
5 laws.

6 (b) Subject to approval by the Health Care Financing Administration  
7 the Department of Human Services will accept an Individualized Family Service  
8 Plan or Individualized Program Plan developed in conformity with all  
9 applicable state and federal laws as prior authorization for Medicaid covered  
10 therapies provided to persons with developmental disabilities. Prior  
11 authorization does not preclude post payment reviews or other utilization  
12 control measures.

13 (c) For individuals with developmental disabilities whom the  
14 diagnostic, evaluation and assessments conducted by the Interdisciplinary  
15 Team, in conformity with all applicable federal and state laws, are found to  
16 fall within the eligibility guidelines adopted pursuant to this act, and the  
17 individual's Primary Care Physician, independent of the service provider,  
18 serves as the "gatekeeper" and prescribes day treatment services, referred to  
19 as developmental day treatment services under the present Developmental Day  
20 Treatment Clinic Services model, prior approval is not required for up to  
21 five (5) hours of daily services. Should the funding model for the day  
22 treatment services be changed in the state's Medicaid Plan with Health Care  
23 Financing Administration, the five (5) hours a day shall remain the "floor"  
24 to afford those families who choose to keep their disabled child/adult in the  
25 community thereby bearing a considerable responsibility for the care and  
26 expenses related to the treatment and care.

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28 SECTION 4. (a) The conversion to the federally mandated Current  
29 Procedural Terminology code system of reimbursement shall take into account  
30 the intent of this law to provide sources of funding that covers the costs of  
31 services to individuals who choose community-based options, within the  
32 adopted and approved eligibility standard, including the prescribed treatment  
33 services and all required compliance mandates from the federal and state  
34 governments.

35 (b) In the event that it is evident that the Developmental Day  
36 Treatment Clinic Services (DDTCS) codes will be excluded by the Health Care

1 Financing Administration (HCFA), the Department of Human Services Division of  
2 Medical Services shall take all necessary steps to apply to the Health Care  
3 Financing Administration for approval of a service model that will continue  
4 to provide an array of community-based service options for children and  
5 adults comparable to or greater than those under the present Developmental  
6 Day Treatment Clinic Services Model.

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8 SECTION 5. EMERGENCY CLAUSE. It is found and determined by the  
9 General Assembly that community programs are struggling to attain the  
10 resources necessary to provide individuals with developmental disabilities  
11 with the community-based services to which they are entitled by federal and  
12 state mandates which they rightfully deserve; that the costs to the community  
13 program which have accumulated over a twenty-five (25) year period of  
14 unfunded mandates is shifting the service dollar to compliance processes  
15 rather than to treatment of individuals; that the imposition of a rate  
16 structure which will cover the costs of treatment services as well as  
17 processes and procedures required by federal and state mandates will allow  
18 community-based programs to provide quality treatment services and therefore,  
19 enhance the level of safety and security for individuals choosing community-  
20 based services. Therefore, an emergency is declared to exist and this act  
21 being immediately necessary for the preservation of the public peace, health  
22 and safety shall become effective on the date of its approval by the  
23 Governor. If the bill is neither approved nor vetoed by the Governor, it  
24 shall become effective on the expiration of the period of time during which  
25 the Governor may veto the bill. If the bill is vetoed by the Governor and  
26 the veto is overridden, it shall become effective on the date the last house  
27 overrides the veto.

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30 /s/ Mahony, et al.

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33 APPROVED: 4/19/2001  
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