

Stricken language will be deleted and underlined language will be added.  
Act 257 of the Fiscal Session

1 State of Arkansas  
2 89th General Assembly  
3 Fiscal Session, 2014  
4

As Engrossed: S2/18/14  
**A Bill**

SENATE BILL 111

5 By: Joint Budget Committee  
6

7 **For An Act To Be Entitled**

8 AN ACT TO MAKE AN APPROPRIATION FOR PERSONAL SERVICES  
9 AND OPERATING EXPENSES FOR THE DEPARTMENT OF HUMAN  
10 SERVICES - DIVISION OF MEDICAL SERVICES FOR THE  
11 FISCAL YEAR ENDING JUNE 30, 2015; AND FOR OTHER  
12 PURPOSES.  
13  
14

15 **Subtitle**

16 AN ACT FOR THE DEPARTMENT OF HUMAN  
17 SERVICES - DIVISION OF MEDICAL SERVICES  
18 APPROPRIATION FOR THE 2014-2015 FISCAL  
19 YEAR.  
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21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
23

24 SECTION 1. REGULAR SALARIES - OPERATIONS. There is hereby established  
25 for the Department of Human Services - Division of Medical Services for the  
26 2014-2015 fiscal year, the following maximum number of regular employees.  
27

| Item No. | Class Code | Title                               | Maximum No. of Employees | Maximum Annual Salary Rate Fiscal Year 2014-2015 |
|----------|------------|-------------------------------------|--------------------------|--|
| 32       | (1) L008N  | PHYSICIAN SPECIALIST                | 2                        | GRADE N917                                       |
| 33       | (2) N181N  | DIRECTOR OF MEDICAL SERVICES        | 1                        | GRADE N915                                       |
| 34       | (3) L016N  | REGISTERED PHARMACIST               | 6                        | GRADE N911                                       |
| 35       | (4) N080N  | DHS/DMS ASSISTANT DIRECTOR - FISCAL | 2                        | GRADE N907                                       |
| 36       | (5) N099N  | DHS/DMS ADD - LONG TERM CARE        | 1                        | GRADE N906                                       |



|    |      |       |                                       |    |            |
|----|------|-------|---------------------------------------|----|------------|
| 1  | (6)  | N100N | DHS/DMS ADD - MEDICAL SERVICES        | 2  | GRADE N906 |
| 2  | (7)  | N110N | DHS ASST DIR CONTRACT MONITORING UNIT | 1  | GRADE N905 |
| 3  | (8)  | N111N | DHS ASST DEP DIR FOR MGR ACCOUNTING   | 1  | GRADE N905 |
| 4  | (9)  | A010C | AGENCY CONTROLLER II                  | 1  | GRADE C128 |
| 5  | (10) | D007C | INFORMATION SYSTEMS MANAGER           | 2  | GRADE C128 |
| 6  | (11) | A016C | DHS DMS BUSINESS OPERATIONS MANAGER   | 8  | GRADE C127 |
| 7  | (12) | L003C | PSYCHOLOGIST                          | 5  | GRADE C127 |
| 8  | (13) | L010C | DHS DMS MEDICAL ASSISTANCE MANAGER    | 8  | GRADE C125 |
| 9  | (14) | L009C | NURSE MANAGER                         | 4  | GRADE C125 |
| 10 | (15) | A031C | ASSISTANT CONTROLLER                  | 1  | GRADE C124 |
| 11 | (16) | L015C | CLINICAL SPEECH PATHOLOGIST           | 2  | GRADE C124 |
| 12 | (17) | B023C | ENGINEER, P.E.                        | 1  | GRADE C124 |
| 13 | (18) | D030C | INFORMATION SYSTEMS COORDINATOR       | 1  | GRADE C124 |
| 14 | (19) | L021C | NURSING HOME ASSISTANT ADMINISTRATOR  | 1  | GRADE C123 |
| 15 | (20) | L020C | NURSING SERVICES UNIT MANAGER         | 2  | GRADE C123 |
| 16 | (21) | L019C | REGISTERED NURSE COORDINATOR          | 5  | GRADE C123 |
| 17 | (22) | A044C | AUDIT COORDINATOR                     | 3  | GRADE C122 |
| 18 | (23) | G099C | DHS PROGRAM ADMINISTRATOR             | 14 | GRADE C122 |
| 19 | (24) | L027C | REGISTERED NURSE SUPERVISOR           | 11 | GRADE C122 |
| 20 | (25) | A052C | ACCOUNTING COORDINATOR                | 1  | GRADE C121 |
| 21 | (26) | M011C | FAMILY SERVICE WORKER COUNTY SUP      | 1  | GRADE C121 |
| 22 | (27) | A047C | FINANCIAL ANALYST II                  | 1  | GRADE C121 |
| 23 | (28) | A056C | DHS FINANCIAL SECTION MANAGER         | 2  | GRADE C120 |
| 24 | (29) | L040C | DIETARY SERVICES DIRECTOR             | 1  | GRADE C120 |
| 25 | (30) | L038C | REGISTERED NURSE                      | 68 | GRADE C120 |
| 26 | (31) | E023C | TRAINING PROJECT MANAGER              | 1  | GRADE C120 |
| 27 | (32) | D063C | COMPUTER SUPPORT SPECIALIST           | 2  | GRADE C119 |
| 28 | (33) | D062C | DATABASE ANALYST                      | 1  | GRADE C119 |
| 29 | (34) | G152C | DHS PROGRAM MANAGER                   | 14 | GRADE C119 |
| 30 | (35) | G147C | GRANTS COORDINATOR                    | 2  | GRADE C119 |
| 31 | (36) | X067C | HEALTH FACILITIES SURVEYOR            | 21 | GRADE C119 |
| 32 | (37) | D061C | INFORMATION SYSTEMS COORD SPECIALIST  | 1  | GRADE C119 |
| 33 | (38) | X062C | QUALITY ASSURANCE COORDINATOR         | 2  | GRADE C119 |
| 34 | (39) | A060C | SENIOR AUDITOR                        | 10 | GRADE C119 |
| 35 | (40) | A075C | FINANCIAL ANALYST I                   | 1  | GRADE C118 |
| 36 | (41) | A081C | AUDITOR                               | 2  | GRADE C117 |

|    |      |       |                                      |           |            |
|----|------|-------|--------------------------------------|-----------|------------|
| 1  | (42) | R027C | BUDGET SPECIALIST                    | 2         | GRADE C117 |
| 2  | (43) | G183C | DHS PROGRAM COORDINATOR              | 10        | GRADE C117 |
| 3  | (44) | L055C | DIETICIAN                            | 1         | GRADE C117 |
| 4  | (45) | D068C | INFORMATION SYSTEMS ANALYST          | 2         | GRADE C117 |
| 5  | (46) | D067C | INFORMATION SYSTEMS SECURITY ANALYST | 2         | GRADE C117 |
| 6  | (47) | G179C | LEGAL SERVICES SPECIALIST            | 1         | GRADE C117 |
| 7  | (48) | M039C | MEDICAID SERVICES SUPERVISOR         | 2         | GRADE C117 |
| 8  | (49) | G178C | POLICY DEVELOPMENT COORDINATOR       | 3         | GRADE C117 |
| 9  | (50) | B076C | RESEARCH PROJECT ANALYST             | 2         | GRADE C117 |
| 10 | (51) | E044C | CERTIFIED BACHELORS TEACHER          | 1         | GRADE C117 |
| 11 | (52) | A089C | ACCOUNTANT I                         | 1         | GRADE C116 |
| 12 | (53) | A088C | ASSETS COORDINATOR                   | 1         | GRADE C116 |
| 13 | (54) | X124C | HEALTH FACILITY REVIEWER             | 1         | GRADE C116 |
| 14 | (55) | C037C | ADMINISTRATIVE ANALYST               | 7         | GRADE C115 |
| 15 | (56) | A091C | FISCAL SUPPORT ANALYST               | 3         | GRADE C115 |
| 16 | (57) | C050C | ADMINISTRATIVE SUPPORT SUPERVISOR    | 1         | GRADE C113 |
| 17 | (58) | L070C | HEALTH CARE ANALYST                  | 18        | GRADE C113 |
| 18 | (59) | C056C | ADMINISTRATIVE SPECIALIST III        | 28        | GRADE C112 |
| 19 | (60) | A098C | FISCAL SUPPORT SPECIALIST            | 2         | GRADE C112 |
| 20 | (61) | A101C | ACCOUNTING TECHNICIAN                | 1         | GRADE C109 |
| 21 | (62) | C073C | ADMINISTRATIVE SPECIALIST II         | 12        | GRADE C109 |
| 22 | (63) | C087C | ADMINISTRATIVE SPECIALIST I          | <u>10</u> | GRADE C106 |
| 23 |      |       | MAX. NO. OF EMPLOYEES                | 327       |            |

24

25 SECTION 2. EXTRA HELP - OPERATIONS. There is hereby authorized, for  
 26 the Department of Human Services - Division of Medical Services for the 2014-  
 27 2015 fiscal year, the following maximum number of part-time or temporary  
 28 employees, to be known as "Extra Help", payable from funds appropriated  
 29 herein for such purposes: seven (7) temporary or part-time employees, when  
 30 needed, at rates of pay not to exceed those provided in the Uniform  
 31 Classification and Compensation Act, or its successor, or this act for the  
 32 appropriate classification.

33

34 SECTION 3. APPROPRIATION - OPERATIONS. There is hereby appropriated,  
 35 to the Department of Human Services - Division of Medical Services, to be  
 36 payable from the paying account as determined by the Chief Fiscal Officer of

1 the State, for personal services and operating expenses of the Department of  
 2 Human Services - Division of Medical Services - Operations for the fiscal  
 3 year ending June 30, 2015, the following:

| 4  | 5 ITEM                          | 6 FISCAL YEAR       |
|----|---------------------------------|---------------------|
| 7  | 8 NO.                           | 9 2014-2015         |
| 10 | (01) REGULAR SALARIES           | \$16,445,333        |
| 11 | (02) EXTRA HELP                 | 201,892             |
| 12 | (03) PERSONAL SERVICES MATCHING | 5,528,850           |
| 13 | (04) OVERTIME                   | 5,000               |
| 14 | (05) MAINT. & GEN. OPERATION    |                     |
| 15 | (A) OPER. EXPENSE               | 3,541,565           |
| 16 | (B) CONF. & TRAVEL              | 233,728             |
| 17 | (C) PROF. FEES                  | 555,132             |
| 18 | (D) CAP. OUTLAY                 | 144,388             |
| 19 | (E) DATA PROC.                  | 0                   |
| 20 | (06) DATA PROCESSING SERVICES   | <u>299,600</u>      |
| 21 | TOTAL AMOUNT APPROPRIATED       | <u>\$26,955,488</u> |

22 SECTION 4. APPROPRIATION - GRANTS. There is hereby appropriated, to  
 23 the Department of Human Services - Division of Medical Services, to be  
 24 payable from the paying account as determined by the Chief Fiscal Officer of  
 25 the State, for grant payments of the Department of Human Services - Division  
 26 of Medical Services - Grants for the fiscal year ending June 30, 2015, the  
 27 following:

| 28 | 29 ITEM                              | 30 FISCAL YEAR         |
|----|--------------------------------------|------------------------|
| 31 | 32 NO.                               | 33 2014-2015           |
| 34 | (01) PRIVATE NURSING HOME CARE       | \$716,865,047          |
| 35 | (02) INFANT INFIRMARY                | 27,555,873             |
| 36 | (03) PUBLIC NURSING HOME CARE        | 223,528,121            |
|    | (04) PRESCRIPTION DRUGS              | 385,783,553            |
|    | (05) HOSPITAL AND MEDICAL SERVICES   | 5,066,397,953          |
|    | (06) CHILD AND FAMILY LIFE INSTITUTE | 2,100,000              |
|    | (07) ARKIDS B PROGRAM                | <u>148,436,682</u>     |
|    | TOTAL AMOUNT APPROPRIATED            | <u>\$6,570,667,229</u> |

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SECTION 5. APPROPRIATION - NURSING HOME CLOSURE COSTS. There is hereby appropriated, to the Department of Human Services - Division of Medical Services, to be payable from the Long-Term Care Trust Fund, for the payment of relocation costs of residents in long-term care facilities, maintenance and operation of a facility pending correction of deficiencies or closure, and reimbursement of residents for personal funds lost for the fiscal year ending June 30, 2015, the following:

| ITEM          | FISCAL YEAR      |
|---------------|------------------|
| <u>NO.</u>    | <u>2014-2015</u> |
| (01) EXPENSES | <u>\$50,000</u>  |

SECTION 6. APPROPRIATION - LONG-TERM CARE FACILITY RECEIVERSHIP. There is hereby appropriated, to the Department of Human Services - Division of Medical Services, to be payable from the Long Term Care Facility Receivership Fund Account, for the payment of expenses of long-term care facility receivers as authorized by law of the Department of Human Services - Division of Medical Services - Long-Term Care Facility Receivership for the fiscal year ending June 30, 2015, the following:

| ITEM          | FISCAL YEAR      |
|---------------|------------------|
| <u>NO.</u>    | <u>2014-2015</u> |
| (01) EXPENSES | <u>\$100,000</u> |

SECTION 7. APPROPRIATION - NURSING HOME QUALITY GRANTS. There is hereby appropriated, to the Department of Human Services - Division of Medical Services, to be payable from the Long-Term Care Trust Fund, for Nursing Home Quality Grants of the Department of Human Services - Division of Medical Services - Nursing Home Quality Grants for the fiscal year ending June 30, 2015, the following:

| ITEM                                     | FISCAL YEAR        |
|--|--------------------|
| <u>NO.</u>                               | <u>2014-2015</u>   |
| (01) NURSING HOME QUALITY GRANTS AND AID | <u>\$1,500,000</u> |

1 SECTION 8. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS  
2 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW.

3 DEPARTMENT OF HUMAN SERVICES GRANTS FUND ACCOUNT. The Department of Human  
4 Services Grants Fund Account shall be used for the following grant programs  
5 to consist of general revenues and any other nonfederal funds, as may be  
6 appropriated by the General Assembly:

- 7 (i) Children's Medical Services;  
8 (ii) Food Stamp Employment and Training Program;  
9 (iii) Aid to the Aged, Blind, and Disabled;  
10 (iv) Transitional Employment Assistance Program;  
11 (v) Private nursing home care;  
12 (vi) Infant Infirmary - nursing home care;  
13 (vii) Public Nursing Home Care;  
14 (viii) Prescription Drugs;  
15 (ix) Hospital and Medical Services;  
16 (x) Child and Family Life Institute;  
17 (xi) Community Services Block Grant;  
18 (xii) ARKIDSFIRST;  
19 (xiii) Child Health Management Services; and  
20 (xiv) Child Care Grant

21  
22 SECTION 9. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS  
23 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL  
24 SERVICES - CHILD AND FAMILY LIFE INSTITUTE. The Child Health and Family Life  
25 Institute shall be administered under the direction of Arkansas Children's  
26 Hospital. Arkansas Children's Hospital shall enter into a cooperative  
27 agreement and/or contract with the University of Arkansas for Medical  
28 Sciences - Department of Pediatrics for services required in delivering the  
29 programs of the Child Health and Family Life Institute. Utilizing a  
30 multidisciplinary collaboration of professionals, the Child Health and Family  
31 Life Institute shall provide a statewide effort to explore, develop and  
32 evaluate new and better ways to address medically, socially and economically  
33 interrelated health and developmental needs of children with special health  
34 care needs and their families. The Child Health and Family Life Institute's  
35 priorities shall include, but are not limited to, wellness and prevention,  
36 screen and diagnosis, treatment and intervention, training and education and

1 research and evaluation.

2 Arkansas Children's Hospital and the University of Arkansas for Medical  
3 Sciences - Department of Pediatrics shall make annual reports to the Arkansas  
4 Legislative Council on all matters of funding, existing programs and services  
5 offered through the Child Health and Family Life Institute.

6 The provisions of this section shall be in effect only from July 1, ~~2013~~  
7 2014 through June 30, ~~2014~~ 2015.

8

9 SECTION 10. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS  
10 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL  
11 SERVICES - PHARMACEUTICAL DISPENSING FEE SURVEY. No more than two years prior  
12 to making any changes to the current pharmaceutical dispensing fee, the State  
13 shall conduct an independent survey utilizing generally accepted accounting  
14 principles, to determine the cost of dispensing a prescription by pharmacists  
15 in Arkansas. Only factors relative to the cost of dispensing shall be  
16 surveyed. These factors shall not include actual acquisition costs or average  
17 profit or any combination of actual acquisition costs or average profit. The  
18 survey results shall be the basis for establishing the dispensing fee paid to  
19 participating pharmacies in the Medicaid prescription drug program in  
20 accordance with Federal requirements. The dispensing fee shall be no lower  
21 than the cost of dispensing as determined by the survey. Nothing in this  
22 section shall be construed to prohibit the State from increasing the  
23 dispensing fee at any time.

24 The provisions of this section shall be in effect only from July 1, ~~2013~~  
25 2014 through June 30, ~~2014~~ 2015.

26

27 SECTION 11. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS  
28 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL  
29 SERVICES - GENERAL MEDICAID RATE METHODOLOGY PROVISIONS.

30 (a) Rates established by the Division of Medical Services for the services  
31 or programs covered by this Act shall be calculated by the methodologies  
32 approved by the Centers for Medicare and Medicaid Services (CMS). The  
33 Division of Medical Services shall have the authority to reduce or increase  
34 rates based on the approved methodology. Further, the Division of Medical  
35 Services shall have the authority to increase or decrease rates for good  
36 cause including, but not limited to: (1) Identification of provider(s) who

1 can render needed services of equal quality at rates less than traditionally  
2 charged and who meet the applicable federal and state laws, rules and  
3 regulations pertaining to the provision of a particular service;

4 (2) Identification that a provider or group of providers has consistently  
5 charged rates to the Arkansas Medicaid Program greater than to other  
6 purchasers of medical services of similar size;

7 (3) The Division determines that there has been significant changes in the  
8 technology or process by which services are provided by a provider or group  
9 of providers which has affected the costs of providing services, or;

10 (4) A severe economic downturn in the Arkansas economy which has affected the  
11 overall state budget of the Division of Medical Services.

12 The Division of Medical Services shall make available to requesting  
13 providers, the CMS's inflationary forecasts (CMS Market Basket Index). Rates  
14 established with cost of living increases based on the CMS Market Basket  
15 Index or other indices will be adjusted annually except when the state budget  
16 does not provide sufficient appropriation and funding to affect the change or  
17 portion thereof.

18 (b) Any rate methodology changes proposed by the Division of Medical  
19 Services both of a general and specific nature, shall be subject to prior  
20 approval by the Legislative Council or Joint Budget Committee.

21 Determining the maximum number of employees and the maximum amount of  
22 appropriation and general revenue funding for a state agency each fiscal year  
23 is the prerogative of the General Assembly. This is usually accomplished by  
24 delineating such maximums in the appropriation act(s) for a state agency and  
25 the general revenue allocations authorized for each fund and fund account by  
26 amendment to the Revenue Stabilization law. Further, the General Assembly has  
27 determined that the Department of Human Services – Division of Medical  
28 Services may operate more efficiently if some flexibility is provided to the  
29 Department of Human Services – Division of Medical Services authorizing broad  
30 powers under this section. Therefore, it is both necessary and appropriate  
31 that the General Assembly maintain oversight by requiring prior approval of  
32 the Legislative Council or Joint Budget Committee as provided by this  
33 section. The requirement of approval by the Legislative Council or Joint  
34 Budget Committee is not a severable part of this section. If the requirement  
35 of approval by the Legislative Council or Joint Budget Committee is ruled  
36 unconstitutional by a court of competent jurisdiction, this entire section is



1 void.

2 The provisions of this section shall be in effect only from July 1, ~~2013~~  
3 2014 through June 30, ~~2014~~ 2015.

4  
5 SECTION 12. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS  
6 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. FUND  
7 USAGE AUTHORIZED. The Arkansas Children's Hospital may request the Department  
8 of Human Services - Division of Medical Services to retain in the Department  
9 of Human Services Grant Fund account an amount not to exceed \$2,100,000 from  
10 funds made available by this Act for the Child and Family Life Institute,  
11 Section 4, item number 06 to be used to match federal funds used for  
12 supplemental Medicaid payments to Arkansas Children's Hospital. These  
13 retained funds shall not be recovered to transfer to the General Revenue  
14 Allotment Reserve Fund.

15  
16 SECTION 13. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS  
17 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. STATE  
18 PLAN. The State Plan must include the provision of EPSDT services as those  
19 services are defined in §1396d(r). See §§ 1396a(a)(10)(A), 1396d(a)(4)(B);  
20 see also 1396a(a)(43). Section 1396d(r) lists in detail the screening  
21 services, vision services, dental services, and hearing services that the  
22 State Plan must expressly include, but with regard to treatment services, it  
23 states that EPSDT means "[s]uch other necessary health care, diagnostic  
24 services, treatment, and other measures described in subsection (a) of this  
25 section to correct or ameliorate defects and physical and mental illnesses  
26 and conditions discovered by the screening services, whether or not such  
27 services are covered under the State plan." 42 U.S.C. § 1396d(r)(5) (emphasis  
28 added). Reading §1396a, § 1396d(a), and § 1396d(r) together, we believe that  
29 the State Plan need not specifically list every treatment service conceivably  
30 available under the EPSDT mandate.

31 The State Plan, however, must pay part or all of the cost of treatments to  
32 ameliorate conditions discovered by the screening process when those  
33 treatments meet the definitions set forth in § 1396a. See §1396d(r)(5); see  
34 also §§1396a(a)(10), 1396a (a)(43), and 1396d(a)(4)(B). The Arkansas State  
35 Plan states that the "State will provide other health care described in [42  
36 U.S.C. 1396d(a)] that is found to be medically necessary to correct or

1 ameliorate defects and physical and mental illnesses and conditions  
2 discovered by the screening services, even when such health care is not  
3 otherwise covered under the State Plan." See State Plan Under Title XIX of  
4 the Social Security Act Medical Assistance Program, State Of Arkansas at  
5 §4.b. This provision Meets the EPSDT mandate of the Medicaid Act.

6 We affirm the district court's decision to the extent that it holds that a  
7 Medicaid-Eligible individual has a federal right to early intervention day  
8 treatment when a physician recommends such treatment. Section 1396d(r)(5)  
9 states that EPSDT includes any treatments or measures outlined in §1396d(a).  
10 There are twenty-seven sub-parts to §1396d(a), and we find that sub-part  
11 (a)(13), in particular, when read with the other sections of the Medicaid Act  
12 listed above, mandates that early intervention day treatment be provided when  
13 it is prescribed by a physician. See 42 U.S.C. §1396d(a)(13) (defining  
14 medical assistance reimbursable by Medicaid as "other diagnostic, screening,  
15 preventive, and rehabilitative services, including any medical or remedial  
16 services recommended by a physician...for the maximum reduction of physical  
17 and mental disability and restoration of an individual to the best possible  
18 functional level"). Therefore, after CHMS clinic staff perform a diagnostic  
19 evaluation of an eligible child, if the CHMS physician prescribes early  
20 intervention day treatment as a service that would lead to the maximum  
21 reduction of medical and physical disabilities and restoration of the child  
22 to his or her best possible functional level, the Arkansas State Plan must  
23 reimburse the treatment. Because CHMS clinics are the only providers of early  
24 intervention day treatment, Arkansas must reimburse those clinics.

25  
26 SECTION 14. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS  
27 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL  
28 SERVICES - STATE MEDICAID PROGRAM/PERSONAL CARE PROGRAM.

29 (a) It is the legislative intent that the Department of Human Services in  
30 its administration of the Arkansas Medicaid Program set forth Medicaid  
31 provider participation requirements for "personal care providers" that will  
32 insure sufficient available providers to meet the required needs of all  
33 eligible recipients, to include insuring available in home services twenty-  
34 four (24) hours a day and seven (7) days a week for personal care.

35 (b) For the purposes of this section, "private care agencies" are defined  
36 as those providers licensed by the Department of Labor, certified as

1 ElderChoices Providers and who furnish in home staffing services for respite,  
2 chore services, and homemaker services, and are covered by liability  
3 insurance of not less than one million dollars (\$1,000,000) covering their  
4 employees and independent contractors while they are engaged in providing  
5 services, such as personal care, respite, chore services, and homemaker  
6 services.

7 (c) The purpose of this section is to allow the private care agencies  
8 defined herein to be eligible to provide Medicaid reimbursed personal care  
9 services seven (7) days a week, and does not supercede Department of Human  
10 Services rules establishing monthly benefit limits and prior authorization  
11 requirements.

12 (d) The availability of providers shall not require the Department of  
13 Human Services to reimburse for twenty-four (24) hours per day of personal  
14 care services.

15 (e) The Arkansas Department of Human Services, Medical Services Division  
16 shall take such action as required by the Centers for Medicare and Medicaid  
17 Services to amend the Arkansas Medicaid manual to include, private care  
18 agencies, as qualified entities to provide Medicaid reimbursed personal care  
19 services.

20 (f) The private care agencies shall comply with rules and regulations  
21 promulgated by the Arkansas Department of Health which shall establish a  
22 separate licensure category for the private care agencies for the provision  
23 of Medicaid reimbursable personal care services seven (7) days a week.

24 (g) The Arkansas Department of Health shall supervise the conduct of the  
25 personal care agencies defined herein.

26 (h) The purpose of this section is to insure the care provided by the  
27 private care agencies, is consistent with the rules and regulations of the  
28 Arkansas Department of Health.

29 The provisions of this section shall be in effect only from July 1, ~~2013~~  
30 2014 through June 30, ~~2014~~ 2015.

31

32 SECTION 15. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS  
33 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. REVIEW OF  
34 RULES IMPACTING STATE MEDICAID COSTS. (a) In light of the rapidly rising  
35 potential costs to the State attributable to the Medicaid program and the  
36 importance of Medicaid expenditures to the health and welfare of the citizens

1 of this State, the General Assembly finds it desirable to exercise more  
2 thorough review of future proposed changes to rules that might impact those  
3 costs or expenditures.

4 (b) As used in this section, "rule impacting state Medicaid costs" means  
5 a proposed rule, as defined by § 25-15-202(8), or a proposed amendment to an  
6 existing rule, as defined by § 25-15-202(8), that would, if adopted, adjust  
7 Medicaid reimbursement rates, Medicaid eligibility criteria, or Medicaid  
8 benefits, including without limitation a proposed rule or a proposed  
9 amendment to an existing rule seeking to accomplish the following:

10 (1) Reduce the number of individuals covered by Arkansas Medicaid;

11 (2) Limit the types of services covered by Arkansas Medicaid;

12 (3) Reduce the utilization of services covered by Arkansas Medicaid;

13 (4) Reduce provider reimbursement;

14 (5) Increase consumer cost-sharing;

15 (6) Reduce the cost of administering Arkansas Medicaid;

16 (7) Increase Arkansas Medicaid revenues;

17 (8) Reduce fraud and abuse in the Arkansas Medicaid program;

18 (9) Change any of the methodologies used for reimbursement of  
19 providers;

20 (10) Seek a new waiver or modification of an existing waiver of any  
21 provision under Medicaid, Title XIX, of the Social Security Act, including a  
22 waiver that would allow a demonstration project;

23 (11) Participate or seek to participate in Social Security Act Section  
24 1115(a)(1) waiver authority that would allow operation of a demonstration  
25 project or program;

26 (12) Participate or seek to participate in a Social Security Act  
27 Section 1115(a)(2) request for the Secretary of the Department of Health and  
28 Human Services to provide federal financial participation for costs  
29 associated with a demonstration project or program;

30 (13) Implement managed care provisions under Section 1932 of Medicaid,  
31 Title XIX of the Social Security Act; or

32 (14) Participate or seek to participate in the Centers for Medicare and  
33 Medicaid Services Innovation projects or programs.

34 (c)(1) In addition to filing requirements under the Arkansas  
35 Administrative Procedure Act, § 25-15-201 et seq., and § 10-3-309, the  
36 Department of Human Services shall, at least thirty (30) days before the

1 expiration of the period for public comment, file a proposed rule impacting  
2 state Medicaid costs or a proposed amendment to an existing rule impacting  
3 state Medicaid costs with the Senate Interim Committee on Public Health,  
4 Welfare, and Labor and the House Interim Committee on Public Health, Welfare,  
5 and Labor, or, when the General Assembly is in session, with the Senate  
6 Committee on Public Health, Welfare, and Labor and the House Committee on  
7 Public Health, Welfare and Labor.

8 (2) Any review of the proposed rule or proposed amendment to an  
9 existing rule by the Senate and House Interim Committees on Public Health,  
10 Welfare and Labor or the Senate and House Committees on Public Health,  
11 Welfare, and Labor shall occur within forty-five (45) days of the date the  
12 proposed rule or proposed amendment to an existing rule is filed with the  
13 committees.

14 (d)(1) If adopting an emergency rule impacting state Medicaid costs,  
15 in addition to the filing requirements under the Arkansas Administrative  
16 Procedure Act, § 25-15-201 et seq. and § 10-3-309, the Department of Human  
17 Services shall notify the Speaker of the House of Representatives, the  
18 President Pro Tempore of the Senate, the chair of the Senate Committee on  
19 Public Health, Welfare, and Labor, and the chair of the House Committee on  
20 Public Health, Welfare and Labor of the emergency rule and provide each of  
21 them a copy of the rule within five (5) business days of adopting the rule.

22 (2) Any review of the emergency rule by the Senate and House  
23 Interim Committees on Public Health, Welfare and Labor or the Senate and  
24 House Committees on Public Health, Welfare, and Labor shall occur within  
25 forty-five (45) days of the date the emergency rule is provided to the  
26 chairs.

27 (e)(1) The Joint Budget Committee may review a rule impacting state  
28 Medicaid costs during a regular, fiscal, or special session of the General  
29 Assembly.

30 (2) Actions taken by the Joint Budget Committee when reviewing a  
31 rule impacting state Medicaid costs shall have the same effect as actions  
32 taken by the Legislative Council under § 10-3-309.

33 (3) If the Joint Budget Committee reviews a rule impacting state  
34 Medicaid costs, it shall file a report of its actions with the Legislative  
35 Council as soon as practicable.

36 (f) This section expires on June 30, ~~2014~~ 2015.

1  
2           SECTION 16. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS  
3 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL, AND TEMPORARY LAW.

4           (a) As used in this section, "Health Care Independence Program" means  
5 the Health Care Independence Program established under the Health Care  
6 Independence Act of 2013, Arkansas Code § 20-77-2401 et seq.

7           (b)(1) Determining the maximum number of employees, the maximum amount  
8 of appropriation, for what purposes an appropriation is authorized, and  
9 general revenue funding for a state agency each fiscal year is the  
10 prerogative of the General Assembly.

11           (2) The purposes of subdivision (b)(1) of this section are  
12 typically accomplished by:

13                   (A) Identifying the purpose in the appropriation act;

14                   (B) Delineating such maximums in the appropriation act for  
15 a state agency; and

16                   (C) Delineating the general revenue allocations authorized  
17 for each fund and fund account by amendment to the Revenue Stabilization Law,  
18 Arkansas Code § 19-5-101 et seq.

19           (3) It is both necessary and appropriate that the General  
20 Assembly restrict the use of appropriations authorized in this act.

21           (c)(1) Except as provided in this subsection, the Department of Human  
22 Services shall not allocate, budget, expend, or utilize any appropriation  
23 authorized by the General Assembly for the purpose of advertisement,  
24 promotion, or other activities designed to promote or encourage enrollment in  
25 the Arkansas Health Insurance Marketplace or the Health Care Independence  
26 Program, including without limitation:

27                   (A) Unsolicited communications mailed to potential  
28 recipients;

29                   (B) Television, radio, or online commercials;

30                   (C) Billboard or mobile billboard advertising;

31                   (D) Advertisements printed in newspapers, magazines, or  
32 other print media; and

33                   (E) Internet websites and electronic media.

34           (2) This subsection does not prohibit the department from:

35                   (A) Direct communications with:

36                           (i) Licensed insurance agents; and

1 (ii) Persons licensed by the department;  
2 (B) Solicited communications with potential recipients;  
3 (C)(i) Responding to an inquiry regarding the coverage for  
4 which a potential recipient might be eligible, including without limitation  
5 providing educational materials or information regarding any coverage for  
6 which the individual might qualify.

7 (ii) Educational materials and information  
8 distributed under subdivision (c)(2)(C)(i) of this section shall contain only  
9 factual information and shall not contain subjective statements regarding the  
10 coverage for which the potential recipient might be eligible; and

11 (D) Using an Internet website for the exclusive purpose of  
12 enrolling individuals in the Arkansas Health Insurance Marketplace or the  
13 Health Care Independence Program.

14 (d) The Department of Human Services shall not apply for or accept any  
15 funds, including without limitation federal funds, for the purpose of  
16 advertisement, promotion, or other activities designed to promote or  
17 encourage enrollment in the Arkansas Health Insurance Marketplace or the  
18 Health Care Independence Program.

19 (e)(1) Except as provided in subdivision (e)(2) of this section, the  
20 Department of Human Services shall not:

21 (A)(i) Except as provided in subdivision (e)(1)(A)(ii) of  
22 this section, allocate, budget, expend, or utilize an appropriation  
23 authorized by the General Assembly for the purpose of funding activities of  
24 navigators, guides, certified application counselors, and certified licensed  
25 producers under the Arkansas Health Insurance Marketplace Navigator, Guide,  
26 and Certified Application Counselors Act, Arkansas Code § 23-64-601 et seq.

27 (ii) Subdivision (e)(1)(A)(i) of this section does  
28 not apply to regulatory and training responsibilities related to navigators,  
29 guides, certified application counselors, and certified licensed producers;  
30 and

31 (B) Apply for or accept any funds, including without  
32 limitation federal funds, for the purpose of funding activities of  
33 navigators, guides, certified application counselors, and certified licensed  
34 producers under the Arkansas Health Insurance Marketplace Navigator, Guide,  
35 and Certified Application Counselors Act, Arkansas Code § 23-64-601 et seq.

36 (2) Subdivision (e)(1) of this section does not apply to

1 certified application counselors at health related institutions, including  
2 without limitation the University of Arkansas for Medical Sciences.

3 (f) An appropriation authorized by the General Assembly shall not be  
4 subject to the provisions allowed through reallocation of resources or  
5 transfer of appropriation authority for the purpose of transferring an  
6 appropriation to any other appropriation authorized for the Department of  
7 Human Services to be allocated, budgeted, expended, or utilized in a manner  
8 prohibited by this section.

9 (g) The provisions of this section are severable, and the invalidity  
10 of any subsection or subdivision of this section shall not affect other  
11 provisions of the section that can be given effect without the invalid  
12 provision.

13 (h) This section expires on June 30, 2015.  
14

15 SECTION 17. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS  
16 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL, AND TEMPORARY LAW.

17 (a) As used in this section, "Health Care Independence Program" means  
18 the Health Care Independence Program established under the Health Care  
19 Independence Act of 2013, Arkansas Code § 20-77-2401 et seq.

20 (b)(1) Determining the maximum number of employees, the maximum amount  
21 of appropriation, for what purposes an appropriation is authorized, and  
22 general revenue funding for a state agency each fiscal year is the  
23 prerogative of the General Assembly.

24 (2) The purposes of subdivision (b)(1) of this section are  
25 typically accomplished by:

26 (A) Identifying the purpose in the appropriation act;

27 (B) Delineating such maximums in the appropriation act for  
28 a state agency; and

29 (C) Delineating the general revenue allocations authorized  
30 for each fund and fund account by amendment to the Revenue Stabilization Law,  
31 Arkansas Code § 19-5-101 et seq.

32 (3) It is both necessary and appropriate that the General  
33 Assembly restrict the use of appropriations authorized in this act.

34 (c)(1) The Department of Human Services shall submit and seek approval  
35 of a state plan amendment or waiver, or both, for the following revisions to  
36 the Health Care Independence Program to be effective no later than February



1 1, 2015:

2 (A) Approval of a limited state-designed nonemergency  
3 transportation benefit for persons covered under the Health Care Independence  
4 Program;

5 (B) Approval of a model to allow non-aged, nondisabled  
6 persons eligible to participate in the Health Care Independence Program to  
7 enroll in a program that will create and utilize independence accounts that  
8 operate similarly to a health savings account or medical savings account; and

9 (C) That cost sharing under the Health Care Independence  
10 Program shall apply to beneficiaries with incomes above fifty percent (50%)  
11 of the federal poverty level.

12 (2) The Department of Human Services shall:

13 (A) Submit drafts of state plan amendments or waivers  
14 required under subdivision (c)(1) of this section for public comment by  
15 August 1, 2014; and

16 (B) File the required state plan amendments or waivers  
17 with the United States Department of Health and Human Services by September  
18 15, 2014.

19 (d)(1) Except as provided in subdivision (d)(2) of this section, if  
20 the Department of Human Services is unable to secure the approvals requested  
21 under subsection (c) of this section, then effective for dates of service on  
22 and after February 1, 2015, the Department of Human Services shall not  
23 allocate, budget, expend, or utilize appropriations under this act for the  
24 participation of persons in the Health Care Independence Program.

25 (2) Subdivision (d)(1) of this section does not prohibit the  
26 payment of expenses incurred before February 1, 2015, by persons  
27 participating in the Health Care Independence Program who were determined to  
28 be more effectively covered through the standard Medicaid program.

29 (e) This section expires on June 30, 2015.

30  
31 SECTION 18. COMPLIANCE WITH OTHER LAWS. Disbursement of funds  
32 authorized by this act shall be limited to the appropriation for such agency  
33 and funds made available by law for the support of such appropriations; and  
34 the restrictions of the State Procurement Law, the General Accounting and  
35 Budgetary Procedures Law, the Revenue Stabilization Law, the Regular Salary  
36 Procedures and Restrictions Act, or their successors, and other fiscal

1 control laws of this State, where applicable, and regulations promulgated by  
2 the Department of Finance and Administration, as authorized by law, shall be  
3 strictly complied with in disbursement of said funds.

4  
5 SECTION 19. LEGISLATIVE INTENT. It is the intent of the General  
6 Assembly that any funds disbursed under the authority of the appropriations  
7 contained in this act shall be in compliance with the stated reasons for  
8 which this act was adopted, as evidenced by the Agency Requests, Executive  
9 Recommendations and Legislative Recommendations contained in the budget  
10 manuals prepared by the Department of Finance and Administration, letters, or  
11 summarized oral testimony in the official minutes of the Arkansas Legislative  
12 Council or Joint Budget Committee which relate to its passage and adoption.

13  
14 SECTION 20. EMERGENCY CLAUSE. It is found and determined by the  
15 General Assembly, that the Constitution of the State of Arkansas prohibits  
16 the appropriation of funds for more than a one (1) year period; that the  
17 effectiveness of this Act on July 1, 2014 is essential to the operation of  
18 the agency for which the appropriations in this Act are provided, and that in  
19 the event of an extension of the legislative session, the delay in the  
20 effective date of this Act beyond July 1, 2014 could work irreparable harm  
21 upon the proper administration and provision of essential governmental  
22 programs. Therefore, an emergency is hereby declared to exist and this Act  
23 being necessary for the immediate preservation of the public peace, health  
24 and safety shall be in full force and effect from and after July 1, 2014.

25  
26 */s/Joint Budget Committee*

27  
28  
29 **APPROVED: 03/07/2014**

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