

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

A Bill

HOUSE BILL 1501

5 By: Representative McCollum
6

For An Act To Be Entitled

8 AN ACT TO MODIFY AND REPEAL LANGUAGE REFERENCING THE
9 SUPERSEDED ELDERCHOICES PROGRAM; AND FOR OTHER
10 PURPOSES.
11

Subtitle

12
13 TO MODIFY AND REPEAL LANGUAGE REFERENCING
14 THE SUPERSEDED ELDERCHOICES PROGRAM.
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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20 SECTION 1. Arkansas Code § 11-10-210(f)(21)(A), concerning exclusions
21 to the definition of "employment" within the Department of Workforce Services
22 Law, is amended to read as follows:

23 (21)(A) Services performed as personal care services for a
24 certified ~~ElderChoices Provider~~ home- and community-based health services
25 provider licensed under § 20-10-2301 et seq., unless the provider is a state
26 or local government entity or federally recognized Indian tribe as described
27 in 26 U.S.C § 3306(c)(7) or a nonprofit organization as described in 26 U.S.C
28 § 3309(a)(1).
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30 SECTION 2. Arkansas Code § 20-10-2302 is amended to read as follows:
31 20-10-2302. Definitions.

32 As used in this subchapter, "private care agency" means a provider that
33 is ~~licensed by the Department of Labor and~~ certified by the Division of Aging
34 and Adult Services of the Department of Human Services as ~~an ElderChoices a~~
35 provider of home- and community-based health services and that:

36 (1) Furnishes in-home staffing services for personal and



1 ~~attendant care services that include without limitation respite services,~~
 2 ~~chore services, and homemaker services; and~~

3 (2) Retains liability insurance of not less than one million
 4 dollars (\$1,000,000) to cover its employees and independent contractors while
 5 its employees and independent contractors are engaged in providing personal
 6 ~~and attendant care services that include without limitation respite services,~~
 7 ~~chore services, and homemaker services.~~

8
 9 SECTION 3. Arkansas Code § 20-33-213(a)(2)(A), concerning the
 10 definition of "service provider" for elder care criminal history and registry
 11 records checks, is amended to read as follows:

12 (A) ~~An ElderChoices~~ A home- and community-based health
 13 services provider certified by the Division of Aging and Adult Services of
 14 the Department of Human Services;

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 16 SECTION 4. Arkansas Code § 20-38-101(9)(E), concerning the definition
 17 of "service provider" for criminal backgrounds checks, is amended to read as
 18 follows:

19 (E) ~~An ElderChoices~~ A home- and community-based health
 20 services provider certified by the Division of Aging and Adult Services of
 21 the Department of Human Services;

22
 23 SECTION 5. Arkansas Code § 20-77-102(e), concerning the program for
 24 long-term care facility care, is repealed.

25 ~~(e) To the extent not prohibited by federal law or regulation, the~~
 26 ~~department shall promulgate rules concerning prior authorization for Medicaid~~
 27 ~~ElderChoices, a community-based service, that are identical to those in~~
 28 ~~effect for nursing homes on July 16, 2003.~~

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 30 SECTION 6. Arkansas Code § 20-77-120 is repealed.

31 ~~20-77-120. Medicaid waiver for home and community based care.~~

32 ~~(a) In determining Medicaid eligibility for and providing Medicaid~~
 33 ~~benefits to persons eligible for services through the ElderChoices care~~
 34 ~~program, a home and community based care waiver pursuant to section 1915(e)~~
 35 ~~of the Social Security Act, 42 U.S.C. § 651 et seq., as in effect January 1,~~
 36 ~~2003, the Department of Human Services, subject to the availability of funds~~

1 ~~for the purpose and to the extent not prohibited by federal law or~~
2 ~~regulation, shall use the same division of assets and income allowances for~~
3 ~~Level 1 and Level 2 ElderChoices applications that are used in determining~~
4 ~~Medicaid eligibility for and providing Medicaid benefits to persons requiring~~
5 ~~institutional care.~~

6 ~~(b)(1) The department shall apply to the Centers for Medicare and~~
7 ~~Medicaid Services for an amendment to the ElderChoices Medicaid waiver for~~
8 ~~home and community based care waivers if an amendment is necessary to~~
9 ~~implement the provisions of this section.~~

10 ~~(2)(A)(i) The amended waiver shall be funded by savings to the~~
11 ~~Medicaid program as a result of § 20-77-102(e).~~

12 ~~(ii) The department may set aside sufficient funds~~
13 ~~to pay administrative costs of implementing the program created by § 20-77-~~
14 ~~102(e) and provide services according to funding availability. If the~~
15 ~~provisions of § 20-77-102(e) are approved by the Centers for Medicare and~~
16 ~~Medicaid Services, the department shall project the savings to the Medicaid~~
17 ~~program that will result from § 20-77-102(e).~~

18 ~~(B) The department shall implement the amended waiver~~
19 ~~using the savings projected in subdivision (b)(2)(A)(ii) of this section to~~
20 ~~the extent allowed under this subdivision (b)(2).~~

21 ~~(c) The department shall promulgate rules to:~~

22 ~~(1) Establish a mechanism to track separately from existing~~
23 ~~services those clients served and costs incurred by the waiver program~~
24 ~~established by this section; and~~

25 ~~(2) Report the progress of the program at least quarterly to the~~
26 ~~House Committee on Public Health, Welfare, and Labor and the Senate Committee~~
27 ~~on Public Health, Welfare, and Labor.~~

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30 **APPROVED: 03/23/2017**

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