

**ARKANSAS SENATE**  
83rd General Assembly - Regular Session, 2001  
**Amendment Form**

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**Subtitle of Senate Bill No. 937**

"AN ACT TO PROVIDE ADDITIONAL MEDICAID PRESCRIPTION DRUG COVERAGE  
FOR PERSONS WITH MENTAL ILLNESS AND TO ADD PERSONAL CARE TO THE  
MEDICALLY NEEDY MEDICAID PROGRAM."

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**Amendment No. 1 to Senate Bill No. 937.**

Amend Senate Bill No. 937 as originally introduced:

Delete Section 1 and substitute the following:

"SECTION 1. Legislative findings.

(a)(1) The General Assembly recognizes that the state encouraged the placement of persons with mental illness into residential care facilities over a decade ago and has taken various approaches to funding since then.

(2) The General Assembly also recognizes that there are inherent problems with the current system that create disincentives for proper care and physical environments.

(b) Pursuant to Act 1421 of 1999, the Chairs of the Senate and House Committees on Public Health, Welfare and Labor established a task force which they chaired and which had equal representation from residential care facilities, community mental health centers, advocates for persons with mental illness, and the Divisions of Mental Health and Medical Services of the Department of Human Services.

(c)(1) Pursuant to Act 1421, the task force was directed to present a proposal at the 2001 legislative session for establishment and maintenance of a residential program designed to address the unique needs of persons with mental illness.

(2) The task force recommendations were to include adequate safeguards for residents, reimbursement for residential care facilities, and financing opportunities that will encourage and enable residential care facilities to build smaller, more home-like settings for the care of mentally ill persons.

(d) The task force appointed a work group which presented a report to the task force in September 2000 providing an overview of the current system, the need for change, and recommendations to address this need.

(e) In accordance with the September 2000 report, the General Assembly finds:

(1)(A) At this time, there are approximately 1,000 persons with mental illness living in twenty-five (25) residential care facilities in

Arkansas:

(B) About eighty percent (80%) of persons with mental illness living in residential care facilities are receiving Medicaid;

(C) The other twenty percent (20%) typically have few if any resources;

(2) New medications are significantly more effective than older drugs in reducing the most disabling symptoms of mental illness; however, the Arkansas Medicaid program covers only six (6) prescription drugs per recipient, even though many mentally ill persons require more than six (6) in order to live outside of an institution;

(3) Currently, operators of residential care facilities often end up paying for these additional drugs since the state will not cover the cost;

(4) These drugs enable recipients to live outside the State Hospital or similar institution and that the state saves money in the long run since it is far more cost effective to pay for care in a residential care facility than in the State Hospital;

(5) The General Assembly finds that it is unfair and unwise to expect the operators of residential care facilities to pay for these prescription drugs out of their own pocket or for the resident to go without these important drugs;

(6)(A) The Arkansas Medicaid program provides services to a category of recipients called "medically needy";

(B) This program provides an array of services to persons whose income is higher than the Medicaid eligibility limit, but when their medical and remedial expenses are deducted or "spent down," they qualify;

(C) Adults in this category of recipients are entitled to approximately seventeen (17) different services under Medicaid, including physician services, home health services, prescription drugs, nurse midwife services, case management, transportation, nurse practitioner services, and eyeglasses; however, they are not allowed to receive personal care services under the current Arkansas rules, even though personal care is the only means by which persons with mental illness are able to live in residential care facilities as opposed to institutions;

(7) Most of the participants in the Act 1421 task force recommended that the state should cover additional prescription drugs for the mentally ill and add personal care to the medically needy program;

(8) Although the Department of Human Services did not join in these recommendations due to funding concerns, the state will save money since these program changes will enable persons with mental illness to avoid much more costly institutional care; and

(9) Persons with mental illness deserve to live in the most independent setting possible and these changes are necessary to realize that goal.

SECTION 2. Definitions. For purposes of this act:

(1) "Department" means the Arkansas Department of Human Services; and

(2)(A) "Residential care facilities" means facilities defined in Arkansas Code 20-10-101.

(B) However, if the department establishes an assisted living program, "residential care facilities" shall also include assisted living facilities.

SECTION 3. Prescription drugs.

(a) If the department limits the number of prescription drugs that recipients may receive under the Medicaid program, then notwithstanding that limit, the department shall cover the cost of additional prescription drugs under the Medicaid program if the recipient's physician states in the care plan or other written document that without the drug the recipient would likely pose a danger to himself or others.

(b) The department may impose a co-pay or cost-sharing requirement, but it shall be no greater than the amount imposed for drugs not covered by this provision.

(c) The department may further liberalize its prescription drug policies in order to benefit mentally ill persons to the extent allowed by federal law, but it may not make them more restrictive than provided for in this section.

SECTION 4. Medically needy program.

(a)(1) The department shall add personal care to the Medicaid medically needy spend-down program.

(2) Personal care shall be available in the medically needy program if the recipient's physician states in the care plan or other written document that without personal care the recipient would not be able to live safely outside a hospital or other institutional setting.

(b) If the department imposes any other restrictions on personal care recipients in the medically needy program, the restrictions shall be no greater than those imposed on personal care recipients in the categorically needy program.

(c) The department may further liberalize the medically needy personal care program, but it may not make it more restrictive than provided for in this section.

SECTION 5. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provision of this act are declared to be severable.

SECTION 6. The General Assembly hereby expressly declares that in the event any portion of this act is found to be preempted or otherwise in violation of federal law, that the provisions of this act are to be considered independent and not inextricably linked."

**The Amendment was read the first time, rules suspended and read the second time and \_\_\_\_\_**

**By: Senator Bisbee  
LH/RRS  
RRS595**

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**Secretary**