

**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.**

INTERIM STUDY PROPOSAL 2007-153

State of Arkansas

*As Engrossed: S3/20/07*

86th General Assembly

**A Bill**

Regular Session, 2007

SENATE BILL 945

By: Senators Womack, Critcher, Crumbly, Horn, Wilkins, Altes

By: Representatives Pace, R. Green, Key, Lamoureux, Ragland, Cooper, Davis

Referred to

Public Health, Welfare And Labor Committee - Senate

by the Arkansas Senate

on 04/03/2007

**For An Act To Be Entitled**

AN ACT TO PROVIDE FOR THE PER DIEM RATE PAYABLE TO A PROGRAM PROVIDER OF INDIGENT MENTAL HEALTH CARE ASSISTANCE; TO REQUIRE ACCREDITATION FOR CERTAIN PROGRAM PROVIDERS OF INDIGENT MENTAL HEALTH CARE ASSISTANCE; AND FOR OTHER PURPOSES.

**Subtitle**

TO PROVIDE FOR THE PER DIEM RATE PAYABLE TO A PROGRAM PROVIDER OF INDIGENT MENTAL HEALTH CARE ASSISTANCE AND TO REQUIRE ACCREDITATION FOR CERTAIN PROGRAM PROVIDERS.

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

SECTION 1. Arkansas Code § 9-28-407(a)(3), concerning the capacity exemption of a licensed or permitted child welfare agency, is amended to read as follows:

(3) Any child welfare agency capacity licensed or permitted by the board as of ~~March 1, 2003~~ March 1, 2007, whether held by the original licensee or by a successor in interest to the original licensee, is exempted

1 from:

2 (A) Obtaining any license or permit from the Office of  
3 Long-Term Care of the Division of Medical Services of the Department of  
4 Health and Human Services;

5 (B) Obtaining any permit from the Health Services Permit  
6 Agency or the Health Services Permit Commission to operate at the capacity  
7 licensed by the board as of ~~March 1, 2003~~ March 1, 2007; and

8 (C) Obtaining any permit from the agency or the commission  
9 to operate at any future expanded capacity serving only non-Arkansas  
10 residents unless a permit is required by federal law or regulation.

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12 SECTION 2. Arkansas Code § 20-8-107(c), concerning the inapplicability  
13 of § 20-8-101 et seq., is amended to read as follows:

14 (c) In no event shall the requirements of this subchapter apply to any  
15 facility licensed or approved as of ~~March 1, 2003~~ March 1, 2007, by the Child  
16 Welfare Agency Review Board pursuant to the Child Welfare Agency Licensing  
17 Act, § 9-28-401 et seq., and as specifically exempted by § 9-28-407(a)(3).

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19 SECTION 3. Arkansas Code Title 20, Chapter 46, Subchapter 7 is amended  
20 to add the following sections to read as follows:

21 20-46-704. Per diem rate for psychiatric residential treatment  
22 facility.

23 (a)(1)(A) The per diem rate for a psychiatric residential treatment  
24 facility for children is the facility's budgeted per diem cost plus a  
25 professional component of seventy-nine dollars (\$79.00) per day.

26 (B) The facility's budgeted per-diem cost shall be the  
27 amount reflected in its annual budget for the fiscal period of July 1 – June  
28 30 which shall be submitted to the Department of Health and Human Services by  
29 April 30 each year.

30 (2) The per diem rate for psychiatric residential treatment  
31 facilities shall be not less than the rate in existence on the effective date  
32 of this section and not more than four hundred five dollars (\$405) per day.  
33 This subdivision (a)(2) shall apply only if:

34 (A) The rate is approved by the Centers for Medicare and  
35 Medicaid Services; and

36 (B) Additional appropriation and funding for this purpose

1 of at least three million dollars (\$3,000,000) per fiscal year have been made  
2 in addition to the amount appropriated and available for this purpose in the  
3 2006-2007 fiscal year.

4 (b) The psychiatric residential treatment facility provider per diem  
5 rate shall be a prospective rate with no cost settlement that shall include  
6 all costs related to the operation of the facility except educational  
7 services, prescription medicines, and transportation.

8 (c) At least annually, the department shall re-evaluate the per-diem  
9 rate to determine whether it should be reset.

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11 20-46-705. Rate for outpatient mental health services.

12 (a) The service unit rate for outpatient mental health care services  
13 shall not be less than the service unit rate for outpatient mental health  
14 care services rate paid to participating programs as of January 1, 2007.

15 (b) At least annually, the department shall re-evaluate the service  
16 unit rate for outpatient mental health care services.

17 (c)(1) A reimbursement for outpatient mental health services shall  
18 only be made to an outpatient mental health provider that has been accredited  
19 for one year by the Joint Commission, the Commission on Accreditation of  
20 Rehabilitation Facilities, and the Council on Accreditation except for a  
21 provider who:

22 (A) Is a medical doctor or a psychologist; or

23 (B) Initiates the certification process no later than the  
24 effective date of this section and receives full accreditation by July 1,  
25 2008.

26 (2) Accreditation is not required of a site owned or leased by  
27 an outpatient mental health provider if patients are not treated at that  
28 site.

29 (3) Accreditation is not required of a site where patients are  
30 treated if the outpatient mental health provider does not own or lease that  
31 site.

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33 20-46-706. Access to willing provider.

34 Participants in the indigent medical care program are entitled to  
35 receive services from any willing outpatient mental health provider who is  
36 approved to participate in the indigent medical care program.

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20-46-707. Application.

Nothing in this act shall be construed to prevent the sale, merger or transfer of stock or control of a company operating an outpatient mental health care program or to limit its right to continuously contract with Medicaid without interruption.

20-46-708. Conflicts.

In the event that any provision of §§ 20-46-701 – 20-46-707 conflict with any portion of the Arkansas Medicaid State Plan or any waivers approved by the federal government, the affected state agencies shall seek immediate resolution of the conflict by amending the Medicaid State Plan or by seeking federal approval for a change in the conflicting agreements in a manner that prevents or minimizes any loss of federal funding.

SECTION 6. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the regulatory process presently applicable to a psychiatric residential treatment facility for children or outpatient mental health services is inadequate, and that this act is necessary because those uncertainties create a circumstance in which delay is likely to result in irreparable harm to patients served by these program providers. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/ Womack

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