

EMERGENCY RULES

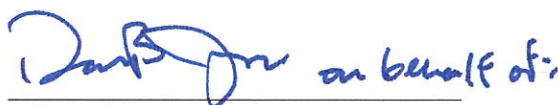
**DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL SERVICES**

NUMBER AND TITLE: Acute Crisis Units – Hospital Provider Manual

PROPOSED EFFECTIVE DATE: June 16, 2022

STATUTORY AUTHORITY: Arkansas Code Annotated §§ 20-76-201, 20-77-107, and 25-10-129

NECESSITY AND FUNCTION: This rule helps to address access issues and provides appropriate clinical treatment to children and adolescents presenting to or admitted to emergency rooms. Currently there are no Acute Crisis Units available to provide stabilization and treatment for children and youth as an alternative to acute inpatient hospitalization.



Elizabeth Pitman, Director
Division of Medical Services

Promulgation date: June 16, 2022

Contact Person: Mac Golden
P. O. Box 1437, Slot S295
Little Rock, AR 72203-1437
(501) 563-7634
Mac.E.Golden@dhs.arkansas.gov

STATEMENT OF EMERGENCY

The Department of Human Services (DHS) announces an emergency rule under Arkansas Code § 25-15-204(c). The rule renders maximum assistance to the citizens of Arkansas by providing stabilization and treatment service to the children and youth of the state as an alternative to acute inpatient hospitalization.

Background and Rule Description: This rule helps to address access issues and provides appropriate clinical treatment to children and adolescents presenting to or admitted to emergency rooms with acute psychiatric issues. Currently there are no Acute Crisis Units available to provide stabilization and treatment for children and youth as an alternative to acute inpatient hospitalization. DHS hopes to provide options for the treatment and stabilization of children and adolescents experiencing an acute psychiatric episode allowing for alternative placement options in the continuum of care. Families are presenting at hospital emergency rooms when there is a behavioral health crisis and these children and adolescents are being kept in emergency room beds for extended periods without appropriate treatment and interventions while waiting for transition to an appropriate treatment setting. This presents a public health and safety issue by utilizing emergency beds better used for medical emergencies to hold youth sometimes for days. The Director of the Division of Medical Services amends Section 218.400 of the Hospital/Critical Access Hospital/End Stage Renal Disease Provider Manual to replace age nineteen (19) to age four (4) for treatment services, to address access issues and provide appropriate clinical treatment to children and adolescents presenting to or admitted to emergency rooms.

Statement of Emergency: DHS finds there exists imminent peril to the public health, safety, and welfare of the state, requiring immediate adoption of the emergency rule. The rule ensures health services to a vulnerable population of Arkansas citizens. The emergency rule shall be effective upon approval, and a permanent rule will be promulgated effective October 1, 2022.

QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL

DEPARTMENT/AGENCY Human Services
DIVISION Medical Services
DIVISION DIRECTOR Elizabeth Pitman
CONTACT PERSON Mac Golden
ADDRESS P. O. Box 1437, Slot S295 Little Rock, AR 72203-1437
PHONE NO. 501-320-6383 FAX NO. 501-404-4619 E-MAIL Mac.E.Golden@dhs.arkansas.gov
NAME OF PRESENTER AT COMMITTEE MEETING Elizabeth Pitman
PRESENTER E-MAIL elizabeth.pitman@dhs.arkansas.gov

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question **completely** using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after “Short Title of this Rule” below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Jessica C. Whittaker
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201

- 1. What is the short title of this rule? Acute Crisis Units – Hospital Provider Manual
- 2. What is the subject of the proposed rule? See Attached.
- 3. Is this rule required to comply with a federal statute, rule, or regulation? Yes No
If yes, please provide the federal rule, regulation, and/or statute citation. _____
- 4. Was this rule filed under the emergency provisions of the Administrative Procedure Act?
Yes No
June 16, 2022, or upon approval by the
If yes, what is the effective date of the emergency rule? Executive Subcommittee

When does the emergency rule expire? October 13, 2022

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act?
Yes No

5. Is this a new rule? Yes No
If yes, please provide a brief summary explaining the regulation. _____

Does this repeal an existing rule? Yes No
If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does. _____

Is this an amendment to an existing rule? Yes No
If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

See attached.

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. Arkansas Code §§ 20-76-201, 20-77-107, and 25-10-129

7. What is the purpose of this proposed rule? Why is it necessary? See Attached.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).

<https://humanservices.arkansas.gov/do-business-with-dhs/proposed-rules/>

9. Will a public hearing be held on this proposed rule? Yes No
If yes, please complete the following:

Date: TBD

Time: TBD

Place: TBD

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

TBD

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

Emergency: 06/16/2022 Permanent: 10/01/2022

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice. See Attached.

13. Please provide proof of filing the rule with the Secretary of State as required pursuant to Ark. Code Ann. § 25-15-204(e). See Attached.

14. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known. Unknown

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Human Services

DIVISION Medical Services

PERSON COMPLETING THIS STATEMENT Jason Callan

TELEPHONE 501-320-6540 **FAX** _____ **EMAIL:** Jason.Callan@dhs.arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Hospital Acute Crisis Units

- 1. Does this proposed, amended, or repealed rule have a financial impact? Yes No

- 2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule? Yes No

- 3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If an agency is proposing a more costly rule, please state the following:

- (a) How the additional benefits of the more costly rule justify its additional cost;

- (b) The reason for adoption of the more costly rule;

- (c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;

- (d) Whether the reason is within the scope of the agency’s statutory authority; and if so, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

- (a) What is the cost to implement the federal rule or regulation?

<u>Current Fiscal Year</u>		<u>Next Fiscal Year</u>	
General Revenue	\$ _____	General Revenue	\$ _____
Federal Funds	\$ _____	Federal Funds	\$ _____
Cash Funds	_____	Cash Funds	_____
Special Revenue	_____	Special Revenue	_____

Other (Identify) _____
 Total \$ _____

Other (Identify) _____
 Total \$ _____

(b) What is the additional cost of the state rule?

Current Fiscal Year

Next Fiscal Year

General Revenue \$61,721
 Federal Funds \$155,759
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____
 Total \$217,479

General Revenue \$1,481,294
 Federal Funds \$3,738,206
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____
 Total \$5,219,500

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$ _____

\$ _____

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

Next Fiscal Year

\$ 61,721

\$ 1,481,294

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

(1) a statement of the rule's basis and purpose;

This rule helps to address access issues and provides appropriate clinical treatment to children and adolescents presenting to or admitted to emergency rooms. Currently there are no Acute Crisis Units available to provide stabilization and treatment for children and youth as an alternative to acute inpatient hospitalization.

(2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;

This rule helps to address access issues and provides appropriate clinical treatment to children and adolescents presenting to or admitted to emergency rooms. Currently there are no Acute Crisis Units available to provide stabilization and treatment for children and youth as an alternative to acute inpatient hospitalization.

- (3) a description of the factual evidence that:
- (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;

This rule helps to address access issues and provides appropriate clinical treatment to children and adolescents presenting to or admitted to emergency rooms. Currently there are no Acute Crisis Units available to provide stabilization and treatment for children and youth as an alternative to acute inpatient hospitalization.

- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;

There are no less costly alternatives.

- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;

N/A

- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and

N/A

- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:

- (a) the rule is achieving the statutory objectives;
- (b) the benefits of the rule continue to justify its costs; and
- (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

The Agency monitors State and Federal rules and policies for opportunities to reduce and control costs.

218.400

Acute Crisis Units

6-16-22

Medicaid covers Acute Crisis Units for all ages of clients who have the ability to benefit from care within the setting. Request for Extension of Benefits based upon medical necessity must be obtained for services extending beyond 96 hours.

[View billing Instructions for Acute Crisis Unit reimbursement.](#)

- A. Acute Crisis Units can provide brief crisis treatment services to persons age four (4) years of age or older, who are experiencing a psychiatry- and/or substance abuse-related crisis and may pose an escalated risk of harm to self or others. These units provide hospital diversion and step-down services in a safe environment with psychiatry and substance use disorder services available on-site, as well as on-call psychiatry available 24 hours per day.
- B. A Hospital that is operating an Acute Crisis Unit must ensure that, at a minimum, the following services are available:
 - a. Ongoing assessment and observation;
 - b. Crisis intervention;
 - c. Psychiatric, substance, and co-occurring treatment; and
 - d. Referral mechanisms for independent assessment and care planning as needed.
- C. A Hospital that is operating an Acute Crisis Unit can also provide Substance Abuse Detoxification within the Acute Crisis Unit. Substance Abuse Detoxification is a set of interventions aimed at managing acute intoxication and withdrawal from alcohol or other drugs. Services help stabilize beneficiaries by clearing toxins from the beneficiary's body. Services are short-term and may be provided in a crisis unit, inpatient, or outpatient setting, and may include evaluation, observation, medical monitoring, and addiction treatment. Detoxification seeks to minimize the physical harm caused by the abuse of substances and prepares the beneficiary for ongoing treatment.

218.400

Acute Crisis Units**3-20-226-
16-22**

Medicaid covers Acute Crisis Units for all ages of clients who have the ability to benefit from care within the setting. Request for Extension of Benefits based upon medical necessity must be obtained for services extending beyond 96 hours.

View billing Instructions for Acute Crisis Unit reimbursement.

- A. Acute Crisis Units can provide brief crisis treatment services to persons age ~~nineteen (19)~~ four (4) years of age or older, who are experiencing a psychiatry- and/or substance abuse-related crisis and may pose an escalated risk of harm to self or others. ~~Acute Crisis Units provide hospital diversion and step-down services in a safe environment.~~ These units provide hospital diversion and step-down services in a safe environment with psychiatry and substance use disorder services available on-site, as well as on-call psychiatry available 24 hours per day.
- B. A Hospital that is operating an Acute Crisis Unit must ensure that, at a minimum, the following services are available:
- Ongoing assessment and observation;
 - Crisis intervention;
 - Psychiatric, substance, and co-occurring treatment; and
 - Referral mechanisms for independent assessment and care planning as needed.
- C. A Hospital that is operating an Acute Crisis Unit can also provide Substance Abuse Detoxification within the Acute Crisis Unit. Substance Abuse Detoxification is a set of interventions aimed at managing acute intoxication and withdrawal from alcohol or other drugs. Services help stabilize beneficiaries by clearing toxins from the beneficiary's body. Services are short-term and may be provided in a crisis unit, inpatient, or outpatient setting, and may include evaluation, observation, medical monitoring, and addiction treatment. Detoxification seeks to minimize the physical harm caused by the abuse of substances and prepares the beneficiary for ongoing treatment.



STATE OF ARKANSAS
BUREAU OF
LEGISLATIVE RESEARCH

Marty Garrity, Director
Kevin Anderson, Assistant Director
for Fiscal Services
Tim Carlock, Assistant Director
for Information Technology
Matthew Miller, Assistant Director
for Legal Services
Jessica Whittaker, Assistant Director
for Research Services

MEMORANDUM

TO: Members, ALC – Executive Subcommittee

CC: Marty Garrity, Director, Bureau of Legislative Research;
Rebecca Miller-Rice, Administrator, Administrative Rules Review Section,
Legal Services Division

FROM: Lacey Johnson, Legislative Attorney, Administrative Rules Review Section,
Legal Services Division

DATE: June 6, 2022

SUBJECT: Legal Authorization for the Arkansas Department of Human Services, Division
of Medical Services' Emergency Promulgation of a Rule Regarding Acute Crisis
Units – Hospital Provider Manual

The Department of Human Services has the responsibility to administer assigned forms of public assistance and is specifically authorized to maintain an indigent medical care program (Arkansas Medicaid). *See* Ark. Code Ann. §§ 20-76-201(1), 20-77-107(a)(1). The Department has the authority to make rules that are necessary or desirable to carry out its public assistance duties. Ark. Code Ann. § 20-76-201(12). The Department and its divisions also have the authority to promulgate rules as necessary to conform their programs to federal law and receive federal funding. Ark. Code Ann. § 25-10-129(b).