

## DEPARTMENT OF HUMAN SERVICES, DIVISION OF MEDICAL SERVICES

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**SUBJECT:** Hospital Acute Crisis Units

**DESCRIPTION:**

Statement of Necessity

In an effort to fill gaps and improve continuity of behavioral health services in Arkansas, it is necessary to include a new section in the Arkansas Medicaid Provider Manual to define the operation of Acute Crisis Units in the Hospital and Critical Access Hospital settings.

Rule Summary

Section 218.400 is added to recognize Acute Crisis Units as part of Hospital and Critical Access Hospital services.

**PUBLIC COMMENT:** A public hearing was held on this rule on October 23, 2020. The public comment period expired November 9, 2020. The agency provided the following summary of the public comments it received and its responses to those comments:

Commenter's Name: Laura H. Tyler, PhD, LPC, Chief Executive Officer, Ozark Guidance

**COMMENT 1:** How does the language proposed in 218.400 for Hospital/Critical Access Hospital (CAH)/End Stage Renal Disease (ESRD) satisfy the following?

“Acute Crisis Unit” means a program of non-hospital emergency services for mental health and substance use disorder crisis stabilization, including, but not limited to, observation, evaluation, emergency treatment and referral, when necessary, for inpatient psychiatric or substance use disorder treatment services. This service is limited to individual sites which are certified by the Arkansas Department of Human Services, (DHS) or facilities operated by the Arkansas Department of Human Services. Acute Crisis Units shall be freestanding facilities that must adhere to the following:

- 1.) Have 16 beds or less
  - 2.) Be independently certified by DHS outside of an existing Hospital”
- ”Provider” means an entity that is certified by DHS as an Acute Crisis Unit and enrolled by DMS as a behavioral Health Agency.”

**RESPONSE:** The acute crisis units proposed in this rule will follow inpatient hospital rules under the authority of Arkansas Department of Health. Because these Units will be in hospitals, the DHS licensure will not be required, but ADH licensure will be a required component.

**COMMENT 2:** Will a CAH that includes a ACU be exempt from DHS guidelines?  
**RESPONSE:** The CAHs with an ACU will follow DHS inpatient hospital guidelines.

**COMMENT 3:** “Will these critical access hospitals have to be certified by DHS's (indiscernible)?  
**RESPONSE:** No. They are licensed under the authority of Arkansas Department of Health.

**COMMENT 4:** “If so, is there a you know, how will the language and the definition for "acute crises unit," which requires that these be free-standing facilities, be addressed?  
**RESPONSE:** Arkansas Department of Health licensure will be utilized.

The proposed effective date is January 1, 2021.

**FINANCIAL IMPACT:** The agency indicated that this rule has a financial impact.

Per the agency, the additional cost to implement this rule is \$956,420 for the current fiscal year (\$271,910 in general revenue and \$684,510 in federal funds) and \$1,912,840 for the next fiscal year (\$543,820 in general revenue and \$1,369,020 in federal funds). The total estimated cost by fiscal year to state, county, and municipal government to implement this rule is \$271,910 for the current fiscal year and \$543,820 for the next fiscal year.

The agency indicated that there is a new or increased cost or obligation of at least \$100,000 per year to a private individual, private entity, private business, state government, county government, municipal government, or to two or more of those entities combined. Accordingly, the agency provided the following written findings:

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

To provide services for psych/substance abuse for over age 18.

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

Fill gaps and improve continuity of behavioral health services. Not required by statute.

*(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;*

AR Medicaid is clarifying the Hospital provider manual to define the operation of Acute Crisis Units in the hospital and critical access hospital settings.

*(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;*

None.

*(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;*

No alternatives are proposed at this time.

*(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*

No, they have not. The change is in effort to fill gaps and improve behavioral services.

*(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.*

The agency monitors state and federal rules and policies for opportunities to reduce and control costs.

**LEGAL AUTHORIZATION:** The Department of Human Services has the authority to administer assigned forms of public assistance and to make rules as necessary to carry out its duties. Ark. Code Ann. § 20-76-201(1), (12). The Department is specifically tasked with establishing and maintaining an indigent medical care program. Ark. Code Ann. § 20-77-107(a)(1). This includes promulgating rules to ensure compliance with federal law and receive federal funding. Ark. Code Ann. § 25-10-129(b).