

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.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001

As Engrossed: S3/8/01
A Bill

SENATE BILL 937

4
5 By: Senator Bisbee
6
7

8 **For An Act To Be Entitled**

9 AN ACT TO ADDRESS THE NEEDS OF PERSONS WITH
10 MENTAL ILLNESS AS IDENTIFIED BY THE ACT 1421 TASK
11 FORCE; TO PROVIDE ADDITIONAL MEDICAID
12 PRESCRIPTION DRUG COVERAGE FOR PERSONS WITH
13 MENTAL ILLNESS; TO ADD PERSONAL CARE TO THE
14 MEDICALLY NEEDY MEDICAID PROGRAM; AND FOR OTHER
15 PURPOSES.
16

17 **Subtitle**

18 AN ACT TO PROVIDE ADDITIONAL MEDICAID
19 PRESCRIPTION DRUG COVERAGE FOR PERSONS
20 WITH MENTAL ILLNESS AND TO ADD PERSONAL
21 CARE TO THE MEDICALLY NEEDY MEDICAID
22 PROGRAM.
23

24
25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
26

27 SECTION 1. Legislative findings.

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

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

34 (b) Pursuant to Act 1421 of 1999, the Chairs of the Senate and House
35 Committees on Public Health, Welfare and Labor established a task force which
36 they chaired and which had equal representation from residential care

1 facilities, community mental health centers, advocates for persons with
2 mental illness, and the Divisions of Mental Health and Medical Services of
3 the Department of Human Services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28
29 SECTION 2. Definitions. For purposes of this act:

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

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

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

36

1 SECTION 3. Prescription drugs.

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

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

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

15
16 SECTION 4. Medically needy program.

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

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

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

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

30
31 SECTION 5. If any provision of this act or the application thereof to
32 any person or circumstance is held invalid, such invalidity shall not affect
33 other provisions or applications of the act which can be given effect without
34 the invalid provision or application, and to this end the provision of this
35 act are declared to be severable.

36

