

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.

State of Arkansas
85th General Assembly
Regular Session, 2005

A Bill

SENATE BILL 275

By: Joint Budget Committee

For An Act To Be Entitled

AN ACT TO MAKE AN APPROPRIATION FOR PERSONAL
SERVICES AND OPERATING EXPENSES FOR THE
DEPARTMENT OF HUMAN SERVICES - DIVISION OF
MEDICAL SERVICES FOR THE BIENNIAL PERIOD ENDING
JUNE 30, 2007; AND FOR OTHER PURPOSES.

Subtitle

AN ACT FOR THE DEPARTMENT OF HUMAN
SERVICES - DIVISION OF MEDICAL SERVICES
APPROPRIATION FOR THE 2005-2007
BIENNIUM.

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

SECTION 1. REGULAR SALARIES - OPERATIONS. There is hereby established for the Department of Human Services - Division of Medical Services for the 2005-2007 biennium, the following maximum number of regular employees whose salaries shall be governed by the provisions of the Uniform Classification and Compensation Act (Arkansas Code §§21-5-201 et seq.), or its successor, and all laws amendatory thereto. Provided, however, that any position to which a specific maximum annual salary is set out herein in dollars, shall be exempt from the provisions of said Uniform Classification and Compensation Act. All persons occupying positions authorized herein are hereby governed by the provisions of the Regular Salaries Procedures and Restrictions Act (Arkansas Code §21-5-101), or its successor.



	Maximum Annual					
				Maximum	Salary Rate	
	Item	Class		No. of	Fiscal Years	
	No.	Code	Title	Employees	2005-2006	2006-2007
5	(1)	9985	DHS DEP DIR MEDICAL SERVICES	1	\$98,315	\$100,699
6	(2)	8965	DHS/DMS ADD - MEDICAL SERVICES	1	\$81,858	\$83,963
7	(3)	8938	DHS/DMS ASST DEP DIR LONG TRM CARE	1	\$81,858	\$83,963
8	(4)	8936	DHS/DMS ADD PROG & ADMIN SUPPORT	1	\$81,858	\$83,963
9	(5)	022Z	DHS/DCO CHIEF PROGRAM ADMR	4	GRADE 26	
10	(6)	L014	DIRECTOR OF PHARMACY SERVICES	1	GRADE 26	
11	(7)	L012	PHARMACIST II	4	GRADE 25	
12	(8)	023Z	DHS/DCO ASST CHIEF PROGRAM ADMR	4	GRADE 25	
13	(9)	118Z	DHS NURSING SERVICES ADMINISTRATOR	1	GRADE 25	
14	(10)	L096	SR PHARMACIST	1	GRADE 24	
15	(11)	923Z	DHS PRGM ADMINISTRATOR	9	GRADE 23	
16	(12)	D124	LEAD PROGRAMMER/ANALYST	1	GRADE 22	
17	(13)	L078	NURSE SUPERVISOR	1	GRADE 22	
18	(14)	X338	ENGINEER, PE	2	GRADE 22	
19	(15)	L082	NURSING SERVICES SPECIALIST	13	GRADE 21	
20	(16)	L106	PHYSICAL THERAPY SUPV	1	GRADE 21	
21	(17)	L030	DIETARY SERVICES DIRECTOR	1	GRADE 21	
22	(18)	D036	SR PROGRAMMER/ANALYST	1	GRADE 21	
23	(19)	A251	SR AUDITOR	7	GRADE 21	
24	(20)	697Z	DHS PRGM MANAGER	11	GRADE 21	
25	(21)	A250	JR AUDITOR	1	GRADE 20	
26	(22)	L070	NURSE II	10	GRADE 20	
27	(23)	M027	DHS/DCO COUNTY SUPV II	1	GRADE 20	
28	(24)	R266	MANAGEMENT PROJECT ANALYST II	10	GRADE 20	
29	(25)	M088	SOCIAL WORKER II	3	GRADE 20	
30	(26)	M116	UTILIZATION REVIEW NURSE	60	GRADE 20	
31	(27)	Q046	MEDICARE/MEDICAID SURVEY SPECIALIST	20	GRADE 20	
32	(28)	R145	DHS PROGRAM COORDINATOR	5	GRADE 20	
33	(29)	R084	DHS STAFF SUPERVISOR	4	GRADE 19	
34	(30)	M154	DHS FIELD REPRESENTATIVE	8	GRADE 19	
35	(31)	R332	DHS POLICY DEVELOPMENT COORD	5	GRADE 19	
36	(32)	X358	HLTH FACILITY SURVEYOR	2	GRADE 19	

1	(33)	L028	DIETICIAN	3	GRADE 19
2	(34)	M078	DHS/DEMS SUPERVISOR	2	GRADE 18
3	(35)	D129	DP COORDINATOR	1	GRADE 18
4	(36)	X352	HLTH CARE ANALYST II	21	GRADE 17
5	(37)	R010	ADMINISTRATIVE ASSISTANT II	16	GRADE 17
6	(38)	R110	MEDICAL PROGRAM REPRESENTATIVE	3	GRADE 17
7	(39)	R162	STATISTICIAN/STATISTICIAN II	1	GRADE 17
8	(40)	D005	COMPUTER OPERATOR II	1	GRADE 15
9	(41)	A108	ACCOUNTING TECHNICIAN II	3	GRADE 15
10	(42)	K041	EXECUTIVE SECY/ADMINISTRATIVE SECY	7	GRADE 14
11	(43)	K117	MEDICAL OR LEGAL SECRETARY	6	GRADE 14
12	(44)	K153	SECRETARY II	11	GRADE 13
13	(45)	M067	SOCIAL SERVICE AIDE II	1	GRADE 13
14	(46)	K039	DOCUMENT EXAMINER II	18	GRADE 12
15	(47)	K155	SECRETARY I	<u>1</u>	GRADE 11
16			MAX. NO. OF EMPLOYEES	290	

17

18 SECTION 2. REGULAR SALARIES - MEDICAID EXPANSION. There is hereby
 19 established for the Department of Human Services - Division of Medical
 20 Services for the 2005-2007 biennium, the following maximum number of regular
 21 employees whose salaries shall be governed by the provisions of the Uniform
 22 Classification and Compensation Act (Arkansas Code §§21-5-201 et seq.), or
 23 its successor, and all laws amendatory thereto. Provided, however, that any
 24 position to which a specific maximum annual salary is set out herein in
 25 dollars, shall be exempt from the provisions of said Uniform Classification
 26 and Compensation Act. All persons occupying positions authorized herein are
 27 hereby governed by the provisions of the Regular Salaries Procedures and
 28 Restrictions Act (Arkansas Code §21-5-101), or its successor.

29

30

31				Maximum Annual
32			Maximum	Salary Rate
33	Item	Class	No. of	Fiscal Years
34	No.	Code	Title	Employees
				2005-2006
				2006-2007
35	(1)	697Z	DHS PRGM MANAGER	1
36	(2)	M154	DHS FIELD REPRESENTATIVE	<u>1</u>

MAX. NO. OF EMPLOYEES

2

SECTION 3. EXTRA HELP. There is hereby authorized, for the Department of Human Services - Division of Medical Services for the 2005-2007 biennium, the following maximum number of part-time or temporary employees, to be known as "Extra Help", payable from funds appropriated herein for such purposes: seven (7) temporary or part-time employees, when needed, at rates of pay not to exceed those provided in the Uniform Classification and Compensation Act, or its successor, or this act for the appropriate classification.

SECTION 4. APPROPRIATION - PROGRAM INTEGRITY AND UTILIZATION REVIEW. There is hereby appropriated, to be payable from the funds and fund accounts as set out herein, to the Department of Human Services - Division of Medical Services for the biennial period ending June 30, 2007, the following:

(a) For the Program Integrity & Utilization Review, the sum of \$19,075,887 for the 2005-2006 fiscal year and \$19,482,639 for the 2006-2007 fiscal year.

(1) Program Description. The Division of Medical Services primary responsibility is the management of the Arkansas Medicaid Program. The organizational units of the Division include: 1) Medical Services - This Office includes the Prescription Drug Program, Utilization Review, Medical Assistance and Field Audit.

2) Long Term Care - The role of the Office of Long Term Care is to license and certify LTC facilities and staff in compliance with state and/or federal regulations and to perform complaint investigations and medical need determinations.

3) Administrative Support Services - This Office is responsible for budgeting, expenditure monitoring & evaluation, personnel management, contracts, managing the Medicaid Management Information System, institutional and non-institutional reimbursement, and Third Party Liability.

4) Director's Office - This office is responsible for the short and long range planning for DMS programs, processing Medicaid State Plan amendments and policy development.

(2) Appropriation payable from:

FISCAL YEARS

2005-2006

2006-2007

(A) General Revenue:

Medical Services Fund Account	\$	<u>4,703,262</u>	\$	<u>4,804,416</u>
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1	TOTAL General Revenue	\$ 4,703,262	\$ 4,804,416
2	(B) Federal Funds as designated by		
3	the Chief Fiscal Officer of the		
4	State	\$ 9,428,142	\$ 9,630,914
5	(C) Other Funds	\$ 4,557,776	\$ 4,655,801
6	(3) Performance Targets:		
7	(A) Continued Federal Approval	Yes	Yes
8	(B) Number of Prior year audit		
9	findings repeated in subsequent		
10	audit.	0	0
11	(C) Percentage of agency budget in		
12	the Program Integrity and		
13	Utilization Review Program		
14	compared to total agency budget.	4%	4%
15	(D) Percentage of agency key		
16	performance measures met.	90%	90%
17	(E) Percentage of LTC Complaints		
18	Investigated within regulatory		
19	timeframes compared to total		
20	complaints	90%	91%
21	(F) Percentage of LTC Facilities		
22	Surveyed annually in accordance		
23	with regulations compared to		
24	total LTC facilities.	82%	83%
25	(G) Program savings including		
26	identification of overpayments		
27	and cost avoidance as a		
28	percentage of the costs of		
29	utilization review and TPL		
30	activities.	100%	100%

SECTION 5. APPROPRIATION - PRESCRIPTION DRUG PROGRAM. There is hereby appropriated, to be payable from the funds and fund accounts as set out herein, to the Department of Human Services - Division of Medical Services for the biennial period ending June 30, 2007, the following:

(a) For the Prescription Drug Program, the sum of \$517,895,436 for the 2005-

2006 fiscal year and \$609,820,917 for the 2006-2007 fiscal year.

(1) Program Description. The Prescription Drug Program is an optional Medicaid Benefit. The program allows eligible recipients to obtain prescription medication through participating pharmacies in Arkansas.

(2) Appropriation payable from:

FISCAL YEARS

2005-2006

2006-2007

(A) General Revenue:

Department of Human Services

Grants Fund Account

\$ 86,493,956

\$ 86,493,956

TOTAL General Revenue

\$ 86,493,956

\$ 86,493,956

(B) Federal Funds as designated by
the Chief Fiscal Officer of the
State

\$ 356,626,051

\$ 424,224,254

(C) Other Funds

\$ 20,938,434

\$ 25,505,712

(3) Performance Targets:

(A) Percentage of Drug Rebates
compared to total prescription
drug expenditures

18%

19%

(B) Percentage of prescription drugs
filled with generic drugs.

49%

50%

(C) Percentage of Recipients
receiving medically necessary
prescriptions.

100%

100%

SECTION 6. APPROPRIATION - LONG TERM CARE PROGRAM. There is hereby appropriated, to be payable from the funds and fund accounts as set out herein, to the Department of Human Services - Division of Medical Services for the biennial period ending June 30, 2007, the following:

(a) For the Long Term Care Program, the sum of \$725,623,411 for the 2005-2006 fiscal year and \$768,413,930 for the 2006-2007 fiscal year.

(1) Program Description. Private Nursing Home, Public Nursing Home, Intermediate Care Facilities for the Mentally Retarded and Infant Infirmaries.

(2) Appropriation payable from:

FISCAL YEARS

2005-2006

2006-2007

(A) General Revenue:

1	Department of Human Services		
2	Grants Fund Account	\$ 76,911,098	\$ 76,911,098
3	TOTAL General Revenue	\$ 76,911,098	\$ 76,911,098
4	(B) Federal Funds as designated by		
5	the Chief Fiscal Officer of the		
6	State	\$ 491,882,389	\$ 565,579,201
7	(C) Trust Funds	\$ 54,618,783	\$ 58,138,470
8	(D) Other Funds	\$ 35,141,917	\$ 38,907,161
9	(3) Performance Targets:		
10	(A) Average Monthly cost per		
11	Medicaid eligible client - ICF/MR	\$5,351	\$5,506
12	(B) Average Monthly cost per		
13	Medicaid eligible client -		
14	Private Nursing Homes	\$2,102	\$2,190
15	(C) Average Monthly cost per		
16	Medicaid eligible client - Public		
17	Nursing Homes	\$6,482	\$6,670
18	(D) Average Monthly recipient		
19	Caseload - ICF/MR	575	575
20	(E) Average Monthly recipient		
21	Caseload - Private Nursing Homes	20,262	20,376
22	(F) Average Monthly recipient		
23	Caseload - Public Nursing Homes	1,660	1,660

25 SECTION 7. APPROPRIATION - HOSPITAL AND MEDICAL SERVICES PROGRAM. There is
 26 hereby appropriated, to be payable from the funds and fund accounts as set
 27 out herein, to the Department of Human Services - Division of Medical
 28 Services for the biennial period ending June 30, 2007, the following:

29 (a) For the Hospital and Medical Services Program, the sum of \$2,216,186,108
 30 for the 2005-2006 fiscal year and \$2,485,412,714 for the 2006-2007 fiscal
 31 year.

32 (1) Program Description. Hospital/Medical Services program consists of
 33 many services including inpatient and outpatient hospital, community mental
 34 health centers, community health centers, rural health clinics, home health,
 35 private duty nursing, personal care, hospice, practitioners such as
 36 physicians, dentists, audiologist, psychologist, speech, occupational and

physical therapists, maternity clinics, family planning, laboratory and x-ray services, case management, transportation and early and periodic screening diagnosis and treatment and several optional waiver services.

(2) Appropriation payable from:

FISCAL YEARS

2005-2006

2006-2007

(A) General Revenue:

Department of Human Services

Grants Fund Account

\$ 376,363,681

\$ 376,363,681

TOTAL General Revenue

\$ 376,363,681

\$ 376,363,681

(B) Federal Funds as designated by

the Chief Fiscal Officer of the

State

\$1,545,746,029

\$1,699,691,491

(C) Trust Funds

\$ 86,557,539

\$ 52,057,540

(D) Other Funds

\$ 79,518,859

\$ 88,360,502

(3) Performance Targets:

(A) Continued access to the

ConnectCare primary care network

of 1800 providers enrolled in the

Medicaid Program

100%

100%

(B) Percent of ARKids First B and

SCHIP Program Eligibles receiving

Services

88%

88%

(C) Percentage of Medicaid eligible

participants enrolled in the

Arkansas ConnectCare Managed Care

Program

100%

100%

(D) Percentage of rates set

according to the reimbursement

methodology in the federally

approved Medicaid State Plan

100%

100%

(E) Recipients served by Home and

Community Based Waivers

15,131

15,884

SECTION 8. APPROPRIATION - TOBACCO SETTLEMENT - MEDICAID EXPANSION

PROGRAM. There is hereby appropriated, to be payable from the funds and fund accounts as set out herein, to the Department of Human Services - Division of

Medical Services for the biennial period ending June 30, 2007, the following:

(a) For the Tobacco Settlement Medicaid Expansion Program, the sum of \$105,545,383 for the 2005-2006 fiscal year and \$50,548,111 for the 2006-2007 fiscal year.

(1) Program Description. Tobacco Settlement Medicaid Expansion Program established by Initiated Act 1 of 2000.

(2) Appropriation payable from:

FISCAL YEARS

2005-2006

2006-2007

(A) Federal Funds as designated by the Chief Fiscal Officer of the State

\$ 37,745,198 \$ 37,747,926

(B) Other Funds

\$ 12,800,185 \$ 12,800,185

(3) Performance Targets:

(A) Percent of tobacco program administrative support costs compared total tobacco program costs

0.5% 0.5%

(B) Unduplicated number of adults aged 19-64 receiving a limited benefit package through the Tobacco Settlement

Not Implemented Not Implemented

(C) Unduplicated number of adults aged 65 and over receiving expanded services provided under the Tobacco Settlement

3,500 4,000

(D) Unduplicated number of adults receiving expanded inpatient services provided under the Tobacco Settlement

45,000 45,000

(E) Unduplicated number of pregnant women receiving services provided under the Tobacco Settlement

2,150 2,200

SECTION 9. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. DEPARTMENT OF HUMAN SERVICES GRANTS FUND ACCOUNT. The Department of Human Services Grants

Fund Account shall be used for the following grant programs to consist of general revenues and any other nonfederal funds, as may be appropriated by the General Assembly:

- (i) Children's Medical Services;
- (ii) Food Stamp Employment and Training Program;
- (iii) Aid to the Aged, Blind, and Disabled;
- (iv) Transitional Employment Assistance Program;
- (v) Private nursing home care;
- (vi) Infant Infirmary - nursing home care;
- (vii) Public Nursing Home Care;
- (viii) Prescription Drugs;
- (ix) Hospital and Medical Services;
- (x) Child and Family Life Institute;
- (xi) Community Services Block Grant;
- (xii) ARKIDSFIRST;
- (xiii) Child Health Management Services;
- (xiv) Child Care Grant; and
- (xv) Prescription Drug Elderly

SECTION 10. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL SERVICES - CARRY FORWARD. The unexpended balances in appropriations made from federal funds, for Medical Services, as provided for in this Act on June 30, ~~2004~~ 2006 shall be carried forward and made available for expenditures for the same purpose for the fiscal year ending June 30, ~~2005~~ 2007.

The provisions of this section shall be in effect only from July 1, ~~2003~~ 2005 through June 30, ~~2005~~ 2007.

SECTION 11. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL SERVICES - CHILD AND FAMILY LIFE INSTITUTE. The Child Health and Family Life Institute shall be administered under the direction of Arkansas Children's Hospital. Arkansas Children's Hospital shall enter into a cooperative agreement and/or contract with the University of Arkansas for Medical Sciences - Department of Pediatrics for services required in delivering the programs of the Child Health and Family Life Institute. Utilizing a

1 multidisciplinary collaboration of professionals, the Child Health and Family
2 Life Institute shall provide a statewide effort to explore, develop and
3 evaluate new and better ways to address medically, socially and economically
4 interrelated health and developmental needs of children with special health
5 care needs and their families. The Child Health and Family Life Institute's
6 priorities shall include, but are not limited to, wellness and prevention,
7 screen and diagnosis, treatment and intervention, training and education and
8 research and evaluation.

9 Arkansas Children's Hospital and the University of Arkansas for Medical
10 Sciences-Department of Pediatrics shall make ~~semi~~-annual reports to the
11 Arkansas Legislative Council on all matters of funding, existing programs and
12 services offered through the Child Health and Family Life Institute.

13 The provisions of this section shall be in effect only from July 1, 2003
14 2005 through June 30, ~~2005~~ 2007.

15
16 SECTION 12. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
17 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL
18 SERVICES - PHARMACEUTICAL DISPENSING FEE SURVEY. No more than two years prior
19 to making any changes to the current pharmaceutical dispensing fee, the State
20 shall conduct an independent survey utilizing generally accepted accounting
21 principles, to determine the cost of dispensing a prescription by pharmacists
22 in Arkansas. Only factors relative to the cost of dispensing shall be
23 surveyed. These factors shall not include actual acquisition costs or
24 average profit or any combination of actual acquisition costs or average
25 profit. The survey results shall be the basis for establishing the
26 dispensing fee paid to participating pharmacies in the Medicaid prescription
27 drug program in accordance with Federal requirements. The dispensing fee
28 shall be no lower than the cost of dispensing as determined by the survey.
29 Nothing in this section shall be construed to prohibit the State from
30 increasing the dispensing fee at any time.

31 The provisions of this section shall be in effect only from July 1, 2003
32 2005 through June 30, ~~2005~~ 2007.

33
34 SECTION 13. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
35 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL
36 SERVICES GENERAL MEDICAID RATE METHODOLOGY PROVISIONS. (a) Rates established

1 by the Division of Medical Services for the services or programs covered by
 2 this Act shall be calculated by the methodologies approved by the Centers for
 3 Medicare and Medicaid Services (CMS). The Division of Medical Services shall
 4 have the authority to reduce or increase rates based on the approved
 5 methodology. Further, the Division of Medical Services shall have the
 6 authority to increase or decrease rates for good cause including, but not
 7 limited to: (1) identification of provider(s) who can render needed services
 8 of equal quality at rates less than traditionally charged and who meet the
 9 applicable federal and state laws, rules and regulations pertaining to the
 10 provision of a particular service, (2) identification that a provider or
 11 group of providers has consistently charged rates to the Arkansas Medicaid
 12 Program greater than to other purchasers of medical services of similar size,
 13 (3) the Division determines that there has been significant changes in the
 14 technology or process by which services are provided by a provider or group
 15 of providers which has affected the costs of providing services, or (4) a
 16 severe economic downturn in the Arkansas economy which has affected the
 17 overall state budget of the Division of Medical Services.

18 The Division of Medical Services shall make available to requesting
 19 providers, the CMS's inflationary forecasts (CMS Market Basket Index). Rates
 20 established with cost of living increases based on the CMS Market Basket
 21 Index or other indices will be adjusted annually except when the state budget
 22 does not provide sufficient appropriation and funding to affect the change or
 23 portion thereof.

24 (b) Any rate methodology changes proposed by the Division of Medical Services
 25 both of a general and specific nature, shall be subject to prior review by
 26 the Legislative Council or Joint Budget Committee.

27 The provisions of this section shall be in effect only from July 1, ~~2003~~
 28 2005 through June 30, ~~2005~~ 2007.

29
 30 SECTION 14. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
 31 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL
 32 SERVICES - STATE MEDICAID PROGRAM/PERSONAL CARE PROGRAM. (a) It is the
 33 Legislative intent that the Department of Human Services in its
 34 administration of the Arkansas Medicaid Program set forth Medicaid provider
 35 participation requirements for "personal care providers" that will insure
 36 sufficient available providers to meet the required needs of all eligible

1 recipients, to include insuring available in-home services twenty-four hours
2 a day and seven days a week for personal care.

3 (b) For the purposes of this section, "private care agencies" are defined as
4 those providers licensed by the Department of Labor, certified as
5 ElderChoices Providers and who furnish in-home staffing services for respite,
6 chore services, and homemaker services, and are covered by liability
7 insurance of not less than one million dollars (\$1,000,000.00) covering their
8 employees and independent contractors while they are engaged in providing
9 services, such as personal care, respite, chore services, and homemaker
10 services.

11 (c) The purpose of this section is to allow the private care agencies defined
12 herein to be eligible to provide Medicaid reimbursed personal care services
13 seven days a week, and does not supercede Department of Human Services rules
14 establishing monthly benefit limits and prior authorization requirements.

15 (d) The availability of providers shall not require the Department of Human
16 Services to reimburse for 24 hours per day of personal care services.

17 (e) The Arkansas Department of Human Services, Medical Services Division
18 shall take such action as required by the Centers for Medicare and Medicaid
19 Services to amend the Arkansas Medicaid manual to include, private care
20 agencies, as qualified entities to provide Medicaid reimbursed personal care
21 services.

22 (f) The private care agencies shall comply with rules and regulations
23 promulgated by the Arkansas Department of Health which shall establish a
24 separate licensure category for the private care agencies for the provision
25 of Medicaid reimbursable personal care services seven days a week.

26 (g) The Arkansas Department of Health shall supervise the conduct of the
27 private care agencies defined herein.

28 (h) The purpose of this section is to insure the care provided by the private
29 care agencies, is consistent with the rules and regulations of the Arkansas
30 Department of Health.

31 The provisions of this section shall be in effect only from July 1, 2003
32 2005 through June 30, ~~2005~~ 2007.

33
34 SECTION 15. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
35 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL
36 SERVICES - BORDER CITY DDTCS AND ELDERCHOICES PROVIDERS. Approved Arkansas

1 Medicaid providers of Developmental Day Treatment Clinic Services (DDTCS) and
 2 ElderChoices Services, or their successor programs, who have out-of-state
 3 border city facilities may be licensed by the State of Arkansas and/or
 4 contract with the State to be reimbursed for Medicaid eligible services
 5 delivered to Arkansas residents who are Medicaid eligible.

6 The provisions of this section shall be in effect only from July 1, 2003
 7 2005 through June 30, ~~2005~~ 2007.

8
 9 SECTION 16. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
 10 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. FUND
 11 USAGE AUTHORIZED. The Arkansas Children's Hospital may request the
 12 Department of Human Services - Division of Medical Services to retain in the
 13 Department of Human Services Grant Fund account an amount not to exceed
 14 \$2,100,000 each fiscal year from funds made available by this Act for the
 15 Child and Family Life Institute, ~~Section 4, item number 06 as contained~~
 16 within the Hospital / Medical Services Program to be used to match federal
 17 funds used for supplemental Medicaid payments to Arkansas Children's
 18 Hospital. These retained funds shall not be recovered for transfer to the
 19 General Revenue Allotment Reserve Fund.

20
 21 SECTION 17. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
 22 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. STATE
 23 PLAN. The State Plan must include the provision of EPSDT services as those
 24 services are defined in §1396d(r). See §§ 1396a(a)(10)(A),
 25 1396d(a)(4)(B); see also 1396a(a)(43). Section 1396d(r) lists in detail the
 26 screening services, vision services, dental services, and hearing services
 27 that the State Plan must expressly include, but with regard to treatment
 28 services, it states that EPSDT means "[s]uch other necessary health care,
 29 diagnostic services, treatment, and other measures described in subsection
 30 (a) of this section to correct or ameliorate defects and physical and mental
 31 illnesses and conditions discovered by the screening services, whether or not
 32 such services are covered under the State plan." 42 U.S.C. § 1396d(r)(5)
 33 (emphasis added). Reading §1396a, § 1396d(a), and § 1396d(r) together, we
 34 believe that the State Plan need not specifically list every treatment
 35 service conceivably available under the EPSDT mandate.
 36 The State Plan, however, must pay part or all of the cost of treatments to

1 ameliorate conditions discovered by the screening process when those
 2 treatments meet. The definitions set forth in § 1396a. See § 1396d(r)(5);
 3 see also §§ 1396a(a)(10), 1396a (a)(43), and 1396d(a)(4)(B). The Arkansas
 4 State Plan states that the "State will provide other health care described in
 5 [42 U.S.C. 1396d(a)] that is found to be medically necessary to correct or
 6 ameliorate defects and physical and mental illnesses and conditions
 7 discovered by the screening services, even when such health care is not
 8 otherwise covered under the State Plan." See State Plan Under Title XIX of
 9 the Social Security Act Medical Assistance Program, State Of Arkansas at §
 10 4.b. This provision Meets the EPSDT mandate of the Medicaid Act.
 11 We affirm the district court's decision to the extent that it holds that a
 12 Medicaid-Eligible individual has a federal right to early intervention day
 13 treatment when a physician recommends such treatment. Section 1396d(r)(5)
 14 states that EPSDT includes any treatments or measures outlined in § 1396d(a).
 15 There are twenty-seven sub-parts to § 1396d(a), and we find that sub-part
 16 (a)(13), in particular, when read with the other sections of the Medicaid Act
 17 listed above, mandates that early intervention day treatment be provided when
 18 it is prescribed by a physician. See 42 U.S.C. § 1396d(a)(13) (defining
 19 medical assistance reimbursable by Medicaid as "other diagnostic, screening,
 20 preventive, and rehabilitative services, including any medical or remedial
 21 services recommended by a physician...for the maximum reduction of physical and
 22 mental disability and restoration of an individual to the best possible
 23 functional level"). Therefore, after CHMS clinic staff perform a diagnostic
 24 evaluation of an eligible child, if the CHMS physician prescribes early
 25 intervention day treatment as a service that would lead to the maximum
 26 reduction of medical and physical disabilities and restoration of the child
 27 to his or her best possible functional level, the Arkansas State Plan must
 28 reimburse the treatment. Because CHMS clinics are the only providers of
 29 early intervention day treatment, Arkansas must reimburse those clinics.

30
 31 SECTION 18. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
 32 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. TOBACCO
 33 SETTLEMENT MEDICAID EXPANSION PROGRAM - CARRY FORWARD. Such appropriation as
 34 is authorized in this Act for the Arkansas Tobacco Settlement - Medicaid
 35 Expansion Program which remains at the end of the first fiscal year of the
 36 biennium may be carried forward into the second fiscal year of the biennium

1 there to be used for the same purposes.

2 The provisions of this section shall be in effect only from July 1, 2003
3 2005 through June 30, ~~2005~~ 2007.

4
5 SECTION 19. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
6 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. TOBACCO
7 SETTLEMENT MEDICAID EXPANSION PROGRAM - PAYING ACCOUNTS. The Medicaid
8 Expansion Program as established by Initiated Act 1 of 2000 shall be a
9 separate and distinct component embracing (1) expanded Medicaid coverage and
10 benefits to pregnant women; (2) expanded inpatient and outpatient hospital
11 reimbursements and benefits to adults aged nineteen (19) to sixty-four (64);
12 (3) expanded non-institutional coverage and benefits to adults aged 65 and
13 over; and (4) creation and provision of a limited benefit package to adults
14 aged nineteen (19) to sixty-four (64), to be administered by the Department
15 of Human Services. Separate Paying Accounts shall be established for the
16 Medicaid Expansion Program as designated by the Chief Fiscal Officer of the
17 State, to be used exclusively for the purpose of drawing down federal funds
18 associated with the federal share of expenditures and for the state share of
19 expenditures transferred from the Medicaid Expansion Program Account or for
20 any other appropriate state match funds.

21 The provisions of this section shall be in effect only from July 1, 2003
22 2005 through June 30, ~~2005~~ 2007.

23
24 SECTION 20. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
25 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. TOBACCO
26 SETTLEMENT MEDICAID EXPANSION PROGRAM - ACCOUNTS. Such appropriations and
27 fund accounts as may be necessary to administer the provisions of ~~this act~~
28 the Tobacco Settlement Medicaid Expansion Program shall be established on the
29 books of the Chief Fiscal Officer of the State, State Treasurer, and the
30 Auditor of the State.

31 The provisions of this section shall be in effect only from July 1, 2003
32 2005 through June 30, ~~2005~~ 2007.

33
34 SECTION 21. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
35 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW.
36 POSITIONS. (a) Nothing in this act shall be construed as a commitment of the

1 State of Arkansas or any of its agencies or institutions to continue funding
 2 any position paid from the proceeds of the Tobacco Settlement in the event
 3 that Tobacco Settlement funds are not sufficient to finance the position.

4 (b) State funds will not be used to replace Tobacco Settlement funds when
 5 such funds expire, unless appropriated by the General Assembly and authorized
 6 by the Governor.

7 (c) A disclosure of the language contained in (a) and (b) of this Section
 8 shall be made available to all new hire and current positions paid from the
 9 proceeds of the Tobacco Settlement by the Tobacco Settlement Commission.

10 (d) Whenever applicable the information contained in (a) and (b) of this
 11 Section shall be included in the employee handbook and or Professional
 12 Services Contract paid from the proceeds of the Tobacco Settlement.

13
 14 SECTION 22. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
 15 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. TOBACCO
 16 SETTLEMENT MEDICAID EXPANSION PROGRAM - TRANSFER RESTRICTIONS. The
 17 appropriations provided in ~~this act~~ the Tobacco Settlement Medicaid Expansion
 18 Program shall not be transferred under the provisions of Arkansas Code 19-4-
 19 522 or the provisions of Arkansas code 6-62-104, but only as provided by this
 20 act.

21
 22 SECTION 23. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
 23 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. TOBACCO
 24 SETTLEMENT MEDICAID EXPANSION PROGRAM - TRANSFERS OF APPROPRIATIONS. In the
 25 event the amount of any of the budget classifications of maintenance and
 26 general operation in ~~this act~~ the Tobacco Settlement Medicaid Expansion
 27 Program are found by the administrative head of the agency to be inadequate,
 28 then the agency head may request, upon forms provided for such purpose by the
 29 Chief Fiscal Officer of the State, a modification of the amounts of the
 30 budget classification. In that event, he shall set out on the forms the
 31 particular classifications for which he is requesting an increase or
 32 decrease, the amounts thereof, and his reasons therefor. In no event shall
 33 the total amount of the budget exceed either the amount of the appropriation
 34 or the amount of the funds available, nor shall any transfer be made from the
 35 capital outlay or data processing subclassifications unless specific
 36 authority for such transfers is provided by law, except for transfers from

1 capital outlay to data processing when determined by the Department of
 2 Information Systems that data processing services for a state agency can be
 3 performed on a more cost-efficient basis by the Department of Information
 4 Systems than through the purchase of data processing equipment by that state
 5 agency. In considering the proposed modification as prepared and submitted by
 6 each state agency, the Chief Fiscal Officer of the State shall make such
 7 studies as he deems necessary. The Chief Fiscal Officer of the State shall,
 8 after obtaining the approval of the Legislative Council, approve the
 9 requested transfer if in his opinion it is in the best interest of the state.

10 The General Assembly has determined that the agency in this act could be
 11 operated more efficiently if some flexibility is given to that agency and
 12 that flexibility is being accomplished by providing authority to transfer
 13 between certain items of appropriation ~~made by this act~~ for the Tobacco
 14 Settlement Medicaid Expansion Program. Since the General Assembly has granted
 15 the agency broad powers under the transfer of appropriations, it is both
 16 necessary and appropriate that the General Assembly maintain oversight of the
 17 utilization of the transfers by requiring prior approval of the Legislative
 18 Council in the utilization of the transfer authority. Therefore, the
 19 requirement of approval by the Legislative Council is not a severable part of
 20 this section. If the requirement of approval by the Legislative Council is
 21 ruled unconstitutional by a court jurisdiction, this entire section is void.

22
 23 SECTION 24. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
 24 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. TOBACCO
 25 SETTLEMENT MEDICAID EXPANSION PROGRAM - COMPLIANCE WITH OTHER LAWS.

26 Disbursement of funds authorized ~~by this act~~ for the Tobacco Settlement
 27 Medicaid Expansion Program shall be limited to the appropriation for such
 28 agency and funds made available by law for the support of such
 29 appropriations; and the restrictions of the State Purchasing Law, the General
 30 Accounting and Budgetary Procedures Law, the Regular Salary Procedures and
 31 Restrictions Act, or their successors, and other fiscal control laws of this
 32 State, where applicable, and regulations promulgated by the Department of
 33 Finance and Administration, as authorized by law, shall be strictly complied
 34 with in disbursement of said funds.

35 The provisions of this section shall be in effect only from July 1, 2003
 36 2005 through June 30, ~~2005~~ 2007.

1
2 SECTION 25. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
3 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. TOBACCO
4 SETTLEMENT MEDICAID EXPANSION PROGRAM - LEGISLATIVE INTENT. It is the intent
5 of the General Assembly that any funds disbursed under the authority of the
6 appropriations contained in ~~this act~~ the Tobacco Settlement Medicaid
7 Expansion Program shall be in compliance with the stated reasons for which
8 ~~this act~~ the Tobacco Settlement Medicaid Expansion Program was adopted, as
9 evidenced by Initiated Act 1 of 2000, the Agency Requests, Executive
10 Recommendations and Legislative Recommendations contained in the budget
11 manuals prepared by the Department of Finance and Administration, letters, or
12 summarized oral testimony in the official minutes of the Arkansas Legislative
13 Council or Joint Budget Committee which relate to its passage and adoption.
14

15 SECTION 26. COMPLIANCE WITH OTHER LAWS. Disbursement of funds authorized
16 by this act shall be limited to the appropriation for such agency and funds
17 made available by law for the support of such appropriations; and the
18 restrictions of the State Procurement Law, the General Accounting and
19 Budgetary Procedures Law, the Revenue Stabilization Law, the Regular Salary
20 Procedures and Restrictions Act, or their successors, and other fiscal
21 control laws of this State, where applicable, and regulations promulgated by
22 the Department of Finance and Administration, as authorized by law, shall be
23 strictly complied with in disbursement of said funds.
24

25 SECTION 27. LEGISLATIVE INTENT. It is the intent of the General Assembly
26 that any funds disbursed under the authority of the appropriations contained
27 in this act shall be in compliance with the stated reasons for which this act
28 was adopted, as evidenced by the Agency Requests, Executive Recommendations
29 and Legislative Recommendations contained in the budget manuals prepared by
30 the Department of Finance and Administration, letters, or summarized oral
31 testimony in the official minutes of the Arkansas Legislative Council or
32 Joint Budget Committee which relate to its passage and adoption.
33

34 SECTION 28. EMERGENCY CLAUSE. It is found and determined by the General
35 Assembly, that the Constitution of the State of Arkansas prohibits the
36 appropriation of funds for more than a two (2) year period; that the

effectiveness of this Act on July 1, 2005 is essential to the operation of
the agency for which the appropriations in this Act are provided, and that in
the event of an extension of the Regular Session, the delay in the effective
date of this Act beyond July 1, 2005 could work irreparable harm upon the
proper administration and provision of essential governmental programs.
Therefore, an emergency is hereby declared to exist and this Act being
necessary for the immediate preservation of the public peace, health and
safety shall be in full force and effect from and after July 1, 2005.