

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 *As Engrossed: S3/9/05 S4/5/05 S4/7/05 S4/12/05*

2 85th General Assembly

A Bill

3 Regular Session, 2005

SENATE BILL 275

4

5 By: Joint Budget Committee

6

7

8

For An Act To Be Entitled

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

14

15

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Subtitle

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

21

22

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

24

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

36



				Maximum	Maximum Annual	
				No. of	Salary Rate	
	Item	Class		Employees	Fiscal Years	
	No.	Code	Title		2005-2006	2006-2007
5	(1)	9985	DHS DEP DIR MEDICAL SERVICES	1	\$98,315	\$100,699
6	(2)	9487	REGISTERED PHARMACIST III	2	\$87,500	\$92,500
7	(3)	9486	REGISTERED PHARMACIST II	1	\$84,500	\$89,500
8	(4)	9485	REGISTERED PHARMACIST I	3	\$82,500	\$87,500
9	(5)	8965	DHS/DMS ADD - MEDICAL SERVICES	1	\$81,858	\$83,963
10	(6)	8938	DHS/DMS ASST DEP DIR LONG TRM CARE	1	\$81,858	\$83,963
11	(7)	8936	DHS/DMS ADD PROG & ADMIN SUPPORT	1	\$81,858	\$83,963
12	(8)	022Z	DHS/DCO CHIEF PROGRAM ADMR	4	GRADE	26
13	(9)	023Z	DHS/DCO ASST CHIEF PROGRAM ADMR	4	GRADE	25
14	(10)	118Z	DHS NURSING SERVICES ADMINISTRATOR	1	GRADE	25
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	

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18 SECTION 2. EXTRA HELP. There is hereby authorized, for the Department of

19 Human Services - Division of Medical Services for the 2005-2007 biennium, the

20 following maximum number of part-time or temporary employees, to be known as

21 "Extra Help", payable from funds appropriated herein for such purposes:

22 seven (7) temporary or part-time employees, when needed, at rates of pay not

23 to exceed those provided in the Uniform Classification and Compensation Act,

24 or its successor, or this act for the appropriate classification.

25

26 SECTION 3. APPROPRIATION - OPERATIONS. There is hereby appropriated, to

27 the Department of Human Services - Division of Medical Services, to be

28 payable from the paying account as determined by the Chief Fiscal Officer of

29 the State, for personal services and operating expenses of the Department of

30 Human Services - Division of Medical Services - Operations for the biennial

31 period ending June 30, 2007, the following:

33	ITEM	FISCAL YEARS	
34	<u>NO.</u>	<u>2005-2006</u>	<u>2006-2007</u>
35	(01) REGULAR SALARIES	\$ 11,519,845	\$ 11,859,648
36	(02) EXTRA HELP	126,892	126,892

1	(03) PERSONAL SERVICES MATCHING	3,395,515	3,462,464
2	(04) OVERTIME	5,000	5,000
3	(05) MAINT. & GEN. OPERATION		
4	(A) OPER. EXPENSE	3,152,863	3,152,863
5	(B) CONF. & TRAVEL	235,840	235,840
6	(C) PROF. FEES	355,132	355,132
7	(D) CAP. OUTLAY	195,000	195,000
8	(E) DATA PROC.	0	0
9	(06) DATA PROCESSING SERVICES	<u>89,800</u>	<u>89,800</u>
10	TOTAL AMOUNT APPROPRIATED	<u>\$ 19,075,887</u>	<u>\$ 19,482,639</u>

11

12 SECTION 4. APPROPRIATION - GRANTS. There is hereby appropriated, to the
 13 Department of Human Services - Division of Medical Services, to be payable
 14 from the paying account as determined by the Chief Fiscal Officer of the
 15 State, for grant payments of the Department of Human Services - Division of
 16 Medical Services - Grants for the biennial period ending June 30, 2007, the
 17 following:

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20	ITEM	FISCAL YEARS	
21	NO.	2005-2006	2006-2007
22	(01) PRIVATE NURSING HOME CARE	\$ 551,888,013	\$ 603,733,137
23	(02) INFANT INFIRMARY	19,712,761	21,285,102
24	(03) PUBLIC NURSING HOME CARE	153,904,953	161,368,197
25	(04) PRESCRIPTION DRUGS	499,394,825	603,916,423
26	(05) HOSPITAL AND MEDICAL SERVICES	2,216,514,873	2,554,242,384
27	(06) CHILD AND FAMILY LIFE INSTITUTE	2,100,000	2,100,000
28	(07) PRESCRIPTION DRUG WAIVER FOR THE		
29	ELDERLY	<u>10,785,287</u>	<u>10,785,287</u>
30	TOTAL AMOUNT APPROPRIATED	<u>\$3,454,300,712</u>	<u>\$3,957,430,530</u>

31

32 SECTION 5. APPROPRIATION - ARKIDS B PROGRAM. There is hereby appropriated,
 33 to the Department of Human Services - Division of Medical Services, to be
 34 payable from the paying account as determined by the Chief Fiscal Officer of
 35 the State, for grant payments of the Department of Human Services - Division
 36 of Medical Services - ARKIDS B Program for the biennial period ending June

1 30, 2007, the following:

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3

ITEM NO.	FISCAL YEARS	
	2005-2006	2006-2007
(01) ARKIDS B PROGRAM	<u>\$ 67,098,915</u>	<u>\$ 80,476,520</u>

7

8 SECTION 6. APPROPRIATION - NURSING HOME CLOSURE COSTS. There is hereby
9 appropriated, to the Department of Human Services - Division of Medical
10 Services, to be payable from the Long-Term Care Trust Fund, for the payment
11 of relocation costs of residents in long-term care facilities, maintenance
12 and operation of a facility pending correction of deficiencies or closure,
13 and reimbursement of residents for personal funds lost for the biennial
14 period ending June 30, 2007, the following:

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16

ITEM NO.	FISCAL YEARS	
	2005-2006	2006-2007
(01) EXPENSES	<u>\$ 50,000</u>	<u>\$ 50,000</u>

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21 SECTION 7. APPROPRIATION - LONG TERM CARE FACILITY RECEIVERSHIP. There is
22 hereby appropriated, to the Department of Human Services - Division of
23 Medical Services, to be payable from the Long Term Care Facility Receivership
24 Fund Account, for the payment of expenses of long-term care facility
25 receivers as authorized by law of the Department of Human Services - Division
26 of Medical Services - Long Term Care Facility Receivership for the biennial
27 period ending June 30, 2007, the following:

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29

ITEM NO.	FISCAL YEARS	
	2005-2006	2006-2007
(01) EXPENSES	<u>\$ 100,000</u>	<u>\$ 100,000</u>

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34 SECTION 8. APPROPRIATION - NURSING ASSISTANT TRAINING PROGRAM. There is
35 hereby appropriated, to the Department of Human Services - Division of
36 Medical Services, to be payable from the paying account as determined by the

1 Chief Fiscal Officer of the State, for expansion of minimum training hours
2 for nurses aide training programs for all long-term care facilities in the
3 state of the Department of Human Services - Division of Medical Services for
4 the biennial period ending June 30, 2007, the following:

ITEM	FISCAL YEARS	
<u>NO.</u>	<u>2005-2006</u>	<u>2006-2007</u>
(01) PRIVATE NURSING HOME CARE – EXPANDED		
NURSING ASSISTANT TRAINING PROGRAM	<u>\$ 230,000</u>	<u>\$ 230,000</u>

10

11 SECTION 9. APPROPRIATION - IN-HOME SERVICES, WIC, AND MERGER. There is
12 hereby appropriated, to the Department of Human Services - Division of
13 Medical Services, to be payable from the paying account as determined by the
14 Chief Fiscal Officer of the State, to provide for the anticipated increases
15 in the demand for In-Home services, Women’s, Infants and Children Program
16 (WIC), and to provide federal matching funds and grants resulting from the
17 merger of the Department of Human Services and the Department of Health for
18 the biennial period ending June 30, 2007, the following:

19

ITEM	FISCAL YEARS	
<u>NO.</u>	<u>2005-2006</u>	<u>2006-2007</u>
(01) IN-HOME SERVICES, WIC, AND MATCHING		
FUNDS AND GRANTS	<u>\$ 15,000,000</u>	<u>\$ 15,000,000</u>

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25 SECTION 10. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
26 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. DEPARTMENT
27 OF HUMAN SERVICES GRANTS FUND ACCOUNT. The Department of Human Services
28 Grants Fund Account shall be used for the following grant programs to consist
29 of general revenues and any other nonfederal funds, as may be appropriated by
30 the General Assembly:

- 31 (i) Children’s Medical Services;
- 32 (ii) Food Stamp Employment and Training Program;
- 33 (iii) Aid to the Aged, Blind, and Disabled;
- 34 (iv) Transitional Employment Assistance Program;
- 35 (v) Private nursing home care;
- 36 (vi) Infant Infirmary - nursing home care;

- 1 (vii) Public Nursing Home Care;
2 (viii) Prescription Drugs;
3 (ix) Hospital and Medical Services;
4 (x) Child and Family Life Institute;
5 (xi) Community Services Block Grant;
6 (xii) ARKIDSFIRST;
7 (xiii) Child Health Management Services;
8 (xiv) Child Care Grant; and
9 (xv) Prescription Drug Elderly

10

11 SECTION 11. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
12 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL
13 SERVICES - CARRY FORWARD. The unexpended balances in appropriations made
14 from federal funds, for Medical Services, as provided for in this Act on June
15 30, ~~2004~~ 2006 shall be carried forward and made available for expenditures
16 for the same purpose for the fiscal year ending June 30, ~~2005~~ 2007.

17 The provisions of this section shall be in effect only from July 1, ~~2003~~
18 2005 through June 30, ~~2005~~ 2007.

19

20 SECTION 12. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
21 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL
22 SERVICES - CHILD AND FAMILY LIFE INSTITUTE. The Child Health and Family Life
23 Institute shall be administered under the direction of Arkansas Children's
24 Hospital. Arkansas Children's Hospital shall enter into a cooperative
25 agreement and/or contract with the University of Arkansas for Medical
26 Sciences - Department of Pediatrics for services required in delivering the
27 programs of the Child Health and Family Life Institute. Utilizing a
28 multidisciplinary collaboration of professionals, the Child Health and Family
29 Life Institute shall provide a statewide effort to explore, develop and
30 evaluate new and better ways to address medically, socially and economically
31 interrelated health and developmental needs of children with special health
32 care needs and their families. The Child Health and Family Life Institute's
33 priorities shall include, but are not limited to, wellness and prevention,
34 screen and diagnosis, treatment and intervention, training and education and
35 research and evaluation.

36 Arkansas Children's Hospital and the University of Arkansas for Medical

1 Sciences-Department of Pediatrics shall make ~~semi~~-annual reports to the
2 Arkansas Legislative Council on all matters of funding, existing programs and
3 services offered through the Child Health and Family Life Institute.

4 The provisions of this section shall be in effect only from July 1, ~~2003~~
5 2005 through June 30, ~~2005~~ 2007.

6
7 SECTION 13. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
8 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL
9 SERVICES - PHARMACEUTICAL DISPENSING FEE SURVEY. No more than two years prior
10 to making any changes to the current pharmaceutical dispensing fee, the State
11 shall conduct an independent survey utilizing generally accepted accounting
12 principles, to determine the cost of dispensing a prescription by pharmacists
13 in Arkansas. Only factors relative to the cost of dispensing shall be
14 surveyed. These factors shall not include actual acquisition costs or
15 average profit or any combination of actual acquisition costs or average
16 profit. The survey results shall be the basis for establishing the
17 dispensing fee paid to participating pharmacies in the Medicaid prescription
18 drug program in accordance with Federal requirements. The dispensing fee
19 shall be no lower than the cost of dispensing as determined by the survey.
20 Nothing in this section shall be construed to prohibit the State from
21 increasing the dispensing fee at any time.

22 The provisions of this section shall be in effect only from July 1, ~~2003~~
23 2005 through June 30, ~~2005~~ 2007.

24
25 SECTION 14. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
26 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL
27 SERVICES GENERAL MEDICAID RATE METHODOLOGY PROVISIONS. (a) Rates established
28 by the Division of Medical Services for the services or programs covered by
29 this Act shall be calculated by the methodologies approved by the Centers for
30 Medicare and Medicaid Services (CMS). The Division of Medical Services shall
31 have the authority to reduce or increase rates based on the approved
32 methodology. Further, the Division of Medical Services shall have the
33 authority to increase or decrease rates for good cause including, but not
34 limited to: (1) identification of provider(s) who can render needed services
35 of equal quality at rates less than traditionally charged and who meet the
36 applicable federal and state laws, rules and regulations pertaining to the

1 provision of a particular service, (2) identification that a provider or
2 group of providers has consistently charged rates to the Arkansas Medicaid
3 Program greater than to other purchasers of medical services of similar size,
4 (3) the Division determines that there has been significant changes in the
5 technology or process by which services are provided by a provider or group
6 of providers which has affected the costs of providing services, or (4) a
7 severe economic downturn in the Arkansas economy which has affected the
8 overall state budget of the Division of Medical Services.

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

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

18 The provisions of this section shall be in effect only from July 1, ~~2003~~
19 2005 through June 30, ~~2005~~ 2007.

20
21 SECTION 15. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
22 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL
23 SERVICES - STATE MEDICAID PROGRAM/PERSONAL CARE PROGRAM. (a) It is the
24 Legislative intent that the Department of Human Services in its
25 administration of the Arkansas Medicaid Program set forth Medicaid provider
26 participation requirements for "personal care providers" that will insure
27 sufficient available providers to meet the required needs of all eligible
28 recipients, to include insuring available in-home services twenty-four hours
29 a day and seven days a week for personal care.

30 (b) For the purposes of this section, "private care agencies" are defined as
31 those providers licensed by the Department of Labor, certified as
32 ElderChoices Providers and who furnish in-home staffing services for respite,
33 chore services, and homemaker services, and are covered by liability
34 insurance of not less than one million dollars (\$1,000,000.00) covering their
35 employees and independent contractors while they are engaged in providing
36 services, such as personal care, respite, chore services, and homemaker

1 services.

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

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

8 (e) The Arkansas Department of Human Services, Medical Services Division
9 shall take such action as required by the Centers for Medicare and Medicaid
10 Services to amend the Arkansas Medicaid manual to include, private care
11 agencies, as qualified entities to provide Medicaid reimbursed personal care
12 services.

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

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

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

22 The provisions of this section shall be in effect only from July 1, ~~2003~~
23 2005 through June 30, ~~2005~~ 2007.

24

25 SECTION 16. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
26 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL
27 SERVICES - BORDER CITY DDTCS AND ELDERCHOICES PROVIDERS. Approved Arkansas
28 Medicaid providers of Developmental Day Treatment Clinic Services (DDTCS) and
29 ElderChoices Services, or their successor programs, who have out-of-state
30 border city facilities may be licensed by the State of Arkansas and/or
31 contract with the State to be reimbursed for Medicaid eligible services
32 delivered to Arkansas residents who are Medicaid eligible.

33 The provisions of this section shall be in effect only from July 1, ~~2003~~
34 2005 through June 30, ~~2005~~ 2007.

35

36 SECTION 17. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS

1 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. FUND
2 USAGE AUTHORIZED. The Arkansas Children's Hospital may request the
3 Department of Human Services - Division of Medical Services to retain in the
4 Department of Human Services Grant Fund account an amount not to exceed
5 \$2,100,000 each fiscal year from funds made available by this Act for the
6 Child and Family Life Institute, *Section 4, item number 06* to be used to
7 match federal funds used for supplemental Medicaid payments to Arkansas
8 Children's Hospital. These retained funds shall not be recovered for transfer
9 to the General Revenue Allotment Reserve Fund.

10
11 SECTION 18. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
12 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. STATE
13 PLAN. The State Plan must include the provision of EPSDT services as those
14 services are defined in §1396d(r). See §§ 1396a(a)(10)(A),
15 1396d(a)(4)(B); see also 1396a(a)(43). Section 1396d(r) lists in detail the
16 screening services, vision services, dental services, and hearing services
17 that the State Plan must expressly include, but with regard to treatment
18 services, it states that EPSDT means "[s]uch other necessary health care,
19 diagnostic services, treatment, and other measures described in subsection
20 (a) of this section to correct or ameliorate defects and physical and mental
21 illnesses and conditions discovered by the screening services, whether or not
22 such services are covered under the State plan." 42 U.S.C. § 1396d(r)(5)
23 (emphasis added). Reading §1396a, § 1396d(a), and § 1396d(r) together, we
24 believe that the State Plan need not specifically list every treatment
25 service conceivably available under the EPSDT mandate.

26 The State Plan, however, must pay part or all of the cost of treatments to
27 ameliorate conditions discovered by the screening process when those
28 treatments meet. The definitions set forth in § 1396a. See § 1396d(r)(5);
29 see also §§ 1396a(a)(10), 1396a (a)(43), and 1396d(a)(4)(B). The Arkansas
30 State Plan states that the "State will provide other health care described in
31 [42 U.S.C. 1396d(a)] that is found to be medically necessary to correct or
32 ameliorate defects and physical and mental illnesses and conditions
33 discovered by the screening services, even when such health care is not
34 otherwise covered under the State Plan." See State Plan Under Title XIX of
35 the Social Security Act Medical Assistance Program, State Of Arkansas at §
36 4.b. This provision Meets the EPSDT mandate of the Medicaid Act.

1 We affirm the district court's decision to the extent that it holds that a
2 Medicaid-Eligible individual has a federal right to early intervention day
3 treatment when a physician recommends such treatment. Section 1396d(r)(5)
4 states that EPSDT includes any treatments or measures outlined in § 1396d(a).
5 There are twenty-seven sub-parts to § 1396d(a), and we find that sub-part
6 (a)(13), in particular, when read with the other sections of the Medicaid Act
7 listed above, mandates that early intervention day treatment be provided when
8 it is prescribed by a physician. See 42 U.S.C. § 1396d(a)(13) (defining
9 medical assistance reimbursable by Medicaid as "other diagnostic, screening,
10 preventive, and rehabilitative services, including any medical or remedial
11 services recommended by a physician...for the maximum reduction of physical and
12 mental disability and restoration of an individual to the best possible
13 functional level"). Therefore, after CHMS clinic staff perform a diagnostic
14 evaluation of an eligible child, if the CHMS physician prescribes early
15 intervention day treatment as a service that would lead to the maximum
16 reduction of medical and physical disabilities and restoration of the child
17 to his or her best possible functional level, the Arkansas State Plan must
18 reimburse the treatment. Because CHMS clinics are the only providers of
19 early intervention day treatment, Arkansas must reimburse those clinics.

20

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

30

31 SECTION 20. LEGISLATIVE INTENT. It is the intent of the General Assembly
32 that any funds disbursed under the authority of the appropriations contained
33 in this act shall be in compliance with the stated reasons for which this act
34 was adopted, as evidenced by the Agency Requests, Executive Recommendations
35 and Legislative Recommendations contained in the budget manuals prepared by
36 the Department of Finance and Administration, letters, or summarized oral

1 testimony in the official minutes of the Arkansas Legislative Council or
2 Joint Budget Committee which relate to its passage and adoption.

3
4 SECTION 21. EMERGENCY CLAUSE. It is found and determined by the General
5 Assembly, that the Constitution of the State of Arkansas prohibits the
6 appropriation of funds for more than a two (2) year period; that the
7 effectiveness of this Act on July 1, 2005 is essential to the operation of
8 the agency for which the appropriations in this Act are provided, and that in
9 the event of an extension of the Regular Session, the delay in the effective
10 date of this Act beyond July 1, 2005 could work irreparable harm upon the
11 proper administration and provision of essential governmental programs.
12 Therefore, an emergency is hereby declared to exist and this Act being
13 necessary for the immediate preservation of the public peace, health and
14 safety shall be in full force and effect from and after July 1, 2005.

15
16 */s/ Joint Budget Committee*
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