

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 86th General Assembly
3 Regular Session, 2007
4

As Engrossed: S3/23/07 S3/27/07

A Bill

SENATE BILL 223

5 By: Joint Budget Committee
6
7

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 HEALTH AND HUMAN SERVICES -
12 DIVISION OF MEDICAL SERVICES FOR THE BIENNIAL
13 PERIOD ENDING JUNE 30, 2009; AND FOR OTHER
14 PURPOSES.

Subtitle

15
16
17
18 AN ACT FOR THE DEPARTMENT OF HEALTH AND
19 HUMAN SERVICES - DIVISION OF MEDICAL
20 SERVICES APPROPRIATION FOR THE 2007-2009
21 BIENNIUM.
22
23

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

26 SECTION 1. REGULAR SALARIES - OPERATIONS. There is hereby established for
27 the Department of Health and Human Services - Division of Medical Services
28 for the 2007-2009 biennium, the following maximum number of regular employees
29 whose salaries shall be governed by the provisions of the Uniform
30 Classification and Compensation Act (Arkansas Code §§21-5-201 et seq.), or
31 its successor, and all laws amendatory thereto. Provided, however, that any
32 position to which a specific maximum annual salary is set out herein in
33 dollars, shall be exempt from the provisions of said Uniform Classification
34 and Compensation Act. All persons occupying positions authorized herein are
35 hereby governed by the provisions of the Regular Salaries Procedures and
36 Restrictions Act (Arkansas Code §21-5-101), or its successor.



				Maximum	Maximum Annual	
				No. of	Salary Rate	
	Item	Class			Fiscal Years	
	No.	Code	Title	Employees	2007-2008	2008-2009
6	(1)		REGISTERED PHARMACIST II	3	\$107,234	\$109,378
7	(2)	9985	DHS DEP DIR MEDICAL SERVICES	1	\$102,712	\$104,766
8	(3)	9411	DHS/DMS ASSISTANT DIRECTOR - FISCAL	1	\$95,750	\$97,665
9	(4)	9487	REGISTERED PHARMACIST III	2	\$94,350	\$96,237
10	(5)	9486	REGISTERED PHARMACIST II	1	\$91,290	\$93,115
11	(6)	8965	DHS/DMS ADD - MEDICAL SERVICES	2	\$85,642	\$87,354
12	(7)	8938	DHS/DMS ASST DEP DIR LONG TRM CARE	1	\$85,642	\$87,354
13	(8)	004Z	HLTH POLICY ADMINISTRATOR	1		GRADE 26
14	(9)	022Z	DHS/DCO CHIEF PROGRAM ADMR	5		GRADE 26
15	(10)	L014	DIRECTOR OF PHARMACY SERVICES	1		GRADE 26
16	(11)	023Z	DHS/DCO ASST CHIEF PROGRAM ADMR	8		GRADE 25
17	(12)	118Z	DHS NURSING SERVICES ADMINISTRATOR	2		GRADE 25
18	(13)	923Z	DHS PRGM ADMINISTRATOR	11		GRADE 23
19	(14)	R184	NURSING SERVICES UNIT MANAGER	1		GRADE 23
20	(15)	X338	ENGINEER, PE	2		GRADE 22
21	(16)	D066	SYSTEMS COORDINATION ANALYST II	1		GRADE 22
22	(17)	D124	LEAD PROGRAMMER/ANALYST	1		GRADE 22
23	(18)	L078	NURSE SUPERVISOR	1		GRADE 22
24	(19)	L082	NURSING SERVICES SPECIALIST	13		GRADE 21
25	(20)	L106	PHYSICAL THERAPY SUPV	1		GRADE 21
26	(21)	L030	DIETARY SERVICES DIRECTOR	1		GRADE 21
27	(22)	697Z	DHS PRGM MANAGER	11		GRADE 21
28	(23)	A251	SR AUDITOR	10		GRADE 21
29	(24)	D036	SR PROGRAMMER/ANALYST	1		GRADE 21
30	(25)	Q046	MEDICARE/MEDICAID SURVEY SPECIALIST	20		GRADE 20
31	(26)	R145	DHS PROGRAM COORDINATOR	5		GRADE 20
32	(27)	R266	MANAGEMENT PROJECT ANALYST II	10		GRADE 20
33	(28)	A250	JR AUDITOR	1		GRADE 20
34	(29)	L070	NURSE II	10		GRADE 20
35	(30)	M088	SOCIAL WORKER II	3		GRADE 20
36	(31)	M116	UTILIZATION REVIEW NURSE	60		GRADE 20

1	(32)	M027	DHS/DCO COUNTY SUPV II	1	GRADE 20
2	(33)	L028	DIETICIAN	3	GRADE 19
3	(34)	R332	DHS POLICY DEVELOPMENT COORD	5	GRADE 19
4	(35)	X358	HLTH FACILITY SURVEYOR	2	GRADE 19
5	(36)	R048	BUDGET SPECIALIST	1	GRADE 19
6	(37)	R084	DHS STAFF SUPERVISOR	4	GRADE 19
7	(38)	M154	DHS FIELD REPRESENTATIVE	8	GRADE 19
8	(39)	D129	DP COORDINATOR	1	GRADE 18
9	(40)	M078	DHS/DEMS SUPERVISOR	2	GRADE 18
10	(41)	R010	ADMINISTRATIVE ASSISTANT II	16	GRADE 17
11	(42)	R110	MEDICAL PROGRAM REPRESENTATIVE	3	GRADE 17
12	(43)	R162	STATISTICIAN/STATISTICIAN II	1	GRADE 17
13	(44)	X352	HLTH CARE ANALYST II	20	GRADE 17
14	(45)	M149	YOUTH SERVICES WORKER I	1	GRADE 15
15	(46)	K011	ADMINISTRATIVE OFFICE SUPERVISOR	1	GRADE 15
16	(47)	D005	COMPUTER OPERATOR II	1	GRADE 15
17	(48)	A108	ACCOUNTING TECHNICIAN II	3	GRADE 15
18	(49)	K041	EXECUTIVE SECY/ADMINISTRATIVE SECY	7	GRADE 14
19	(50)	K117	MEDICAL OR LEGAL SECRETARY	6	GRADE 14
20	(51)	K153	SECRETARY II	11	GRADE 13
21	(52)	K039	DOCUMENT EXAMINER II	<u>15</u>	GRADE 12
22			MAX. NO. OF EMPLOYEES	303	

23

24 SECTION 2. EXTRA HELP - OPERATIONS. There is hereby authorized, for the
 25 Department of Health and Human Services - Division of Medical Services for
 26 the 2007-2009 biennium, the following maximum number of part-time or
 27 temporary employees, to be known as "Extra Help", payable from funds
 28 appropriated herein for such purposes: seven (7) temporary or part-time
 29 employees, when needed, at rates of pay not to exceed those provided in the
 30 Uniform Classification and Compensation Act, or its successor, or this act
 31 for the appropriate classification.

32

33 SECTION 3. APPROPRIATION - OPERATIONS. There is hereby appropriated, to
 34 the Department of Health and Human Services - Division of Medical Services,
 35 to be payable from the paying account as determined by the Chief Fiscal
 36 Officer of the State, for personal services and operating expenses of the

1 Department of Health and Human Services - Division of Medical Services -
2 Operations for the biennial period ending June 30, 2009, the following:

ITEM		FISCAL YEARS	
NO.		2007-2008	2008-2009
6	(01) REGULAR SALARIES	\$ 13,077,624	\$ 13,341,592
7	(02) EXTRA HELP	126,892	126,892
8	(03) PERSONAL SERVICES MATCHING	3,990,060	4,044,462
9	(04) OVERTIME	5,000	5,000
10	(05) MAINT. & GEN. OPERATION		
11	(A) OPER. EXPENSE	3,152,863	3,152,863
12	(B) CONF. & TRAVEL	235,840	235,840
13	(C) PROF. FEES	355,132	355,132
14	(D) CAP. OUTLAY	195,000	195,000
15	(E) DATA PROC.	0	0
16	(06) DATA PROCESSING SERVICES	<u>119,800</u>	<u>119,800</u>
17	TOTAL AMOUNT APPROPRIATED	<u>\$ 21,258,211</u>	<u>\$ 21,576,581</u>

18

19 *SECTION 4. APPROPRIATION - GRANTS. There is hereby appropriated, to the*
20 *Department of Health and Human Services - Division of Medical Services, to be*
21 *payable from the paying account as determined by the Chief Fiscal Officer of*
22 *the State, for grant payments of the Department of Health and Human Services*
23 *- Division of Medical Services - Grants for the biennial period ending June*
24 *30, 2009, the following:*

25

ITEM		FISCAL YEARS	
NO.		2007-2008	2008-2009
28	(01) PRIVATE NURSING HOME CARE	\$ 584,223,887	\$ 627,094,449
29	(02) INFANT INFIRMARY	20,625,291	21,338,175
30	(03) PUBLIC NURSING HOME CARE	163,716,511	170,497,211
31	(04) PRESCRIPTION DRUGS	400,917,328	440,746,167
32	(05) HOSPITAL AND MEDICAL SERVICES	2,681,042,388	2,897,206,587
33	(06) CHILD AND FAMILY LIFE INSTITUTE	2,100,000	2,100,000
34	(07) ARKIDS B PROGRAM	<u>101,926,951</u>	<u>116,703,139</u>
35	TOTAL AMOUNT APPROPRIATED	<u>\$3,954,552,356</u>	<u>\$4,275,685,728</u>

36

SECTION 5. APPROPRIATION - NURSING HOME CLOSURE COSTS. There is hereby appropriated, to the Department of Health and Human Services - Division of Medical Services, to be payable from the Long-Term Care Trust Fund, for the payment of relocation costs of residents in long-term care facilities, maintenance and operation of a facility pending correction of deficiencies or closure, and reimbursement of residents for personal funds lost for the biennial period ending June 30, 2009, the following:

ITEM NO.	FISCAL YEARS	
	2007-2008	2008-2009
(01) EXPENSES	\$ 50,000	\$ 50,000

SECTION 6. APPROPRIATION - LONG-TERM CARE FACILITY RECEIVERSHIP. There is hereby appropriated, to the Department of Health and Human Services - Division of Medical Services, to be payable from the Long Term Care Facility Receivership Fund Account, for the payment of expenses of long-term care facility receivers as authorized by law of the Department of Health and Human Services - Division of Medical Services - Long-Term Care Facility Receivership for the biennial period ending June 30, 2009, the following:

ITEM NO.	FISCAL YEARS	
	2007-2008	2008-2009
(01) EXPENSES	\$ 100,000	\$ 100,000

SECTION 7. APPROPRIATION - ARKANSAS RX PROGRAM. There is hereby appropriated, to the Department of Health and Human Services - Division of Medical Services, to be payable from the Arkansas Rx Program Fund, for contract costs of the Arkansas Rx Program of the Department of Health and Human Services - Division of Medical Services - Arkansas Rx Program for the biennial period ending June 30, 2009, the following:

ITEM NO.	FISCAL YEARS	
	2007-2008	2008-2009
(01) ARKANSAS RX PROGRAM GRANTS AND AID	\$ 4,789,500	\$ 4,789,500
(02) LOAN/REIMBURSEMENTS/REBATES	<u>26,600,000</u>	<u>26,600,000</u>
TOTAL AMOUNT APPROPRIATED	<u>\$ 31,389,500</u>	<u>\$ 31,389,500</u>

1
 2 SECTION 8. APPROPRIATION - NURSING HOME QUALITY GRANTS. There is hereby
 3 appropriated, to the Department of Health and Human Services - Division of
 4 Medical Services, to be payable from the Long-Term Care Trust Fund, for
 5 Nursing Home Quality Grants of the Department of Health and Human Services -
 6 Division of Medical Services - Nursing Home Quality Grants for the biennial
 7 period ending June 30, 2009, the following:

8

ITEM	FISCAL YEARS	
<u>NO.</u>	2007-2008	2008-2009
(01) NURSING HOME QUALITY GRANTS AND AID	<u>\$ 1,500,000</u>	<u>\$ 1,500,000</u>

12
 13 SECTION 9. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
 14 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. ARKANSAS
 15 RX PROGRAM. The Department of Health and Human Services shall deposit all
 16 monies collected under the Arkansas Rx Program, including manufacturer
 17 rebates, pharmacy discounts and Arkansas Rx Program loan repayments into the
 18 Arkansas Rx Program Fund to be used for the continued benefit of the Arkansas
 19 Rx Program.

20 The provisions of this section shall be in effect only from July 1, ~~2005~~
 21 2007 through June 30, ~~2007~~ 2009.

22
 23 SECTION 10. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
 24 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. ARKANSAS
 25 RX PROGRAM CARRY FORWARD. Any unexpended balance of appropriation authorized
 26 in Section ~~17~~ of this act which remains at the close of the fiscal year
 27 ending June 30, ~~2006~~ 2008 shall be carried forward into the next fiscal year,
 28 there to be used for the same purpose.

29
 30 Any carry forward of unexpended balance of appropriation and/or funding as
 31 authorized herein, may be carried forward under the following conditions:

32
 33 (1) Prior to June 30, 2008 the Agency shall by written statement set forth
 34 its reason(s) for the need to carry forward said appropriation and/or funding
 35 to the Department of Finance and Administration Office of Budget;

1 (2) The Department of Finance and Administration Office of Budget shall
2 report to the Arkansas Legislative Council all amounts carried forward from
3 the first fiscal year of the biennium to the second fiscal year of the
4 biennium by the September Arkansas Legislative Council or Joint Budget
5 Committee meeting in the second fiscal year of the biennial period which
6 report shall include the name of the Agency, Board, Commission or Institution
7 and the amount of the appropriation and/or funding carried forward from the
8 first fiscal year to the second fiscal year, the program name or line item,
9 the funding source of that appropriation and a copy of the written request
10 set forth in (1) above;

11
12 (3) Each Agency, Board, Commission or Institution shall provide a written
13 report to the Arkansas Legislative Council or Joint Budget Committee
14 containing all information set forth in item (2) above, along with a written
15 statement as to the current status of the project, contract, purpose etc. for
16 which the carry forward was originally requested no later than thirty (30)
17 days prior to the time the Agency, Board, Commission or Institution presents
18 its budget request to the Arkansas Legislative Council/Joint Budget
19 Committee; and

20
21 (4) Thereupon, the Department of Finance and Administration shall include all
22 information obtained in item (3) above in the biennial budget manuals and/or
23 a statement of non-compliance by the Agency, Board, Commission or
24 Institution.

25
26 The provisions of this section shall be in effect only from July 1, 2005
27 2007 through June 30, ~~2007~~ 2009.

28
29 SECTION 11. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
30 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. FUNDING
31 TRANSFER. Immediately upon the effective date of this Act ~~or as soon as~~
32 ~~funds are available~~, the Chief Fiscal Officer of the State shall transfer on
33 his or her books and those of the State Treasurer and Auditor of State the
34 ~~sum of one million two hundred thousand dollars (\$1,200,000) from~~ balance in
35 the Department of Human Services Grants Fund Account solely from monies
36 generated by the additional tax imposed by Arkansas Code 26-57-1102 to the

1 Arkansas Rx Program Fund, ~~the sum of two hundred forty thousand dollars~~
 2 ~~(\$240,000) from the Department of Human Services Grants Fund Account solely~~
 3 ~~from monies generated by the additional tax imposed by Arkansas Code 26-57-~~
 4 ~~1102 to the Breast Cancer Research Fund, and the sum of nine hundred sixty~~
 5 ~~thousand dollars (\$960,000) from the Department of Human Services Grants Fund~~
 6 ~~Account solely from monies generated by the additional tax imposed by~~
 7 ~~Arkansas Code 26-57-1102 to the Breast Cancer Control Fund.~~

8

9 SECTION 12. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
 10 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW.

11 DEPARTMENT OF HUMAN SERVICES GRANTS FUND ACCOUNT. The Department of Human
 12 Services Grants Fund Account shall be used for the following grant programs
 13 to consist of general revenues and any other nonfederal funds, as may be
 14 appropriated by the General Assembly:

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

30

31 SECTION 13. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
 32 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL
 33 SERVICES - CARRY FORWARD. The unexpended balances in appropriations made
 34 from federal funds, for Medical Services, as provided for in this Act on June
 35 30, ~~2006~~ 2008 shall be carried forward and made available for expenditures
 36 for the same purpose for the fiscal year ending June 30, ~~2007~~ 2009.

1 Any carry forward of unexpended balance of appropriation and/or funding as
2 authorized herein, may be carried forward under the following conditions:

3
4 (1) Prior to June 30, 2008 the Agency shall by written statement set forth
5 its reason(s) for the need to carry forward said appropriation and/or funding
6 to the Department of Finance and Administration Office of Budget;

7
8 (2) The Department of Finance and Administration Office of Budget shall
9 report to the Arkansas Legislative Council all amounts carried forward from
10 the first fiscal year of the biennium to the second fiscal year of the
11 biennium by the September Arkansas Legislative Council or Joint Budget
12 Committee meeting in the second fiscal year of the biennial period which
13 report shall include the name of the Agency, Board, Commission or Institution
14 and the amount of the appropriation and/or funding carried forward from the
15 first fiscal year to the second fiscal year, the program name or line item,
16 the funding source of that appropriation and a copy of the written request
17 set forth in (1) above;

18
19 (3) Each Agency, Board, Commission or Institution shall provide a written
20 report to the Arkansas Legislative Council or Joint Budget Committee
21 containing all information set forth in item (2) above, along with a written
22 statement as to the current status of the project, contract, purpose etc. for
23 which the carry forward was originally requested no later than thirty (30)
24 days prior to the time the Agency, Board, Commission or Institution presents
25 its budget request to the Arkansas Legislative Council/Joint Budget
26 Committee; and

27
28 (4) Thereupon, the Department of Finance and Administration shall include all
29 information obtained in item (3) above in the biennial budget manuals and/or
30 a statement of non-compliance by the Agency, Board, Commission or
31 Institution.

32
33 The provisions of this section shall be in effect only from July 1, 2005
34 2007 through June 30, 2007 2009.

35
36 SECTION 14. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS

1 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL
2 SERVICES - CHILD AND FAMILY LIFE INSTITUTE. The Child Health and Family Life
3 Institute shall be administered under the direction of Arkansas Children's
4 Hospital. Arkansas Children's Hospital shall enter into a cooperative
5 agreement and/or contract with the University of Arkansas for Medical
6 Sciences - Department of Pediatrics for services required in delivering the
7 programs of the Child Health and Family Life Institute. Utilizing a
8 multidisciplinary collaboration of professionals, the Child Health and Family
9 Life Institute shall provide a statewide effort to explore, develop and
10 evaluate new and better ways to address medically, socially and economically
11 interrelated health and developmental needs of children with special health
12 care needs and their families. The Child Health and Family Life Institute's
13 priorities shall include, but are not limited to, wellness and prevention,
14 screen and diagnosis, treatment and intervention, training and education and
15 research and evaluation.

16 Arkansas Children's Hospital and the University of Arkansas for Medical
17 Sciences-Department of Pediatrics shall make annual reports to the Arkansas
18 Legislative Council on all matters of funding, existing programs and services
19 offered through the Child Health and Family Life Institute.

20 The provisions of this section shall be in effect only from July 1, 2005
21 2007 through June 30, ~~2007~~ 2009.

22

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

1 dispensing fee at any time.

2 The provisions of this section shall be in effect only from July 1,
3 ~~2005~~2007 through June 30, ~~2007~~2009.

4
5 SECTION 16. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
6 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL
7 SERVICES GENERAL MEDICAID RATE METHODOLOGY PROVISIONS. (a) Rates established
8 by the Division of Medical Services for the services or programs covered by
9 this Act shall be calculated by the methodologies approved by the Centers for
10 Medicare and Medicaid Services (CMS). The Division of Medical Services shall
11 have the authority to reduce or increase rates based on the approved
12 methodology. Further, the Division of Medical Services shall have the
13 authority to increase or decrease rates for good cause including, but not
14 limited to: (1) identification of provider(s) who can render needed services
15 of equal quality at rates less than traditionally charged and who meet the
16 applicable federal and state laws, rules and regulations pertaining to the
17 provision of a particular service, (2) identification that a provider or
18 group of providers has consistently charged rates to the Arkansas Medicaid
19 Program greater than to other purchasers of medical services of similar size,
20 (3) the Division determines that there has been significant changes in the
21 technology or process by which services are provided by a provider or group
22 of providers which has affected the costs of providing services, or (4) a
23 severe economic downturn in the Arkansas economy which has affected the
24 overall state budget of the Division of Medical Services.

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

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

34 The provisions of this section shall be in effect only from July 1, ~~2005~~
35 2007 through June 30, ~~2007~~ 2009.

36

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

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

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

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

21

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

31

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

1 the Department of Finance and Administration, letters, or summarized oral
2 testimony in the official minutes of the Arkansas Legislative Council or
3 Joint Budget Committee which relate to its passage and adoption.

4
5 SECTION 21. EMERGENCY CLAUSE. It is found and determined by the General
6 Assembly, that the Constitution of the State of Arkansas prohibits the
7 appropriation of funds for more than a two (2) year period; that the
8 effectiveness of this Act on July 1, 2007 is essential to the operation of
9 the agency for which the appropriations in this Act are provided, and that in
10 the event of an extension of the Regular Session, the delay in the effective
11 date of this Act beyond July 1, 2007 could work irreparable harm upon the
12 proper administration and provision of essential governmental programs.
13 Therefore, an emergency is hereby declared to exist and this Act being
14 necessary for the immediate preservation of the public peace, health and
15 safety shall be in full force and effect from and after July 1, 2007.

16
17 */s/ Joint Budget Committee*
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36