

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: S3/20/07

A Bill

SENATE BILL 945

5 By: Senators Womack, Critcher, Crumbly, Horn, Wilkins, Altes
6 By: Representatives Pace, R. Green, Key, Lamoureux, Ragland, Cooper, Davis
7

For An Act To Be Entitled

10 AN ACT TO PROVIDE FOR THE PER DIEM RATE PAYABLE
11 TO A PROGRAM PROVIDER OF INDIGENT MENTAL HEALTH
12 CARE ASSISTANCE; TO REQUIRE ACCREDITATION FOR
13 CERTAIN PROGRAM PROVIDERS OF INDIGENT MENTAL
14 HEALTH CARE ASSISTANCE; AND FOR OTHER PURPOSES.

Subtitle

16 TO PROVIDE FOR THE PER DIEM RATE PAYABLE
17 TO A PROGRAM PROVIDER OF INDIGENT MENTAL
18 HEALTH CARE ASSISTANCE AND TO REQUIRE
19 ACCREDITATION FOR CERTAIN PROGRAM
20 PROVIDERS.
21

22
23
24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

26 SECTION 1. Arkansas Code § 9-28-407(a)(3), concerning the capacity
27 exemption of a licensed or permitted child welfare agency, is amended to read
28 as follows:

29 (3) Any child welfare agency capacity licensed or permitted by
30 the board as of ~~March 1, 2003~~ March 1, 2007, whether held by the original
31 licensee or by a successor in interest to the original licensee, is exempted
32 from:

33 (A) Obtaining any license or permit from the Office of
34 Long-Term Care of the Division of Medical Services of the Department of
35 Health and Human Services;

36 (B) Obtaining any permit from the Health Services Permit



1 Agency or the Health Services Permit Commission to operate at the capacity
2 licensed by the board as of ~~March 1, 2003~~ March 1, 2007; and

3 (C) Obtaining any permit from the agency or the commission
4 to operate at any future expanded capacity serving only non-Arkansas
5 residents unless a permit is required by federal law or regulation.

6
7 SECTION 2. Arkansas Code § 20-8-107(c), concerning the inapplicability
8 of § 20-8-101 et seq., is amended to read as follows:

9 (c) In no event shall the requirements of this subchapter apply to any
10 facility licensed or approved as of ~~March 1, 2003~~ March 1, 2007, by the Child
11 Welfare Agency Review Board pursuant to the Child Welfare Agency Licensing
12 Act, § 9-28-401 et seq., and as specifically exempted by § 9-28-407(a)(3).

13
14 SECTION 3. Arkansas Code Title 20, Chapter 46, Subchapter 7 is amended
15 to add the following sections to read as follows:

16 20-46-704. Per diem rate for psychiatric residential treatment
17 facility.

18 (a)(1)(A) The per diem rate for a psychiatric residential treatment
19 facility for children is the facility's budgeted per diem cost plus a
20 professional component of seventy-nine dollars (\$79.00) per day.

21 (B) The facility's budgeted per-diem cost shall be the
22 amount reflected in its annual budget for the fiscal period of July 1 – June
23 30 which shall be submitted to the Department of Health and Human Services by
24 April 30 each year.

25 (2) The per diem rate for psychiatric residential treatment
26 facilities shall be not less than the rate in existence on the effective date
27 of this section and not more than four hundred five dollars (\$405) per day.
28 This subdivision (a)(2) shall apply only if:

29 (A) The rate is approved by the Centers for Medicare and
30 Medicaid Services; and

31 (B) Additional appropriation and funding for this purpose
32 of at least three million dollars (\$3,000,000) per fiscal year have been made
33 in addition to the amount appropriated and available for this purpose in the
34 2006-2007 fiscal year.

35 (b) The psychiatric residential treatment facility provider per diem
36 rate shall be a prospective rate with no cost settlement that shall include

1 all costs related to the operation of the facility except educational
2 services, prescription medicines, and transportation.

3 (c) At least annually, the department shall re-evaluate the per-diem
4 rate to determine whether it should be reset.

5
6 20-46-705. Rate for outpatient mental health services.

7 (a) The service unit rate for outpatient mental health care services
8 shall not be less than the service unit rate for outpatient mental health
9 care services rate paid to participating programs as of January 1, 2007.

10 (b) At least annually, the department shall re-evaluate the service
11 unit rate for outpatient mental health care services.

12 (c)(1) A reimbursement for outpatient mental health services shall
13 only be made to an outpatient mental health provider that has been accredited
14 for one year by the Joint Commission, the Commission on Accreditation of
15 Rehabilitation Facilities, and the Council on Accreditation except for a
16 provider who:

17 (A) Is a medical doctor or a psychologist; or

18 (B) Initiates the certification process no later than the
19 effective date of this section and receives full accreditation by July 1,
20 2008.

21 (2) Accreditation is not required of a site owned or leased by
22 an outpatient mental health provider if patients are not treated at that
23 site.

24 (3) Accreditation is not required of a site where patients are
25 treated if the outpatient mental health provider does not own or lease that
26 site.

27
28 20-46-706. Access to willing provider.

29 Participants in the indigent medical care program are entitled to
30 receive services from any willing outpatient mental health provider who is
31 approved to participate in the indigent medical care program.

32
33 20-46-707. Application.

34 Nothing in this act shall be construed to prevent the sale, merger or
35 transfer of stock or control of a company operating an outpatient mental
36 health care program or to limit its right to continuously contract with

1 Medicaid without interruption.

3 20-46-708. Conflicts.

4 In the event that any provision of §§ 20-46-701 – 20-46-707 conflict
5 with any portion of the Arkansas Medicaid State Plan or any waivers approved
6 by the federal government, the affected state agencies shall seek immediate
7 resolution of the conflict by amending the Medicaid State Plan or by seeking
8 federal approval for a change in the conflicting agreements in a manner that
9 prevents or minimizes any loss of federal funding.

11 SECTION 6. EMERGENCY CLAUSE. It is found and determined by the
12 General Assembly of the State of Arkansas that the regulatory process
13 presently applicable to a psychiatric residential treatment facility for
14 children or outpatient mental health services is inadequate, and that this
15 act is necessary because those uncertainties create a circumstance in which
16 delay is likely to result in irreparable harm to patients served by these
17 program providers. Therefore, an emergency is declared to exist and this act
18 being immediately necessary for the preservation of the public peace, health,
19 and safety shall become effective on:

20 (1) The date of its approval by the Governor;

21 (2) If the bill is neither approved nor vetoed by the Governor,
22 the expiration of the period of time during which the Governor may veto the
23 bill; or

24 (3) If the bill is vetoed by the Governor and the veto is
25 overridden, the date the last house overrides the veto.

27 /s/ Womack