

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011  
4

As Engrossed: H3/15/11

# A Bill

HOUSE BILL 2106

5 By: Representative Wardlaw  
6

## For An Act To Be Entitled

8 *AN ACT TO ESTABLISH A MEDICAID PROVIDER FEE FOR*  
9 *RESIDENTIAL TREATMENT FACILITIES THROUGH THE*  
10 *DEPARTMENT OF HUMAN SERVICES; AND FOR OTHER PURPOSES.*

## Subtitle

14 *AN ACT TO ESTABLISH A MEDICAID PROVIDER*  
15 *FEE FOR RESIDENTIAL TREATMENT FACILITIES.*

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17  
18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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20 *SECTION 1. Arkansas Code Title 20, Chapter 48 is amended to add an*  
21 *additional subchapter to read as follows:*

22 *Subchapter 10 – Residential Treatment Facilities Provider Fee*

23  
24 *20-48-1001. Definitions.*

25 *As used in this subchapter:*

26 *(1)(A) “Gross receipts” means compensation paid to a provider*  
27 *for services provided through or identical to those provided through a*  
28 *Residential Treatment Facility.*

29 *(B) “Gross receipts” does not include charitable*  
30 *contributions;*

31 *(2) “Medicaid” means the medical assistance program established*  
32 *by Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq., and*  
33 *administered by the Division of Medical Services of the Department of Human*  
34 *Services; and*

35 *(3) “Residential treatment facilities” means the program*  
36 *authorized by the Centers for Medicare and Medicaid Services under § 1915(c)*



1 of the Social Security Act, 42 U.S.C. § 1396 et seq., and administered by the  
2 Department of Human Services.

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4 20-48-1002. Provider fee.

5 (a)(1) There is imposed a provider fee on residential treatment  
6 facilities program services to be calculated in accordance with this section.

7 (2) The provider fee shall not be imposed or collected unless  
8 the Centers for Medicare and Medicaid Services approves a state plan  
9 amendment that includes the provider fee under this subchapter.

10 (3) The provider fee shall be an amount calculated by the  
11 Division of Medical Services of the Department of Human Services to produce a  
12 provider fee payment equal to six percent (6%) of the gross receipts received  
13 by each provider.

14 (b)(1)(A) The provider fee shall be payable in monthly payments.

15 (B) Each monthly payment shall be due and payable for the  
16 previous month by the thirtieth day of each month.

17 (2) The division shall seek approval from the Centers for  
18 Medicare and Medicaid Services to treat the provider fee as an allowable cost  
19 for Medicaid reimbursement purposes.

20 (c) A provider of services for a residential treatment facilities  
21 shall not be guaranteed, expressly or otherwise, that any additional moneys  
22 paid to the provider for services under this subchapter will equal or exceed  
23 the amount of its provider fee.

24 (d)(1) The division shall ensure that the rate of imposition of the  
25 provider fee established in this section equals, but does not exceed, the  
26 maximum rate of imposition established under federal law and rule for health  
27 care-related provider fees without reduction in federal financial  
28 participation in Medicaid.

29 (2) If the division determines that the rate of imposition of  
30 the provider fee established in this section exceeds the maximum rate of  
31 imposition that federal law and rule allow for healthcare related provider  
32 fees without reduction in federal financial participation in Medicaid, the  
33 division shall lower the rate of imposition of the provider fee to a rate  
34 that is equal to the maximum rate that federal law and rule allow for  
35 healthcare related provider fees without reduction in federal financial  
36 participation in Medicaid.

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2 20-48-1003. Administration.

3 (a) The administration of this subchapter shall be exercised by the  
4 Director of the Division of Medical Services of the Department of Human  
5 Services and shall be subject to the Arkansas Administrative Procedure Act, §  
6 25-15-201 et seq.

7 (b)(1) In accordance with the Arkansas Administrative Procedure Act, §  
8 25-15-201 et seq., the Division of Medical Services of the Department of  
9 Human Services shall promulgate rules and prescribe forms for:

10 (A) The proper imposition and collection of the provider  
11 fee;

12 (B)(i) The enforcement of this subchapter, including  
13 without limitation certification nonrenewal, letters of caution, sanctions,  
14 or fines.

15 (ii)(a) The fine for failure to comply with payment  
16 and reporting requirements under this subchapter shall be at least one  
17 thousand dollars (\$1,000) but no more than one thousand five hundred dollars  
18 (\$1,500).

19 (b) The fine and, if applicable, the  
20 outstanding balance of the provider fee shall accrue interest at the maximum  
21 rate permitted by law from the date the fine and, if applicable, the provider  
22 fee is due until payment of the outstanding balance of the fine and, if  
23 applicable, the provider fee;

24 (C) The format for reporting gross receipts; and

25 (D) The administration of this subchapter.

26 (2) The rules shall not grant any exceptions to or exceptions  
27 from the provider fee.

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29 20-48-1004. Use of funds.

30 (a)(1) The provider fee imposed and collected under this subchapter  
31 shall be deposited into a designated account within the Arkansas Medicaid  
32 Program Trust Fund.

33 (2) The designated account shall be separate and distinct from  
34 the general fund and shall be supplementary to the trust fund.

35 (3) The designated account moneys in the trust fund and the  
36 matching federal financial participation under Title XIX of the Social

1 Security Act, 42 U.S.C. § 1396 et seq., shall be used only as follows:

2 (A) A minimum of fifty percent (50%) shall be used for the  
3 support and enhancement of services by residential treatment facilities; and

4 (B) An amount not to exceed fifty percent (50%) may be  
5 used by the Division of Medical Services of the Department of Human Services.

6 (b)(1) The designated account moneys in the trust fund from the  
7 provider fee imposed and collected under this subchapter that are unused at  
8 the end of a fiscal year shall be carried forward.

9 (2) The designated account moneys in the trust fund from the  
10 provider fee imposed and collected under this subchapter shall not be used to  
11 supplant other local, state, or federal funds.

12 (3) The designated account moneys in the trust fund from the  
13 provider fee imposed and collected under this subchapter are exempt from  
14 budgetary cuts, reductions, or eliminations caused by a deficiency of general  
15 revenues.

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17 20-48-1005. Effectiveness and cessation.

18 The imposition of the provider fee under § 20-48-1002 shall not take  
19 effect or shall cease to be imposed if the provider fee is determined to be  
20 an impermissible tax or not eligible for federal financial participation  
21 under Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq.

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24 /s/Wardlaw  
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