

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

As Engrossed: H3/15/11 H3/16/11

# 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 facility” means:*

36 *(A) A facility licensed as a child welfare agency under §*



1 9-28-402; or

2 (B) A program that provides subacute care in a hospital  
3 setting that is exempt from licensure under § 9-28-402.

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5 20-48-1002. Provider fee.

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

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

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

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

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

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

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

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

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

1 participation in Medicaid.

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3 20-48-1003. Administration.

4 (a) The administration of this subchapter shall be exercised by the  
5 Director of the Division of Medical Services of the Department of Human  
6 Services and shall be subject to the Arkansas Administrative Procedure Act, §  
7 25-15-201 et seq.

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

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

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

16 (ii)(a) The fine for failure to comply with payment  
17 and reporting requirements under this subchapter shall be at least one  
18 thousand dollars (\$1,000) but no more than one thousand five hundred dollars  
19 (\$1,500).

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

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

26 (D) The administration of this subchapter.

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

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30 20-48-1004. Use of funds.

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

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

36 (3) The designated account moneys in the trust fund and the

1 matching federal financial participation under Title XIX of the Social  
2 Security Act, 42 U.S.C. § 1396 et seq., shall be used only as follows:

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

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

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

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

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

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18 20-48-1005. Effectiveness and cessation.

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

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25 /s/Wardlaw  
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