

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

*As Engrossed: S3/24/11*  
**A Bill**

SENATE BILL 187

5 By: Joint Budget Committee  
6

**For An Act To Be Entitled**

8 AN ACT TO MAKE AN APPROPRIATION FOR PERSONAL  
9 SERVICES AND OPERATING EXPENSES FOR THE  
10 DEPARTMENT OF HUMAN SERVICES - DIVISION OF  
11 MEDICAL SERVICES FOR THE FISCAL YEAR ENDING JUNE  
12 30, 2012; AND FOR OTHER PURPOSES.  
13  
14

**Subtitle**

15 AN ACT FOR THE DEPARTMENT OF HUMAN SERVICES  
16 - DIVISION OF MEDICAL SERVICES  
17 APPROPRIATION FOR THE 2011-2012 FISCAL  
18 YEAR.  
19  
20  
21

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

24 SECTION 1. REGULAR SALARIES - OPERATIONS. There is hereby established  
25 for the Department of Human Services - Division of Medical Services for the  
26 2011-2012 fiscal year, the following maximum number of regular employees.  
27

| Item No. | Class Code | Title                               | Maximum No. of Employees | Maximum Annual Salary Rate Fiscal Year 2011-2012 |
|----------|------------|-------------------------------------|--------------------------|--|
| 32       | (1) L016N  | REGISTERED PHARMACIST               | 6                        | GRADE N911                                       |
| 33       | (2) N022N  | DHS DEP DIR MEDICAL SERVICES        | 1                        | GRADE N910                                       |
| 34       | (3) N080N  | DHS/DMS ASSISTANT DIRECTOR - FISCAL | 2                        | GRADE N907                                       |
| 35       | (4) N099N  | DHS/DMS ADD - LONG TERM CARE        | 1                        | GRADE N906                                       |
| 36       | (5) N100N  | DHS/DMS ADD - MEDICAL SERVICES      | 2                        | GRADE N906                                       |



|    |      |       |                                       |    |            |
|----|------|-------|---------------------------------------|----|------------|
| 1  | (6)  | N110N | DHS ASST DIR CONTRACT MONITORING UNIT | 1  | GRADE N905 |
| 2  | (7)  | D007C | INFORMATION SYSTEMS MANAGER           | 1  | GRADE C128 |
| 3  | (8)  | A016C | DHS DMS BUSINESS OPERATIONS MANAGER   | 9  | GRADE C127 |
| 4  | (9)  | L010C | DHS DMS MEDICAL ASSISTANCE MANAGER    | 9  | GRADE C125 |
| 5  | (10) | L009C | NURSE MANAGER                         | 5  | GRADE C125 |
| 6  | (11) | A031C | ASSISTANT CONTROLLER                  | 1  | GRADE C124 |
| 7  | (12) | B023C | ENGINEER, P.E.                        | 1  | GRADE C124 |
| 8  | (13) | L020C | NURSING SERVICES UNIT MANAGER         | 2  | GRADE C123 |
| 9  | (14) | L019C | REGISTERED NURSE COORDINATOR          | 5  | GRADE C123 |
| 10 | (15) | A044C | AUDIT COORDINATOR                     | 1  | GRADE C122 |
| 11 | (16) | G099C | DHS PROGRAM ADMINISTRATOR             | 16 | GRADE C122 |
| 12 | (17) | L027C | REGISTERED NURSE SUPERVISOR           | 14 | GRADE C122 |
| 13 | (18) | A052C | ACCOUNTING COORDINATOR                | 1  | GRADE C121 |
| 14 | (19) | A047C | FINANCIAL ANALYST II                  | 1  | GRADE C121 |
| 15 | (20) | A056C | DHS FINANCIAL SECTION MANAGER         | 1  | GRADE C120 |
| 16 | (21) | L040C | DIETARY SERVICES DIRECTOR             | 1  | GRADE C120 |
| 17 | (22) | L038C | REGISTERED NURSE                      | 71 | GRADE C120 |
| 18 | (23) | E023C | TRAINING PROJECT MANAGER              | 1  | GRADE C120 |
| 19 | (24) | D063C | COMPUTER SUPPORT SPECIALIST           | 2  | GRADE C119 |
| 20 | (25) | D062C | DATABASE ANALYST                      | 1  | GRADE C119 |
| 21 | (26) | G152C | DHS PROGRAM MANAGER                   | 13 | GRADE C119 |
| 22 | (27) | G147C | GRANTS COORDINATOR                    | 2  | GRADE C119 |
| 23 | (28) | X067C | HEALTH FACILITIES SURVEYOR            | 21 | GRADE C119 |
| 24 | (29) | D061C | INFORMATION SYSTEMS COORDINATION SPEC | 1  | GRADE C119 |
| 25 | (30) | X062C | QUALITY ASSURANCE COORDINATOR         | 2  | GRADE C119 |
| 26 | (31) | A060C | SENIOR AUDITOR                        | 13 | GRADE C119 |
| 27 | (32) | R024C | ASSISTANT PERSONNEL MANAGER           | 1  | GRADE C118 |
| 28 | (33) | A081C | AUDITOR                               | 3  | GRADE C117 |
| 29 | (34) | R027C | BUDGET SPECIALIST                     | 2  | GRADE C117 |
| 30 | (35) | G183C | DHS PROGRAM COORDINATOR               | 8  | GRADE C117 |
| 31 | (36) | L055C | DIETICIAN                             | 3  | GRADE C117 |
| 32 | (37) | D068C | INFORMATION SYSTEMS ANALYST           | 2  | GRADE C117 |
| 33 | (38) | D067C | INFORMATION SYSTEMS SECURITY ANALYST  | 1  | GRADE C117 |
| 34 | (39) | G179C | LEGAL SERVICES SPECIALIST             | 1  | GRADE C117 |
| 35 | (40) | M039C | MEDICAID SERVICES SUPERVISOR          | 3  | GRADE C117 |
| 36 | (41) | C013C | MEDICAL SERVICES REPRESENTATIVE       | 4  | GRADE C117 |

|    |      |       |                                   |           |            |
|----|------|-------|-----------------------------------|-----------|------------|
| 1  | (42) | G178C | POLICY DEVELOPMENT COORDINATOR    | 4         | GRADE C117 |
| 2  | (43) | B076C | RESEARCH PROJECT ANALYST          | 1         | GRADE C117 |
| 3  | (44) | A089C | ACCOUNTANT I                      | 1         | GRADE C116 |
| 4  | (45) | A088C | ASSETS COORDINATOR                | 1         | GRADE C116 |
| 5  | (46) | X124C | HEALTH FACILITY REVIEWER          | 1         | GRADE C116 |
| 6  | (47) | A084C | PROGRAM/FIELD AUDIT SPECIALIST    | 3         | GRADE C116 |
| 7  | (48) | C037C | ADMINISTRATIVE ANALYST            | 6         | GRADE C115 |
| 8  | (49) | G210C | DHS PROGRAM SPECIALIST            | 1         | GRADE C115 |
| 9  | (50) | A091C | FISCAL SUPPORT ANALYST            | 3         | GRADE C115 |
| 10 | (51) | X136C | QUALITY ASSURANCE REVIEWER        | 1         | GRADE C115 |
| 11 | (52) | C050C | ADMINISTRATIVE SUPPORT SUPERVISOR | 1         | GRADE C113 |
| 12 | (53) | L070C | HEALTH CARE ANALYST               | 19        | GRADE C113 |
| 13 | (54) | C056C | ADMINISTRATIVE SPECIALIST III     | 25        | GRADE C112 |
| 14 | (55) | A098C | FISCAL SUPPORT SPECIALIST         | 2         | GRADE C112 |
| 15 | (56) | C073C | ADMINISTRATIVE SPECIALIST II      | 17        | GRADE C109 |
| 16 | (57) | C087C | ADMINISTRATIVE SPECIALIST I       | <u>11</u> | GRADE C106 |
| 17 |      |       | MAX. NO. OF EMPLOYEES             | 333       |            |

18

19 SECTION 2. EXTRA HELP - OPERATIONS. There is hereby authorized, for  
 20 the Department of Human Services - Division of Medical Services for the 2011-  
 21 2012 fiscal year, the following maximum number of part-time or temporary  
 22 employees, to be known as "Extra Help", payable from funds appropriated  
 23 herein for such purposes: seven (7) temporary or part-time employees, when  
 24 needed, at rates of pay not to exceed those provided in the Uniform  
 25 Classification and Compensation Act, or its successor, or this act for the  
 26 appropriate classification.

27

28 SECTION 3. APPROPRIATION - OPERATIONS. There is hereby appropriated,  
 29 to the Department of Human Services - Division of Medical Services, to be  
 30 payable from the paying account as determined by the Chief Fiscal Officer of  
 31 the State, for personal services and operating expenses of the Department of  
 32 Human Services - Division of Medical Services - Operations for the fiscal  
 33 year ending June 30, 2012, the following:

34

| 35 | ITEM       | FISCAL YEAR      |
|----|------------|------------------|
| 36 | <u>NO.</u> | <u>2011-2012</u> |

|    |                                 |                     |
|----|---------------------------------|---------------------|
| 1  | (01) REGULAR SALARIES           | \$16,610,131        |
| 2  | (02) EXTRA HELP                 | 126,892             |
| 3  | (03) PERSONAL SERVICES MATCHING | 5,060,895           |
| 4  | (04) OVERTIME                   | 5,000               |
| 5  | (05) MAINT. & GEN. OPERATION    |                     |
| 6  | (A) OPER. EXPENSE               | 3,468,107           |
| 7  | (B) CONF. & TRAVEL              | 246,340             |
| 8  | (C) PROF. FEES                  | 355,132             |
| 9  | (D) CAP. OUTLAY                 | 195,000             |
| 10 | (E) DATA PROC.                  | 0                   |
| 11 | (06) DATA PROCESSING SERVICES   | <u>299,600</u>      |
| 12 | TOTAL AMOUNT APPROPRIATED       | <u>\$26,367,097</u> |

13

14 SECTION 4. APPROPRIATION - GRANTS. There is hereby appropriated, to  
 15 the Department of Human Services - Division of Medical Services, to be  
 16 payable from the paying account as determined by the Chief Fiscal Officer of  
 17 the State, for grant payments of the Department of Human Services - Division  
 18 of Medical Services - Grants for the fiscal year ending June 30, 2012, the  
 19 following:

20

| 21 | ITEM                                 | FISCAL YEAR            |
|----|--------------------------------------|------------------------|
| 22 | <u>NO.</u>                           | <u>2011-2012</u>       |
| 23 | (01) PRIVATE NURSING HOME CARE       | \$639,794,311          |
| 24 | (02) INFANT INFIRMARY                | 25,389,673             |
| 25 | (03) PUBLIC NURSING HOME CARE        | 224,482,374            |
| 26 | (04) PRESCRIPTION DRUGS              | 378,738,146            |
| 27 | (05) HOSPITAL AND MEDICAL SERVICES   | 3,610,690,170          |
| 28 | (06) CHILD AND FAMILY LIFE INSTITUTE | 2,100,000              |
| 29 | (07) ARKIDS B PROGRAM                | <u>115,642,425</u>     |
| 30 | TOTAL AMOUNT APPROPRIATED            | <u>\$4,996,837,099</u> |

31

32 SECTION 5. APPROPRIATION - NURSING HOME CLOSURE COSTS. There is hereby  
 33 appropriated, to the Department of Human Services - Division of Medical  
 34 Services, to be payable from the Long-Term Care Trust Fund, for the payment  
 35 of relocation costs of residents in long-term care facilities, maintenance  
 36 and operation of a facility pending correction of deficiencies or closure,

1 and reimbursement of residents for personal funds lost for the fiscal year  
2 ending June 30, 2012, the following:

| 3 | 4 ITEM        | FISCAL YEAR      |
|---|---------------|------------------|
| 5 | <u>NO.</u>    | <u>2011-2012</u> |
| 6 | (01) EXPENSES | <u>\$50,000</u>  |

7  
8 SECTION 6. APPROPRIATION - LONG-TERM CARE FACILITY RECEIVERSHIP. There  
9 is hereby appropriated, to the Department of Human Services - Division of  
10 Medical Services, to be payable from the Long Term Care Facility Receivership  
11 Fund Account, for the payment of expenses of long-term care facility  
12 receivers as authorized by law of the Department of Human Services - Division  
13 of Medical Services - Long-Term Care Facility Receivership for the fiscal  
14 year ending June 30, 2012, the following:

| 16 | ITEM          | FISCAL YEAR      |
|----|---------------|------------------|
| 17 | <u>NO.</u>    | <u>2011-2012</u> |
| 18 | (01) EXPENSES | <u>\$100,000</u> |

19  
20 SECTION 7. APPROPRIATION - NURSING HOME QUALITY GRANTS. There is  
21 hereby appropriated, to the Department of Human Services - Division of  
22 Medical Services, to be payable from the Long-Term Care Trust Fund, for  
23 Nursing Home Quality Grants of the Department of Human Services - Division of  
24 Medical Services - Nursing Home Quality Grants for the fiscal year ending  
25 June 30, 2012, the following:

| 27 | ITEM                                     | FISCAL YEAR        |
|----|--|--------------------|
| 28 | <u>NO.</u>                               | <u>2011-2012</u>   |
| 29 | (01) NURSING HOME QUALITY GRANTS AND AID | <u>\$1,500,000</u> |

30  
31 SECTION 8. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS  
32 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW.  
33 DEPARTMENT OF HUMAN SERVICES GRANTS FUND ACCOUNT. The Department of Human  
34 Services Grants Fund Account shall be used for the following grant programs  
35 to consist of general revenues and any other nonfederal funds, as may be  
36 appropriated by the General Assembly:

- 1 (i) Children's Medical Services;
- 2 (ii) Food Stamp Employment and Training Program;
- 3 (iii) Aid to the Aged, Blind, and Disabled;
- 4 (iv) Transitional Employment Assistance Program;
- 5 (v) Private nursing home care;
- 6 (vi) Infant Infirmary - nursing home care;
- 7 (vii) Public Nursing Home Care;
- 8 (viii) Prescription Drugs;
- 9 (ix) Hospital and Medical Services;
- 10 (x) Child and Family Life Institute;
- 11 (xi) Community Services Block Grant;
- 12 (xii) ARKIDSFIRST;
- 13 (xiii) Child Health Management Services; and
- 14 (xiv) Child Care Grant

15

16 SECTION 9. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS  
17 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL  
18 SERVICES - CHILD AND FAMILY LIFE INSTITUTE. The Child Health and Family Life  
19 Institute shall be administered under the direction of Arkansas Children's  
20 Hospital. Arkansas Children's Hospital shall enter into a cooperative  
21 agreement and/or contract with the University of Arkansas for Medical  
22 Sciences - Department of Pediatrics for services required in delivering the  
23 programs of the Child Health and Family Life Institute. Utilizing a  
24 multidisciplinary collaboration of professionals, the Child Health and Family  
25 Life Institute shall provide a statewide effort to explore, develop and  
26 evaluate new and better ways to address medically, socially and economically  
27 interrelated health and developmental needs of children with special health  
28 care needs and their families. The Child Health and Family Life Institute's  
29 priorities shall include, but are not limited to, wellness and prevention,  
30 screen and diagnosis, treatment and intervention, training and education and  
31 research and evaluation.

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

36 The provisions of this section shall be in effect only from July 1, ~~2010~~

1 2011 through June 30, ~~2011~~ 2012.

2

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

18 The provisions of this section shall be in effect only from July 1, ~~2010~~  
19 2011 through June 30, ~~2011~~ 2012.

20

21 SECTION 11. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS  
22 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL  
23 SERVICES - GENERAL MEDICAID RATE METHODOLOGY PROVISIONS.

24 (a) Rates established by the Division of Medical Services for the  
25 services or programs covered by this Act shall be calculated by the  
26 methodologies approved by the Centers for Medicare and Medicaid Services  
27 (CMS). The Division of Medical Services shall have the authority to reduce  
28 or increase rates based on the approved methodology. Further, the Division of  
29 Medical Services shall have the authority to increase or decrease rates for  
30 good cause including, but not limited to: (1) Identification of provider(s)  
31 who can render needed services of equal quality at rates less than  
32 traditionally charged and who meet the applicable federal and state laws,  
33 rules and regulations pertaining to the provision of a particular service;  
34 (2) Identification that a provider or group of providers has consistently  
35 charged rates to the Arkansas Medicaid Program greater than to other  
36 purchasers of medical services of similar size;

1 (3) The Division determines that there has been significant changes in the  
2 technology or process by which services are provided by a provider or group  
3 of providers which has affected the costs of providing services, or;

4 (4) A severe economic downturn in the Arkansas economy which has affected the  
5 overall state budget of the Division of Medical Services.

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

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

15 The provisions of this section shall be in effect only from July 1, ~~2010~~  
16 2011 through June 30, ~~2011~~ 2012.

17  
18 SECTION 12. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS  
19 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. FUND  
20 USAGE AUTHORIZED. The Arkansas Children's Hospital may request the Department  
21 of Human Services - Division of Medical Services to retain in the Department  
22 of Human Services Grant Fund account an amount not to exceed \$2,100,000 from  
23 funds made available by this Act for the Child and Family Life Institute,  
24 Section 4, item number 06 to be used to match federal funds used for  
25 supplemental Medicaid payments to Arkansas Children's Hospital. These  
26 retained funds shall not be recovered to transfer to the General Revenue  
27 Allotment Reserve Fund.

28  
29 SECTION 13. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS  
30 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. STATE  
31 PLAN. The State Plan must include the provision of EPSDT services as those  
32 services are defined in §1396d(r). See §§ 1396a(a)(10)(A), 1396d(a)(4)(B);  
33 see also 1396a(a)(43). Section 1396d(r) lists in detail the screening  
34 services, vision services, dental services, and hearing services that the  
35 State Plan must expressly include, but with regard to treatment services, it  
36 states that EPSDT means "[s]uch other necessary health care, diagnostic

1 services, treatment, and other measures described in subsection (a) of this  
2 section to correct or ameliorate defects and physical and mental illnesses  
3 and conditions discovered by the screening services, whether or not such  
4 services are covered under the State plan." 42 U.S.C. § 1396d(r)(5) (emphasis  
5 added). Reading §1396a, § 1396d(a), and § 1396d(r) together, we believe that  
6 the State Plan need not specifically list every treatment service conceivably  
7 available under the EPSDT mandate.

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

19 We affirm the district court's decision to the extent that it holds that  
20 a Medicaid-Eligible individual has a federal right to early intervention day  
21 treatment when a physician recommends such treatment. Section 1396d(r)(5)  
22 states that EPSDT includes any treatments or measures outlined in §1396d(a).  
23 There are twenty-seven sub-parts to §1396d(a), and we find that sub-part  
24 (a)(13), in particular, when read with the other sections of the Medicaid Act  
25 listed above, mandates that early intervention day treatment be provided when  
26 it is prescribed by a physician. See 42 U.S.C. §1396d(a)(13) (defining  
27 medical assistance reimbursable by Medicaid as "other diagnostic, screening,  
28 preventive, and rehabilitative services, including any medical or remedial  
29 services recommended by a physician...for the maximum reduction of physical  
30 and mental disability and restoration of an individual to the best possible  
31 functional level"). Therefore, after CHMS clinic staff perform a diagnostic  
32 evaluation of an eligible child, if the CHMS physician prescribes early  
33 intervention day treatment as a service that would lead to the maximum  
34 reduction of medical and physical disabilities and restoration of the child  
35 to his or her best possible functional level, the Arkansas State Plan must  
36 reimburse the treatment. Because CHMS clinics are the only providers of early

1 intervention day treatment, Arkansas must reimburse those clinics.

2  
3 SECTION 14. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS  
4 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL  
5 SERVICES - STATE MEDICAID PROGRAM/PERSONAL CARE PROGRAM.

6 (a) It is the legislative intent that the Department of Human Services  
7 in its administration of the Arkansas Medicaid Program set forth Medicaid  
8 provider participation requirements for "personal care providers" that will  
9 insure sufficient available providers to meet the required needs of all  
10 eligible recipients, to include insuring available in home services twenty-  
11 four (24) hours a day and seven (7) days a week for personal care.

12 (b) For the purposes of this section, "private care agencies" are  
13 defined as those providers licensed by the Department of Labor, certified as  
14 ElderChoices Providers and who furnish in home staffing services for respite,  
15 chore services, and homemaker services, and are covered by liability  
16 insurance of not less than one million dollars (\$1,000,000) covering their  
17 employees and independent contractors while they are engaged in providing  
18 services, such as personal care, respite, chore services, and homemaker  
19 services.

20 (c) The purpose of this section is to allow the private care agencies  
21 defined herein to be eligible to provide Medicaid reimbursed personal care  
22 services seven (7) days a week, and does not supercede Department of Human  
23 Services rules establishing monthly benefit limits and prior authorization  
24 requirements.

25 (d) The availability of providers shall not require the Department of  
26 Human Services to reimburse for twenty-four (24) hours per day of personal  
27 care services.

28 (e) The Arkansas Department of Human Services, Medical Services Division  
29 shall take such action as required by the Centers for Medicare and Medicaid  
30 Services to amend the Arkansas Medicaid manual to include, private care  
31 agencies, as qualified entities to provide Medicaid reimbursed personal care  
32 services.

33 (f) The private care agencies shall comply with rules and regulations  
34 promulgated by the Arkansas Department of Health which shall establish a  
35 separate licensure category for the private care agencies for the provision  
36 of Medicaid reimbursable personal care services seven (7) days a week.

1 (g) The Arkansas Department of Health shall supervise the conduct of the  
2 personal care agencies defined herein.

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

6 The provisions of this section shall be in effect only from July 1, ~~2010~~  
7 2011 through June 30, ~~2011~~ 2012.

8  
9 SECTION 15. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS  
10 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. REVIEW OF  
11 RULES IMPACTING STATE MEDICAID COSTS. (a) In light of the rapidly rising  
12 potential costs to the State attributable to the Medicaid program and the  
13 importance of Medicaid expenditures to the health and welfare of the citizens  
14 of this State, the General Assembly finds it desirable to exercise more  
15 thorough review of future proposed changes to rules that might impact those  
16 costs or expenditures.

17 (b) As used in this section, "rule impacting state Medicaid costs"  
18 means a proposed rule, as defined by § 25-15-202(8), or a proposed amendment  
19 to an existing rule, as defined by § 25-15-202(8), that would, if adopted,  
20 adjust Medicaid reimbursement rates, Medicaid eligibility criteria, or  
21 Medicaid benefits, including without limitation a proposed rule or a proposed  
22 amendment to an existing rule seeking to accomplish the following:

23 (1) Reduce the number of individuals covered by Arkansas  
24 Medicaid;

25 (2) Limit the types of services covered by Arkansas Medicaid;

26 (3) Reduce the utilization of services covered by Arkansas  
27 Medicaid;

28 (4) Reduce provider reimbursement;

29 (5) Increase consumer cost-sharing;

30 (6) Reduce the cost of administering Arkansas Medicaid;

31 (7) *Increase Arkansas Medicaid revenues;—~~or~~*

32 (8) *Reduce fraud and abuse in the Arkansas Medicaid program;*

33 (9) Change any of the methodologies used for reimbursement of  
34 providers;

35 (10) Seek a new waiver or modification of an existing waiver of  
36 any provision under Medicaid, Title XIX, of the Social Security Act,

1 including a waiver that would allow a demonstration project;

2 (11) Participate or seek to participate in Social Security Act  
3 Section 1115(a)(1) waiver authority that would allow operation of a  
4 demonstration project or program;

5 (12) Participate or seek to participate in a Social Security Act  
6 Section 1115(a)(2) request for the Secretary of the Department of Health and  
7 Human Services to provide federal financial participation for costs  
8 associated with a demonstration project or program;

9 (13) Implement managed care provisions under Section 1932 of  
10 Medicaid, Title XIX of the Social Security Act; or

11 (14) Participate or seek to participate in the Centers for  
12 Medicare and Medicaid Services Innovation projects or programs.

13 (c)(1) In addition to filing requirements under the Arkansas  
14 Administrative Procedure Act, § 25-15-201 et seq., and § 10-3-309, the  
15 Department of Human Services shall, at least thirty (30) days before the  
16 expiration of the period for public comment, file a proposed rule impacting  
17 state Medicaid costs or a proposed amendment to an existing rule impacting  
18 state Medicaid costs with the Senate Interim Committee on Public Health,  
19 Welfare, and Labor and the House Interim Committee on Public Health, Welfare,  
20 and Labor, or, when the General Assembly is in session, with the Senate  
21 Committee on Public Health, Welfare, and Labor and the House Committee on  
22 Public Health, Welfare and Labor.

23 (2) Any review of the proposed rule or proposed amendment to an  
24 existing rule by the Senate and House Interim Committees on Public Health,  
25 Welfare and Labor or the Senate and House Committees on Public Health,  
26 Welfare, and Labor shall occur within forty-five (45) days of the date the  
27 proposed rule or proposed amendment to an existing rule is filed with the  
28 committees.

29 (d)(1) If adopting an emergency rule impacting state Medicaid costs, in  
30 addition to the filing requirements under the Arkansas Administrative  
31 Procedure Act, § 25-15-201 et seq. and § 10-3-309, the Department of Human  
32 Services shall notify the Speaker of the House of Representatives, the  
33 President Pro Tempore of the Senate, the chair of the Senate Committee on  
34 Public Health, Welfare, and Labor, and the chair of the House Committee on  
35 Public Health, Welfare and Labor of the emergency rule and provide each of  
36 them a copy of the rule within five (5) business days of adopting the rule.

1 (2) Any review of the emergency rule by the Senate and House Interim  
2 Committees on Public Health, Welfare and Labor or the Senate and House  
3 Committees on Public Health, Welfare, and Labor shall occur within forty-five  
4 (45) days of the date the emergency rule is provided to the chairs.

5 (e)(1) The Joint Budget Committee may review a rule impacting state  
6 Medicaid costs during a regular, fiscal, or special session of the General  
7 Assembly.

8 (2) Actions taken by the Joint Budget Committee when reviewing a  
9 rule impacting state Medicaid costs shall have the same effect as actions  
10 taken by the Legislative Council under § 10-3-309.

11 (3) If the Joint Budget Committee reviews a rule impacting state  
12 Medicaid costs, it shall file a report of its actions with the Legislative  
13 Council as soon as practicable.

14 (f) This section expires on June 30, ~~2011~~ 2012.

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16 SECTION 16. COMPLIANCE WITH OTHER LAWS. Disbursement of funds  
17 authorized by this act shall be limited to the appropriation for such agency  
18 and funds made available by law for the support of such appropriations; and  
19 the restrictions of the State Procurement Law, the General Accounting and  
20 Budgetary Procedures Law, the Revenue Stabilization Law, the Regular Salary  
21 Procedures and Restrictions Act, or their successors, and other fiscal  
22 control laws of this State, where applicable, and regulations promulgated by  
23 the Department of Finance and Administration, as authorized by law, shall be  
24 strictly complied with in disbursement of said funds.

25  
26 SECTION 17. LEGISLATIVE INTENT. It is the intent of the General  
27 Assembly that any funds disbursed under the authority of the appropriations  
28 contained in this act shall be in compliance with the stated reasons for  
29 which this act was adopted, as evidenced by the Agency Requests, Executive  
30 Recommendations and Legislative Recommendations contained in the budget  
31 manuals prepared by the Department of Finance and Administration, letters, or  
32 summarized oral testimony in the official minutes of the Arkansas Legislative  
33 Council or Joint Budget Committee which relate to its passage and adoption.

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35 SECTION 18. EMERGENCY CLAUSE. It is found and determined by the  
36 General Assembly, that the Constitution of the State of Arkansas prohibits

1 the appropriation of funds for more than a one (1) year period; that the  
2 effectiveness of this Act on July 1, 2011 is essential to the operation of  
3 the agency for which the appropriations in this Act are provided, and that in  
4 the event of an extension of the legislative session, the delay in the  
5 effective date of this Act beyond July 1, 2011 could work irreparable harm  
6 upon the proper administration and provision of essential governmental  
7 programs. Therefore, an emergency is hereby declared to exist and this Act  
8 being necessary for the immediate preservation of the public peace, health  
9 and safety shall be in full force and effect from and after July 1, 2011.

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11 */s/Joint Budget Committee*  
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