

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

As Engrossed: S3/17/11
A Bill

SENATE BILL 846

5 By: Senators J. Dismang, Laverty
6

7 **For An Act To Be Entitled**

8 AN ACT TO PROVIDE THAT PERSONS WITH DEVELOPMENTAL
9 DISABILITIES HAVE EQUAL ACCESS TO MEDICAID PERSONAL
10 CARE SERVICES IN DESIGNATED RESIDENTIAL SETTINGS; AND
11 FOR OTHER PURPOSES.
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14 **Subtitle**

15 TO PROVIDE THAT PERSONS WITH
16 DEVELOPMENTAL DISABILITIES HAVE EQUAL
17 ACCESS TO MEDICAID PERSONAL CARE SERVICES
18 IN DESIGNATED RESIDENTIAL SETTINGS.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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23 SECTION 1. Arkansas Code § 20-47-301 is amended to read as follows:
24 20-47-301. Legislative findings and intent.

25 (a)(1) The General Assembly recognizes that the state encouraged the
26 placement of mentally ill residents into residential care facilities over a
27 decade ago and has taken various approaches to funding since then. The
28 General Assembly also recognizes that there are inherent problems with the
29 current system that create disincentives for proper care and physical
30 environments.

31 (2) The General Assembly further recognizes that:

32 (A) Individuals with developmental disabilities living in
33 group homes, community residential housing, and apartments operated by
34 nonprofit community programs as defined in § 20-48-101 face many of the same
35 challenges in receiving proper care and assistance with activities of daily
36 living as individuals with mental illness living in residential care



1 facilities;

2 (B) An individual with a mental illness who is Medicaid-
 3 eligible and lives in a residential care facility can receive Medicaid
 4 congregate-setting personal care services to assist with activities of daily
 5 living, while an individual with developmental disabilities who is Medicaid-
 6 eligible and lives in a group home, community residential housing, or
 7 apartment operated by a nonprofit community program as defined in § 20-48-101
 8 is not able to receive similar services through the Medicaid Personal Care
 9 Program; and

10 (C) This inequity must be corrected in order to provide
 11 equal access to Medicaid congregate-setting personal care services for
 12 individuals with developmental disabilities.

13 (b) The purpose of this subchapter is to provide short-term solutions
 14 and long-term solutions to the problem of caring for ~~mentally ill persons~~
 15 individuals with *mental illness*, elderly persons, and other residents in
 16 residential care facilities and individuals with developmental disabilities
 17 living in group homes, community residential housing, and apartments operated
 18 by nonprofit community programs as defined in § 20-48-101.

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 20 SECTION 2. Arkansas Code § 20-47-303 is amended to read as follows:

21 20-47-303. ~~Per diem~~ Multihour daily service rate reimbursement.

22 (a) As used in this section:

23 (1) "Congregate setting" means a location within a residential
 24 care facility or a designated residential setting of a nonprofit community
 25 program as defined in § 20-48-101 or its nonprofit affiliates;

26 (2) "Designated residential setting" means the following when
 27 operated by a nonprofit community program as defined in § 20-48-101:

28 (A) A group home for individuals with developmental
 29 disabilities in operation and licensed by the Division of Developmental
 30 Disabilities Services of the Department of Human Services on or before July
 31 1, 1995;

32 (B) A community residential home established after July 1,
 33 1995 that serves individuals with developmental disabilities and provides
 34 housing for no more than four (4) unrelated persons; or

35 (C) An apartment complex established after July 1, 1995
 36 that serves individuals with developmental disabilities; and

1 (3)(A) "Intermediate care facility for individuals with
2 developmental disabilities" means a residential institution maintained for
3 the care and training of individuals with developmental disabilities,
4 including without limitation individuals with intellectual disabilities;

5 (B) "Intermediate care facility for individuals with
6 developmental disabilities" has the same meaning as "intermediate care
7 facility for the mentally retarded" or "ICF/MR" under federal law.

8 ~~(a)(b)(1)~~ The Department of Human Services shall reimburse residential
9 care facilities ~~on a per diem basis, subject to approval by the Health Care~~
10 ~~Financing Administration, and shall develop Medicaid provider regulations~~
11 ~~appropriate for a congregate setting and per diem reimbursement and, subject~~
12 ~~to available funds, qualified nonprofit community programs as defined in §~~
13 ~~20-48-101 with a multihour daily service rate for personal care services~~
14 ~~delivered in congregate settings as provided in this section and approved by~~
15 ~~the Centers for Medicare and Medicaid Services.~~

16 (2) The department shall maintain Medicaid provider regulations
17 appropriate for the delivery of personal care services in congregate settings
18 and the related multihour daily service rate reimbursement methodology.

19 (3) The department shall make the best efforts to obtain and
20 maintain approval for a multihour daily service rate reimbursement for
21 personal care services delivered in congregate settings from the
22 ~~administration~~ the Centers for Medicare and Medicaid Services.

23 ~~(b)(c)~~ The department shall provide copies to the Administrative Rules
24 and Regulations Committee of the Legislative Council, providers, and the
25 public of all state plan amendments, documentation, and correspondence
26 submitted to or received from the administration in regard to this section
27 and shall work jointly with provider representatives in ~~seeking~~
28 ~~administration~~ obtaining and maintaining approval for a multi-hour daily
29 service rate for personal care services delivered in congregate settings from
30 the Centers for Medicare and Medicaid Services.

31 (d)(1) The Division of Medical Services of the Department of Human
32 Services shall use the same multihour daily service rate reimbursement
33 methodology for personal care services delivered in a congregate setting
34 located in a designated residential setting of a qualified nonprofit
35 community program as defined in § 20-48-101 as for personal care services
36 delivered in a congregate setting located in a residential care facility.

1 (2) Reimbursement for personal care services under this section
2 is not available to an individual with a developmental disability who resides
3 in an intermediate care facility for individuals with developmental
4 disabilities.

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