

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

As Engrossed: H4/1/13 H4/6/13

A Bill

HOUSE BILL 1219

5 By: Joint Budget Committee
6

For An Act To Be Entitled

8 AN ACT TO MAKE AN APPROPRIATION FOR PERSONAL SERVICES
9 AND OPERATING EXPENSES FOR THE DEPARTMENT OF HUMAN
10 SERVICES - DIVISION OF MEDICAL SERVICES FOR THE
11 FISCAL YEAR ENDING JUNE 30, 2014; AND FOR OTHER
12 PURPOSES.
13
14

Subtitle

15 AN ACT FOR THE DEPARTMENT OF HUMAN
16 SERVICES - DIVISION OF MEDICAL SERVICES
17 APPROPRIATION FOR THE 2013-2014 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 2013-2014 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 2013-2014 |
|----------|------------|-------------------------------------|--------------------------|--|
| 32 | (1) L008N | PHYSICIAN SPECIALIST | 2 | GRADE N917 |
| 33 | (2) N181N | DIRECTOR OF MEDICAL SERVICES | 1 | GRADE N915 |
| 34 | (3) L016N | REGISTERED PHARMACIST | 6 | GRADE N911 |
| 35 | (4) N080N | DHS/DMS ASSISTANT DIRECTOR - FISCAL | 2 | GRADE N907 |
| 36 | (5) N099N | DHS/DMS ADD - LONG TERM CARE | 1 | GRADE N906 |



| | | | | | |
|----|------|-------|---------------------------------------|----|------------|
| 1 | (6) | N100N | DHS/DMS ADD - MEDICAL SERVICES | 2 | GRADE N906 |
| 2 | (7) | N110N | DHS ASST DIR CONTRACT MONITORING UNIT | 1 | GRADE N905 |
| 3 | (8) | A010C | AGENCY CONTROLLER II | 1 | GRADE C128 |
| 4 | (9) | D007C | INFORMATION SYSTEMS MANAGER | 2 | GRADE C128 |
| 5 | (10) | A016C | DHS DMS BUSINESS OPERATIONS MANAGER | 9 | GRADE C127 |
| 6 | (11) | L003C | PSYCHOLOGIST | 4 | GRADE C127 |
| 7 | (12) | L010C | DHS DMS MEDICAL ASSISTANCE MANAGER | 9 | GRADE C125 |
| 8 | (13) | L009C | NURSE MANAGER | 5 | GRADE C125 |
| 9 | (14) | A031C | ASSISTANT CONTROLLER | 1 | GRADE C124 |
| 10 | (15) | L015C | CLINICAL SPEECH PATHOLOGIST | 2 | GRADE C124 |
| 11 | (16) | B023C | ENGINEER, P.E. | 1 | GRADE C124 |
| 12 | (17) | L021C | NURSING HOME ASSISTANT ADMINISTRATOR | 1 | GRADE C123 |
| 13 | (18) | L020C | NURSING SERVICES UNIT MANAGER | 2 | GRADE C123 |
| 14 | (19) | L019C | REGISTERED NURSE COORDINATOR | 5 | GRADE C123 |
| 15 | (20) | A044C | AUDIT COORDINATOR | 3 | GRADE C122 |
| 16 | (21) | G099C | DHS PROGRAM ADMINISTRATOR | 15 | GRADE C122 |
| 17 | (22) | L027C | REGISTERED NURSE SUPERVISOR | 14 | GRADE C122 |
| 18 | (23) | A052C | ACCOUNTING COORDINATOR | 1 | GRADE C121 |
| 19 | (24) | A050C | AGENCY FISCAL MANAGER | 1 | GRADE C121 |
| 20 | (25) | M011C | FAMILY SERVICE WORKER COUNTY SUP | 1 | GRADE C121 |
| 21 | (26) | A047C | FINANCIAL ANALYST II | 1 | GRADE C121 |
| 22 | (27) | M009C | LICENSED CERTIFIED SOCIAL WORKER | 1 | GRADE C121 |
| 23 | (28) | A056C | DHS FINANCIAL SECTION MANAGER | 2 | GRADE C120 |
| 24 | (29) | L040C | DIETARY SERVICES DIRECTOR | 1 | GRADE C120 |
| 25 | (30) | L038C | REGISTERED NURSE | 71 | GRADE C120 |
| 26 | (31) | E023C | TRAINING PROJECT MANAGER | 1 | GRADE C120 |
| 27 | (32) | D063C | COMPUTER SUPPORT SPECIALIST | 2 | GRADE C119 |
| 28 | (33) | D062C | DATABASE ANALYST | 1 | GRADE C119 |
| 29 | (34) | G152C | DHS PROGRAM MANAGER | 15 | GRADE C119 |
| 30 | (35) | G147C | GRANTS COORDINATOR | 2 | GRADE C119 |
| 31 | (36) | X067C | HEALTH FACILITIES SURVEYOR | 21 | GRADE C119 |
| 32 | (37) | D061C | INFORMATION SYSTEMS COORD SPECIALIST | 1 | GRADE C119 |
| 33 | (38) | X062C | QUALITY ASSURANCE COORDINATOR | 2 | GRADE C119 |
| 34 | (39) | A060C | SENIOR AUDITOR | 14 | GRADE C119 |
| 35 | (40) | A075C | FINANCIAL ANALYST I | 1 | GRADE C118 |
| 36 | (41) | A081C | AUDITOR | 4 | GRADE C117 |

| | | | | | |
|----|------|-------|--------------------------------------|-----------|------------|
| 1 | (42) | R027C | BUDGET SPECIALIST | 2 | GRADE C117 |
| 2 | (43) | G183C | DHS PROGRAM COORDINATOR | 11 | GRADE C117 |
| 3 | (44) | L055C | DIETICIAN | 1 | GRADE C117 |
| 4 | (45) | D068C | INFORMATION SYSTEMS ANALYST | 2 | GRADE C117 |
| 5 | (46) | D067C | INFORMATION SYSTEMS SECURITY ANALYST | 2 | GRADE C117 |
| 6 | (47) | G179C | LEGAL SERVICES SPECIALIST | 1 | GRADE C117 |
| 7 | (48) | M039C | MEDICAID SERVICES SUPERVISOR | 2 | GRADE C117 |
| 8 | (49) | C013C | MEDICAL SERVICES REPRESENTATIVE | 3 | GRADE C117 |
| 9 | (50) | G178C | POLICY DEVELOPMENT COORDINATOR | 3 | GRADE C117 |
| 10 | (51) | B076C | RESEARCH PROJECT ANALYST | 1 | GRADE C117 |
| 11 | (52) | A089C | ACCOUNTANT I | 1 | GRADE C116 |
| 12 | (53) | A088C | ASSETS COORDINATOR | 1 | GRADE C116 |
| 13 | (54) | X124C | HEALTH FACILITY REVIEWER | 1 | GRADE C116 |
| 14 | (55) | A084C | PROGRAM/FIELD AUDIT SPECIALIST | 3 | GRADE C116 |
| 15 | (56) | C037C | ADMINISTRATIVE ANALYST | 7 | GRADE C115 |
| 16 | (57) | G210C | DHS PROGRAM SPECIALIST | 1 | GRADE C115 |
| 17 | (58) | A091C | FISCAL SUPPORT ANALYST | 3 | GRADE C115 |
| 18 | (59) | C050C | ADMINISTRATIVE SUPPORT SUPERVISOR | 1 | GRADE C113 |
| 19 | (60) | L070C | HEALTH CARE ANALYST | 19 | GRADE C113 |
| 20 | (61) | C056C | ADMINISTRATIVE SPECIALIST III | 28 | GRADE C112 |
| 21 | (62) | A098C | FISCAL SUPPORT SPECIALIST | 2 | GRADE C112 |
| 22 | (63) | A101C | ACCOUNTING TECHNICIAN | 1 | GRADE C109 |
| 23 | (64) | C073C | ADMINISTRATIVE SPECIALIST II | 14 | GRADE C109 |
| 24 | (65) | C087C | ADMINISTRATIVE SPECIALIST I | <u>10</u> | GRADE C106 |
| 25 | | | MAX. NO. OF EMPLOYEES | 352 | |

26

27 SECTION 2. EXTRA HELP - OPERATIONS. There is hereby authorized, for
 28 the Department of Human Services - Division of Medical Services for the 2013-
 29 2014 fiscal year, the following maximum number of part-time or temporary
 30 employees, to be known as "Extra Help", payable from funds appropriated
 31 herein for such purposes: seven (7) temporary or part-time employees, when
 32 needed, at rates of pay not to exceed those provided in the Uniform
 33 Classification and Compensation Act, or its successor, or this act for the
 34 appropriate classification.

35

36 SECTION 3. APPROPRIATION - OPERATIONS. There is hereby appropriated,

1 to the Department of Human Services - Division of Medical Services, to be
 2 payable from the paying account as determined by the Chief Fiscal Officer of
 3 the State, for personal services and operating expenses of the Department of
 4 Human Services - Division of Medical Services - Operations for the fiscal
 5 year ending June 30, 2014, the following:

| 7 ITEM | FISCAL YEAR |
|------------------------------------|---------------------|
| 8 <u>NO.</u> | <u>2013-2014</u> |
| 9 (01) REGULAR SALARIES | \$17,523,771 |
| 10 (02) EXTRA HELP | 201,892 |
| 11 (03) PERSONAL SERVICES MATCHING | 5,817,834 |
| 12 (04) OVERTIME | 5,000 |
| 13 (05) MAINT. & GEN. OPERATION | |
| 14 (A) OPER. EXPENSE | 3,618,107 |
| 15 (B) CONF. & TRAVEL | 246,340 |
| 16 (C) PROF. FEES | 555,132 |
| 17 (D) CAP. OUTLAY | 150,000 |
| 18 (E) DATA PROC. | 0 |
| 19 (06) DATA PROCESSING SERVICES | <u>299,600</u> |
| 20 TOTAL AMOUNT APPROPRIATED | <u>\$28,417,676</u> |

21
 22 SECTION 4. APPROPRIATION - GRANTS. There is hereby appropriated, to
 23 the Department of Human Services - Division of Medical Services, to be
 24 payable from the paying account as determined by the Chief Fiscal Officer of
 25 the State, for grant payments of the Department of Human Services - Division
 26 of Medical Services - Grants for the fiscal year ending June 30, 2014, the
 27 following:

| 29 ITEM | FISCAL YEAR |
|---|------------------|
| 30 <u>NO.</u> | <u>2013-2014</u> |
| 31 (01) PRIVATE NURSING HOME CARE | \$687,787,762 |
| 32 (02) INFANT INFIRMARY | 26,733,146 |
| 33 (03) PUBLIC NURSING HOME CARE | 212,598,210 |
| 34 (04) PRESCRIPTION DRUGS | 373,142,423 |
| 35 (05) HOSPITAL AND MEDICAL SERVICES | 3,905,842,951 |
| 36 (06) CHILD AND FAMILY LIFE INSTITUTE | 2,100,000 |

| | | |
|---|---------------------------|-------------------------------|
| 1 | (07) ARKIDS B PROGRAM | <u>137,336,792</u> |
| 2 | TOTAL AMOUNT APPROPRIATED | <u><u>\$5,345,541,284</u></u> |

3
4 SECTION 5. APPROPRIATION - NURSING HOME CLOSURE COSTS. There is hereby
5 appropriated, to the Department of Human Services - Division of Medical
6 Services, to be payable from the Long-Term Care Trust Fund, for the payment
7 of relocation costs of residents in long-term care facilities, maintenance
8 and operation of a facility pending correction of deficiencies or closure,
9 and reimbursement of residents for personal funds lost for the fiscal year
10 ending June 30, 2014, the following:

| | | |
|----|---------------|------------------------|
| 11 | | |
| 12 | ITEM | FISCAL YEAR |
| 13 | <u>NO.</u> | <u>2013-2014</u> |
| 14 | (01) EXPENSES | <u><u>\$50,000</u></u> |

15
16 SECTION 6. APPROPRIATION - LONG-TERM CARE FACILITY RECEIVERSHIP. There
17 is hereby appropriated, to the Department of Human Services - Division of
18 Medical Services, to be payable from the Long Term Care Facility Receivership
19 Fund Account, for the payment of expenses of long-term care facility
20 receivers as authorized by law of the Department of Human Services - Division
21 of Medical Services - Long-Term Care Facility Receivership for the fiscal
22 year ending June 30, 2014, the following:

| | | |
|----|---------------|-------------------------|
| 23 | | |
| 24 | ITEM | FISCAL YEAR |
| 25 | <u>NO.</u> | <u>2013-2014</u> |
| 26 | (01) EXPENSES | <u><u>\$100,000</u></u> |

27
28 SECTION 7. APPROPRIATION - NURSING HOME QUALITY GRANTS. There is
29 hereby appropriated, to the Department of Human Services - Division of
30 Medical Services, to be payable from the Long-Term Care Trust Fund, for
31 Nursing Home Quality Grants of the Department of Human Services - Division of
32 Medical Services - Nursing Home Quality Grants for the fiscal year ending
33 June 30, 2014, the following:

| | | |
|----|------------|------------------|
| 34 | | |
| 35 | ITEM | FISCAL YEAR |
| 36 | <u>NO.</u> | <u>2013-2014</u> |

1 (01) NURSING HOME QUALITY GRANTS AND AID \$1,500,000

2

3 SECTION 8. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
4 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW.

5 DEPARTMENT OF HUMAN SERVICES GRANTS FUND ACCOUNT. The Department of Human
6 Services Grants Fund Account shall be used for the following grant programs
7 to consist of general revenues and any other nonfederal funds, as may be
8 appropriated by the General Assembly:

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

23

24 SECTION 9. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
25 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL
26 SERVICES - CHILD AND FAMILY LIFE INSTITUTE. The Child Health and Family Life
27 Institute shall be administered under the direction of Arkansas Children's
28 Hospital. Arkansas Children's Hospital shall enter into a cooperative
29 agreement and/or contract with the University of Arkansas for Medical
30 Sciences - Department of Pediatrics for services required in delivering the
31 programs of the Child Health and Family Life Institute. Utilizing a
32 multidisciplinary collaboration of professionals, the Child Health and Family
33 Life Institute shall provide a statewide effort to explore, develop and
34 evaluate new and better ways to address medically, socially and economically
35 interrelated health and developmental needs of children with special health
36 care needs and their families. The Child Health and Family Life Institute's

1 priorities shall include, but are not limited to, wellness and prevention,
2 screen and diagnosis, treatment and intervention, training and education and
3 research and evaluation.

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

8 The provisions of this section shall be in effect only from July 1, ~~2012~~
9 2013 through June 30, ~~2013~~ 2014.

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

26 The provisions of this section shall be in effect only from July 1, ~~2012~~
27 2013 through June 30, ~~2013~~ 2014.

28
29 SECTION 11. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
30 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL
31 SERVICES - GENERAL MEDICAID RATE METHODOLOGY PROVISIONS.

32 (a) Rates established by the Division of Medical Services for the services
33 or programs covered by this Act shall be calculated by the methodologies
34 approved by the Centers for Medicare and Medicaid Services (CMS). The
35 Division of Medical Services shall have the authority to reduce or increase
36 rates based on the approved methodology. Further, the Division of Medical

1 Services shall have the authority to increase or decrease rates for good
2 cause including, but not limited to: (1) Identification of provider(s) who
3 can render needed services of equal quality at rates less than traditionally
4 charged and who meet the applicable federal and state laws, rules and
5 regulations pertaining to the provision of a particular service;
6 (2) Identification that a provider or group of providers has consistently
7 charged rates to the Arkansas Medicaid Program greater than to other
8 purchasers of medical services of similar size;
9 (3) The Division determines that there has been significant changes in the
10 technology or process by which services are provided by a provider or group
11 of providers which has affected the costs of providing services, or;
12 (4) A severe economic downturn in the Arkansas economy which has affected the
13 overall state budget of the Division of Medical Services.

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

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

23 Determining the maximum number of employees and the maximum amount of
24 appropriation and general revenue funding for a state agency each fiscal year
25 is the prerogative of the General Assembly. This is usually accomplished by
26 delineating such maximums in the appropriation act(s) for a state agency and
27 the general revenue allocations authorized for each fund and fund account by
28 amendment to the Revenue Stabilization law. Further, the General Assembly has
29 determined that the Department of Human Services – Division of Medical
30 Services may operate more efficiently if some flexibility is provided to the
31 Department of Human Services – Division of Medical Services authorizing broad
32 powers under this section. Therefore, it is both necessary and appropriate
33 that the General Assembly maintain oversight by requiring prior approval of
34 the Legislative Council or Joint Budget Committee as provided by this
35 section. The requirement of approval by the Legislative Council or Joint
36 Budget Committee is not a severable part of this section. If the requirement

1 of approval by the Legislative Council or Joint Budget Committee is ruled
2 unconstitutional by a court of competent jurisdiction, this entire section is
3 void.

4 The provisions of this section shall be in effect only from July 1, ~~2012~~
5 2013 through June 30, ~~2013~~ 2014.

6
7 SECTION 12. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
8 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. FUND
9 USAGE AUTHORIZED. The Arkansas Children's Hospital may request the Department
10 of Human Services - Division of Medical Services to retain in the Department
11 of Human Services Grant Fund account an amount not to exceed \$2,100,000 from
12 funds made available by this Act for the Child and Family Life Institute,
13 Section 4, item number 06 to be used to match federal funds used for
14 supplemental Medicaid payments to Arkansas Children's Hospital. These
15 retained funds shall not be recovered to transfer to the General Revenue
16 Allotment Reserve Fund.

17
18 SECTION 13. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
19 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. STATE
20 PLAN. The State Plan must include the provision of EPSDT services as those
21 services are defined in §1396d(r). See §§ 1396a(a)(10)(A), 1396d(a)(4)(B);
22 see also 1396a(a)(43). Section 1396d(r) lists in detail the screening
23 services, vision services, dental services, and hearing services that the
24 State Plan must expressly include, but with regard to treatment services, it
25 states that EPSDT means "[s]uch other necessary health care, diagnostic
26 services, treatment, and other measures described in subsection (a) of this
27 section to correct or ameliorate defects and physical and mental illnesses
28 and conditions discovered by the screening services, whether or not such
29 services are covered under the State plan." 42 U.S.C. § 1396d(r)(5) (emphasis
30 added). Reading §1396a, § 1396d(a), and § 1396d(r) together, we believe that
31 the State Plan need not specifically list every treatment service conceivably
32 available under the EPSDT mandate.

33 The State Plan, however, must pay part or all of the cost of treatments to
34 ameliorate conditions discovered by the screening process when those
35 treatments meet the definitions set forth in § 1396a. See §1396d(r)(5); see
36 also §§1396a(a)(10), 1396a (a)(43), and 1396d(a)(4)(B). The Arkansas State

1 Plan states that the "State will provide other health care described in [42
2 U.S.C. 1396d(a)] that is found to be medically necessary to correct or
3 ameliorate defects and physical and mental illnesses and conditions
4 discovered by the screening services, even when such health care is not
5 otherwise covered under the State Plan." See State Plan Under Title XIX of
6 the Social Security Act Medical Assistance Program, State Of Arkansas at
7 §4.b. This provision Meets the EPSDT mandate of the Medicaid Act.

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

27
28 SECTION 14. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
29 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL
30 SERVICES - STATE MEDICAID PROGRAM/PERSONAL CARE PROGRAM.

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

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

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

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

17 (e) The Arkansas Department of Human Services, Medical Services Division
18 shall take such action as required by the Centers for Medicare and Medicaid
19 Services to amend the Arkansas Medicaid manual to include, private care
20 agencies, as qualified entities to provide Medicaid reimbursed personal care
21 services.

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

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

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

31 The provisions of this section shall be in effect only from July 1, ~~2012~~
32 2013 through June 30, ~~2013~~ 2014.

33

34 SECTION 15. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
35 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. REVIEW OF
36 RULES IMPACTING STATE MEDICAID COSTS. (a) In light of the rapidly rising

1 potential costs to the State attributable to the Medicaid program and the
2 importance of Medicaid expenditures to the health and welfare of the citizens
3 of this State, the General Assembly finds it desirable to exercise more
4 thorough review of future proposed changes to rules that might impact those
5 costs or expenditures.

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

- 12 (1) Reduce the number of individuals covered by Arkansas Medicaid;
- 13 (2) Limit the types of services covered by Arkansas Medicaid;
- 14 (3) Reduce the utilization of services covered by Arkansas Medicaid;
- 15 (4) Reduce provider reimbursement;
- 16 (5) Increase consumer cost-sharing;
- 17 (6) Reduce the cost of administering Arkansas Medicaid;
- 18 (7) Increase Arkansas Medicaid revenues;
- 19 (8) Reduce fraud and abuse in the Arkansas Medicaid program;
- 20 (9) Change any of the methodologies used for reimbursement of
21 providers;
- 22 (10) Seek a new waiver or modification of an existing waiver of any
23 provision under Medicaid, Title XIX, of the Social Security Act, including a
24 waiver that would allow a demonstration project;
- 25 (11) Participate or seek to participate in Social Security Act Section
26 1115(a)(1) waiver authority that would allow operation of a demonstration
27 project or program;
- 28 (12) Participate or seek to participate in a Social Security Act
29 Section 1115(a)(2) request for the Secretary of the Department of Health and
30 Human Services to provide federal financial participation for costs
31 associated with a demonstration project or program;
- 32 (13) Implement managed care provisions under Section 1932 of Medicaid,
33 Title XIX of the Social Security Act; or
- 34 (14) Participate or seek to participate in the Centers for Medicare and
35 Medicaid Services Innovation projects or programs.

36 (c)(1) In addition to filing requirements under the Arkansas

1 Administrative Procedure Act, § 25-15-201 et seq., and § 10-3-309, the
2 Department of Human Services shall, at least thirty (30) days before the
3 expiration of the period for public comment, file a proposed rule impacting
4 state Medicaid costs or a proposed amendment to an existing rule impacting
5 state Medicaid costs with the Senate Interim Committee on Public Health,
6 Welfare, and Labor and the House Interim Committee on Public Health, Welfare,
7 and Labor, or, when the General Assembly is in session, with the Senate
8 Committee on Public Health, Welfare, and Labor and the House Committee on
9 Public Health, Welfare and Labor.

10 (2) Any review of the proposed rule or proposed amendment to an
11 existing rule by the Senate and House Interim Committees on Public Health,
12 Welfare and Labor or the Senate and House Committees on Public Health,
13 Welfare, and Labor shall occur within forty-five (45) days of the date the
14 proposed rule or proposed amendment to an existing rule is filed with the
15 committees.

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

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

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

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

35 (3) If the Joint Budget Committee reviews a rule impacting state
36 Medicaid costs, it shall file a report of its actions with the Legislative

1 Council as soon as practicable.

2 (f) This section expires on June 30, ~~2013~~ 2014.

3
4 *SECTION 16. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS*
5 *CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. FUND*
6 *TRANSFER PROVISION - MEDICAID PROGRAM. Notwithstanding the provisions of*
7 *Initiated Act 1 of 2000, or Arkansas Code 19-12-107 regarding the*
8 *establishment of the Arkansas Healthy Century Trust Fund, or any other law to*
9 *the contrary, immediately upon the effective date of this act, the Chief*
10 *Fiscal Officer of the State shall transfer on his or her books and those of*
11 *the State Treasurer and Auditor of State the balance of all moneys in excess*
12 *of one hundred million dollars (\$100,000,000) in the Arkansas Healthy Century*
13 *Trust Fund from the Arkansas Healthy Century Trust Fund to the Medicaid*
14 *Expansion Program Account of the Tobacco Settlement Program Fund.*

15
16 *SECTION 17. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS*
17 *CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. FUND*
18 *TRANSFER PROVISION - MEDICAID PROGRAM. Notwithstanding the provisions of*
19 *Initiated Act 1 of 2000, or Arkansas Code 19-12-104 regarding the*
20 *establishment and administration of the Tobacco Settlement Cash Holding Fund,*
21 *or any other laws to the contrary, the entire amount of the settlement funds*
22 *received, approximately twenty-two million seven hundred sixty-eight thousand*
23 *one hundred twenty-six dollars (\$22,768,126), or so much as is actually*
24 *awarded and received by the state, through the settlement agreement in the*
25 *nearly decade old dispute between Arkansas and the tobacco companies that*
26 *signed the Master Settlement Agreement, shall be deposited into the Tobacco*
27 *Settlement Cash Holding Fund and not distributed under the provisions of the*
28 *Tobacco Settlement Proceeds Act, but instead such settlement funds shall be*
29 *deposited directly into and credited to the Medicaid Expansion Program*
30 *Account of the Tobacco Settlement Program Fund.*

31
32 *SECTION 18. COMPLIANCE WITH OTHER LAWS. Disbursement of funds*
33 *authorized by this act shall be limited to the appropriation for such agency*
34 *and funds made available by law for the support of such appropriations; and*
35 *the restrictions of the State Procurement Law, the General Accounting and*
36 *Budgetary Procedures Law, the Revenue Stabilization Law, the Regular Salary*

1 Procedures and Restrictions Act, or their successors, and other fiscal
2 control laws of this State, where applicable, and regulations promulgated by
3 the Department of Finance and Administration, as authorized by law, shall be
4 strictly complied with in disbursement of said funds.

5
6 SECTION 19. LEGISLATIVE INTENT. It is the intent of the General
7 Assembly that any funds disbursed under the authority of the appropriations
8 contained in this act shall be in compliance with the stated reasons for
9 which this act was adopted, as evidenced by the Agency Requests, Executive
10 Recommendations and Legislative Recommendations contained in the budget
11 manuals prepared by the Department of Finance and Administration, letters, or
12 summarized oral testimony in the official minutes of the Arkansas Legislative
13 Council or Joint Budget Committee which relate to its passage and adoption.

14
15 SECTION 20. EMERGENCY CLAUSE. It is found and determined by the
16 General Assembly, that the Constitution of the State of Arkansas prohibits
17 the appropriation of funds for more than a one (1) year period; that the
18 effectiveness of this Act on July 1, 2013 is essential to the operation of
19 the agency for which the appropriations in this Act are provided, and that in
20 the event of an extension of the legislative session, the delay in the
21 effective date of this Act beyond July 1, 2013 could work irreparable harm
22 upon the proper administration and provision of essential governmental
23 programs. Therefore, an emergency is hereby declared to exist and this Act
24 being necessary for the immediate preservation of the public peace, health
25 and safety shall be in full force and effect from and after July 1, 2013.

26
27
28 */s/ Joint Budget Committee*
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