

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

As Engrossed: H4/1/13

A Bill

HOUSE BILL 2209

5 By: Representative H. Wilkins
6 By: Senator L. Chesterfield
7

For An Act To Be Entitled

8 AN ACT TO GOVERN THE REGULATORY COMPLIANCE OF CERTAIN
9 MEDICAID PROVIDERS; AND FOR OTHER PURPOSES.
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Subtitle

11 TO GOVERN THE REGULATORY COMPLIANCE OF
12 CERTAIN MEDICAID PROVIDERS.
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14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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18 *SECTION 1. Arkansas Code § 20-46-701 is amended to read as follows:*

19 *20-46-701. Authority – Scope.*

20 *(a) Except when otherwise specified in federal law or regulation or*
21 *state law, this subchapter, § 9-28-401 et seq. and § 20-77-1701 et seq.,*
22 *shall be the exclusive state authority governing the survey or inspection*
23 *process for psychiatric residential treatment facilities and outpatient*
24 *mental health services programs.*

25 *(b) The scope of any survey or audit shall be limited to determining*
26 *whether a facility is in compliance with applicable federal ~~and~~ or state*
27 *regulations.*
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31 *SECTION 2. Arkansas Code § 20-46-702(a)(4), concerning definitions for*
32 *providers of indigent assistance, is amended to read as follows:*

33 *(4) “Program provider” means any psychiatric residential treatment*
34 *facility for children or a provider of outpatient mental health services*
35 *funded in whole or in part by a medical care program for indigents;*
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1 SECTION 3. Arkansas Code § 20-46-702(a)(9), concerning definitions for
2 providers of indigent assistance, is amended to read as follows:

3 (9) "Survey" means any review, certification study, desk audit,
4 Recovery Audit Program audit, inspection of care, or other process by which
5 compliance with federal law ~~and~~ or regulations or state law or rules
6 applicable to a program provider is determined;

7
8 SECTION 4. Arkansas Code § 20-46-702(a), concerning definitions for
9 providers of indigent assistance, is amended to add an additional subdivision
10 to read as follows:

11 (12) "Survey report" means a communication by a survey team or an
12 individual member of a survey team that purports to state the findings
13 compiled as a result of a survey.

14
15 SECTION 5. Arkansas Code § 20-46-703 is amended to read as follows:
16 20-46-703. Surveys of program providers.

17 (a) The survey team shall:

18 (1) State the precise facts that are alleged to constitute a
19 violation of federal law or regulation or state law or rule;

20 (2) State the specific line item in federal or state law and in
21 federal regulations or state rules that the facts stated under subdivision
22 (a)(1) of this section are alleged to violate;

23 (3) State a suggested correction that if implemented would
24 constitute compliance in the judgment of the reviewer;

25 ~~(4)~~ (4) Conduct an exit conference ~~during~~ before the conclusion
26 of every survey;

27 ~~(5)~~ (5) Allow electronic signatures and dates and dictated dates
28 to serve as service delivery documentation;

29 ~~(6)~~ (6) To the extent possible, conduct patient interviews in a
30 manner that does not disrupt patient care or suggest a particular response
31 from the interviewee;

32 ~~(7)~~ (7) Conduct follow-up surveys on an accelerated schedule only
33 upon a finding that a program provider is not in substantial compliance with
34 applicable laws and regulations; and

35 ~~(8)~~ (8) (A) Allow the program provider the option to submit to
36 the surveyor within one (1) working day of an entrance interview a written

1 summary of incident and accident reports instead of the actual reports.

2 (B) The requirements of subdivision ~~(a)(5)(A)~~ (a)(8)(A) of
3 this section shall not prevent the Department of Human Services from
4 accessing all records related to the survey within any time frames
5 established by federal law or regulation.

6 (b) A corrective action response to a survey report ~~shall be submitted~~
7 is due to the survey team ~~within~~ no sooner than thirty (30) days after the
8 provider receives the survey report, but the time allowed for submitting the
9 corrective action response shall be extended up to sixty (60) days upon
10 request of the provider.

11 (c) A citation of an alleged deficiency in a survey report against a
12 program provider constitutes an adverse action against the program provider,
13 entitling the program provider to an administrative appeal of the citation
14 under the Arkansas Administrative Procedure Act, § 25-15-201 et seq., § 20-
15 77-107, and other applicable state laws or rules.

16 (d) The department and its contracted reviewers shall not publish:

17 (1) The contents of a survey report before the exhaustion of
18 appeals of the survey report under this section; and

19 (2) At any time, a description or characterization of the
20 results of a survey, including without limitation a color-coded scheme.

21 ~~(e)~~ (e) For purposes of compliance with the state Medicaid program,
22 program providers shall be prohibited from reporting serious occurrences to
23 another entity other than the department and, if applicable, to the Centers
24 for Medicare & Medicaid Services.

25 ~~(d) The Director of the Department of Human Services shall ensure that~~
26 ~~the department complies with the Arkansas Administrative Procedure Act, § 25-~~
27 ~~15-201 et seq., and with § 20-77-107 in regard to all surveys of program~~
28 ~~providers.~~

29 (f) The department shall submit a quarterly report to the House
30 Committee on Public Health, Welfare, and Labor and the Senate Committee on
31 Public Health, Welfare, and Labor that shall contain without limitation:

32 (1) The number of program providers in operation during the
33 quarter;

34 (2) The number of surveys conducted on program providers during
35 the quarter;

36 (3) The number of requests for reconsideration submitted from

1 program providers that arise from the findings of survey reports during the
2 quarter;

3 (4) The number and percentage of requests for reconsideration
4 granted during the quarter;

5 (5) The number of administrative appeals requested during the
6 quarter;

7 (6) The number and percentage of administrative appeals decided
8 in favor of the program provider during the quarter; and

9 (7) The quarterly cost to the state of the completion of all
10 survey-related activities.

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13 /s/H. Wilkins
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