

Stricken language would be deleted from and underlined language would be added to present law.

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

*As Engrossed: H3/21/13*

# A Bill

HOUSE BILL 2227

5 By: Representative H. Wilkins  
6 By: Senator J. Hutchinson  
7

## For An Act To Be Entitled

9 *AN ACT TO AVOID UNNECESSARY EXPANSION IN MEDICAID*  
10 *COSTS AND SERVICES RELATED TO EARLY INTERVENTION DAY*  
11 *TREATMENT FOR CHILDREN; TO CLARIFY THAT ARKANSAS CODE*  
12 *§§ 20-48-101 AND 20-48-105 APPLY TO PROGRAMS FOR*  
13 *ADULTS WITH DEVELOPMENTAL DISABILITIES; TO DECLARE AN*  
14 *EMERGENCY; AND FOR OTHER PURPOSES.*

## Subtitle

15  
16  
17  
18 *TO AVOID UNNECESSARY EXPANSION IN*  
19 *MEDICAID COSTS AND SERVICES RELATED TO*  
20 *EARLY INTERVENTION DAY TREATMENT FOR*  
21 *CHILDREN; AND TO DECLARE AN EMERGENCY.*

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

25  
26 *SECTION 1. Arkansas Code Title 20, Chapter 48, is amended to add an*  
27 *additional subchapter to read as follows:*

28  
29 *20-48-1101. Legislative intent.*

30 *The intent of this subchapter is to avoid unnecessary expansion in*  
31 *Medicaid costs and services related to child health management services and*  
32 *developmental day treatment clinic services for children or any successor*  
33 *program providing early intervention day treatment to children.*

34  
35 *20-48-1102. Definitions.*

36 *As used in this subchapter:*



1 (1) "Accredited entity" means a corporate entity that:

2 (A) Has successfully completed an ongoing accreditation  
3 process that is offered by a national accrediting organization and is:

4 (i) Related to the delivery of child health  
5 management services;

6 (ii) Related to the delivery of developmental day  
7 treatment clinic services for children; or

8 (iii) Related to the delivery of early intervention  
9 day treatment services provided by a successor program; and

10 (B) One or more of the following:

11 (i) Satisfies all certification criteria established  
12 by the Department of Human Services for child health management services;

13 (ii) Satisfies all licensure criteria for  
14 developmental day treatment clinic services for children established by the  
15 Division of Developmental Disabilities Services of the Department of Human  
16 Services; or

17 (iii) Satisfies all certification and licensure  
18 criteria established by a regulatory entity governing any successor program;

19 (2) "Child health management services" means an array of clinic  
20 services for children:

21 (A) Intended to provide full medical multidiscipline  
22 diagnosis, evaluation, and treatment of developmental delays in Medicaid  
23 recipients; and

24 (B) That are diagnostic, screening, evaluation,  
25 preventive, therapeutic, palliative, or rehabilitative services, including  
26 early intervention day treatment services;

27 (3)(A) "Child health management services operated by an academic  
28 medical center" means an academic medical center program specializing in  
29 developmental pediatrics that is administratively staffed and operated by an  
30 academic medical center and under the direction of a board-certified or  
31 board-eligible developmental pediatrician.

32 (B) An academic medical center consists of a medical  
33 school and its primary teaching hospitals and clinical programs.

34 (C) For a child health management services program  
35 operated by an academic medical center, services may be provided at different  
36 sites operated by the academic medical center as long as the child health

1 management services program falls under one administrative structure within  
2 the academic medical center;

3 (4) "Developmental day treatment clinic services for children"  
4 means early intervention day treatment provided to children by a nonprofit  
5 community program that:

6 (A) Is licensed to provide center-based community services  
7 by the Division of Developmental Disabilities;

8 (B) Serves as a quasi-governmental instrumentality of the  
9 state by providing support and services to persons who have a developmental  
10 disability or delay and would otherwise require support and services through  
11 state-operated programs and facilities;

12 (5)(A) "Early intervention day treatment" means services  
13 provided by a pediatric day treatment program run by early childhood  
14 specialists, overseen by a physician and serving children with developmental  
15 disabilities, developmental delays, or a medical condition that puts them at  
16 risk for developmental delay.

17 (B) Early intervention day treatment includes without  
18 limitation diagnostic, screening, evaluation, preventive, therapeutic,  
19 palliative, rehabilitative and habilitative services, including speech,  
20 occupational, and physical therapies and any medical or remedial services  
21 recommended by a physician for the maximum reduction of physical or mental  
22 disability and restoration of the child to the best possible functional  
23 level.

24 (C) Child health management services and developmental day  
25 treatment clinic services or a successor program constitute the state's early  
26 intervention day treatment program;

27 (6) "Existing operations" means services provided by a child  
28 health management services program or a developmental day treatment clinic  
29 services program that has submitted a completed application to the Division  
30 of Medical Services of the Department of Human Services to serve as a  
31 Medicaid provider no later than July 1, 2013;

32 (7) "Medicaid" means the medical assistance program authorized  
33 under Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq., and  
34 established under § 20-77-101 et seq., that provides for payments for medical  
35 goods or services on behalf of indigent families with dependent children and  
36 of aged, blind, or disabled individuals whose income and resources are

1 insufficient to meet the cost of necessary medical services;

2 (8) "National accrediting organization" includes without  
3 limitation:

4 (A) The Commission on Accreditation of Rehabilitation  
5 Facilities; or

6 (B) Any other similar national accrediting organization  
7 recognized by the Division of Developmental Disabilities; and

8 (9) "Successor Program" means a program:

9 (A) That provides early intervention day treatment to  
10 children;

11 (B) That is created as a replacement for, combination of,  
12 or derived in whole or in part from the child health management services  
13 program and the developmental day treatment clinic services program for  
14 children; and

15 (C) In which the for-profit and nonprofit providers from  
16 child health management services programs and developmental day treatment  
17 clinic services programs are eligible to participate.

18  
19 20-48-1103. Prerequisites for Certification and Licensure.

20 (a)(1)(A) Certification and licensure are required for operation as a  
21 child health management services program.

22 (B) Certification shall be granted on a county-wide basis.

23 (2) Before obtaining certification, a child health management  
24 services program is required to apply to and obtain the approval of the  
25 Division of Developmental Disabilities Services of the Department of Human  
26 Services to implement new child health management services under the criteria  
27 established under this subchapter.

28 (3) A certified child health management services program with  
29 existing operations on the effective date of this act shall not be required  
30 to obtain the approval of the division to continue existing operations.

31 (b)(1)(A) Licensure from the division is required for operation of a  
32 developmental day treatment clinic for children.

33 (B) The Division of Developmental Disabilities shall grant  
34 licensure on a county-wide basis.

35 (2) Before obtaining licensure, a nonprofit community program  
36 seeking to operate a developmental day treatment clinic services for children

1 is required to apply to and obtain the approval of the division to implement  
2 new developmental day treatment clinic services for children under the  
3 criteria established under this subchapter.

4 (3) A licensed nonprofit community program providing  
5 developmental day treatment clinic services for children with existing  
6 operations on the effective date of this act shall not be required to obtain  
7 the approval of the division to continue existing operations.

8 (c)(1)(A) Licensure or certification from the regulatory authority  
9 governing a successor program is required for operation as a successor  
10 program.

11 (B) Licensure or certification shall be granted on a  
12 county-wide basis.

13 (2) Before obtaining licensure or certification, a successor  
14 program is required to apply to and obtain the approval of the division to  
15 implement new successor program services under the criteria established in  
16 this subchapter.

17 (3) A successor program that was a certified child health  
18 management services program with existing operations on the effective date of  
19 this act or a licensed nonprofit community program providing developmental  
20 day treatment clinic services for children with existing operations on the  
21 effective date of this act shall not be required to obtain the approval of  
22 the division to continue operations that were in existence on the effective  
23 date of this act, but shall be subject to certification or licensure surveys  
24 and rules applicable to the successor program.

25  
26 20-48-1104. Determination of underserved status for expansion of  
27 services.

28 (a) An expansion of early intervention day treatment services in  
29 a county is necessary when the Division of Developmental Disabilities  
30 Services determines that a county is underserved with regard to:

31 (1) Early intervention day treatment services; or

32 (2) A specific category of early intervention day treatment  
33 services currently offered to children with developmental disabilities or  
34 delays.

35 (b) As a condition of the issuance of a new certification to operate a  
36 child health management services program, a new license to operate a

1 developmental day treatment clinic services program for children, or a new  
2 certification or license for a successor program, the division must determine  
3 that a county of the state is underserved in accordance with subsection (a)  
4 of this section.

5 (c)(1) The division shall have sixty (60) days from the date of an  
6 application for expansion of early intervention day treatment services in  
7 which to determine whether a county is underserved under subsection (a) of  
8 this section.

9 (2)(A) The division shall provide the applicant with a written  
10 report of its findings and conclusions by certified mail.

11 (B) The division shall provide a copy of the report to the  
12 appropriate licensing or certification authority of the applicant.

13 (3) If the division determines that the county is not  
14 underserved under subsection (a) of this section, the applicant shall have  
15 thirty (30) days from the date of the applicant's receipt of the written  
16 report in which to appeal the determination to the Office of Appeals and  
17 Hearings of the Department of Human Services under the Arkansas  
18 Administrative Procedure Act, § 20-15-201 et seq.

19  
20 20-48-1105. Order of priority for granting approval.

21 (a) When considering an application for approval under this subchapter  
22 for expansion of early intervention day treatment services, including child  
23 health management services, developmental day treatment clinic services for  
24 children, or any successor program services, the Division of Developmental  
25 Disabilities Services of the Department of Human Services shall give approval  
26 in the following order of preference:

27 (1) A certified child health management services, a licensed  
28 developmental day treatment clinic services for children, or a successor  
29 program with existing operations in the county identified by the division as  
30 underserved;

31 (2) A certified child health management services program, a  
32 licensed developmental day treatment clinic services for children, or a  
33 successor program from another county in the state;

34 (3) An accredited entity in the underserved county;

35 (4) An accredited entity from another county in the state; and

36 (5) An accredited entity from outside the state.

1           (b) The Division of Developmental Disabilities shall not require  
2 accreditation of the following entities in order to approve the entity's  
3 application for expansion of early intervention day treatment services under  
4 this subchapter:

5           (1) A certified child health management services program with  
6 existing operations on the effective date of this act;

7           (2) A licensed nonprofit community program providing  
8 developmental day treatment services for children with existing operations on  
9 the effective date of this act;

10           (3) A successor program that was a certified child health  
11 management services program with existing operations on the effective date of  
12 this act; or

13           (4) A successor program that was a licensed nonprofit community  
14 program providing developmental day treatment services for children with  
15 existing operations on the effective date of this act.

16  
17           20-48-1106. Notice of underserved area.

18           (a) The Division of Developmental Disabilities Services of the  
19 Department of Human Services shall provide written notice by certified mail  
20 of its designation under § 20-48-1104 to all child health management services  
21 programs, developmental day treatment clinic services programs for children,  
22 and successor programs with existing operations in the county designated by  
23 the division as underserved.

24           (b) If all child health management services programs, developmental  
25 day treatment clinic services programs for children, and successor programs  
26 with existing operations in the county designated by the division as  
27 underserved determine not to expand early intervention day treatment  
28 services, including child health management services, developmental day  
29 treatment clinic services for children, or successor program services in the  
30 underserved county, the division shall provide written notice by certified  
31 mail of its designation under § 20-48-1104 to all providers of child health  
32 management services, developmental day treatment clinic services for  
33 children, and any successor program services in the remainder of the state.

34           (c) If all child health management services programs, developmental  
35 day treatment clinic services programs for children, and successor programs  
36 in the remainder of the state determine not to expand early intervention day

1 treatment services, including child health management services, developmental  
2 day treatment clinic services for children, or successor program services in  
3 the underserved county, the division shall provide notice to the general  
4 public in a newspaper of statewide general circulation.

5  
6 20-48-1107. Rules.

7 (a) The Division of Developmental Disabilities Services of the  
8 Department of Human Services may adopt rules to implement this subchapter.

9 (b) The division shall work with stakeholders, including without  
10 limitation, representatives of the Child Health Management Services  
11 Association and the Developmental Disabilities Provider Association in the  
12 development of rules under this subchapter.

13  
14 20-48-1108. Successor program.

15 (a) On or before the effective date of this act, the Department of  
16 Human Services shall convene stakeholders, including without limitation  
17 representatives of the Child Health Management Services Association and the  
18 Developmental Disabilities Provider Association, to assist in determining the  
19 feasibility of combining or merging the child health management services  
20 program and the developmental day treatment clinic services program for  
21 children into a successor program.

22 (b)(1) This subchapter does not require a successor program to include  
23 child health management services programs operated by an academic medical  
24 center.

25 (2) Child health management services programs operated by an  
26 academic medical center shall be subject to all other provisions of this  
27 subchapter including without limitation §§ 20-48-1103 and 20-48-1104.

28  
29 *SECTION 2. Arkansas Code § 20-48-101(1)(A), concerning definitions for*  
30 *the treatment of the developmentally disabled, is amended to read as follows:*

31 *(1)(A) "Accredited nonprofit entity" means a nonprofit entity*  
32 *that:*

33 *(i) Has successfully completed an ongoing*  
34 *accreditation process that is related to the delivery of services to ~~persons~~*  
35 *adults with developmental disabilities and is offered by a national*  
36 *accrediting organization;*



1 (ii) Satisfies the appropriate licensure criteria  
 2 established by the Division of Developmental Disabilities Services of the  
 3 Department of Human Services; and

4 (iii) Is positioned to provide nonresidential  
 5 services to ~~persons~~ adults with developmental disabilities upon licensure by  
 6 the division ~~because~~ when no existing nonprofit community ~~provider~~ program is  
 7 interested in providing the specific category of nonresidential services to  
 8 ~~persons~~ adults with developmental disabilities that have been identified by  
 9 the division as underserved.

10  
 11 SECTION 3. Arkansas Code § 20-48-105 is amended to read as follows:

12 20-48-105. Nonprofit community programs – ~~Extension or expansion~~  
 13 Expansion of services. (a)(1) The intent of this section is to avoid  
 14 unnecessary duplication of costs and services in the ~~extension or~~ expansion  
 15 of nonresidential services to ~~persons~~ adults with developmental disabilities.

16 (2) A designation by the Division of Developmental Disabilities  
 17 Services of the Department of Human Services that a county is underserved  
 18 with regard to a specific category of nonresidential services to ~~persons~~  
 19 adults with developmental disabilities establishes that an ~~extension or~~  
 20 expansion of nonresidential services to ~~persons~~ adults with developmental  
 21 disabilities in the underserved county is necessary.

22 (b)(1) The division shall not issue a new license for operation of a  
 23 nonprofit community program or approve an application from a nonprofit  
 24 community program to implement additional nonresidential services to ~~persons~~  
 25 benefit adults with developmental disabilities that are not currently offered  
 26 by the nonprofit community program unless the division has determined that:

27 (A) A ~~The county of the state in which the program seeks~~  
 28 to operate is underserved with regard to a specific category of  
 29 nonresidential services currently offered to ~~persons~~ adults with  
 30 developmental disabilities and currently funded from available state or  
 31 federal funds; or

32 (B)(i) A ~~The county of the state in which the program~~  
 33 seeks to operate is underserved with regard to new services not currently  
 34 available to ~~persons~~ adults with developmental disabilities and the new  
 35 services should be made available to ~~persons~~ benefit adults with  
 36 developmental disabilities; and

1 (ii) State or federal funds are available in amounts  
2 necessary to support the delivery of new services not currently available to  
3 ~~persons~~ adults with developmental disabilities.

4 (2)(A) The division shall provide written notice by certified  
5 mail of its designation under subdivision (b)(1) of this section to all  
6 nonprofit community programs with existing operations in the county  
7 designated by the division as underserved.

8 (B) If nonprofit community programs with existing  
9 operations in the county that do not currently offer the specific category of  
10 nonresidential services identified by the division as underserved determine  
11 not to ~~extend or~~ expand the identified nonresidential service to ~~persons~~  
12 adults with developmental disabilities in the underserved county, the  
13 division shall provide written notice by certified mail of its designation  
14 under subdivision (b)(1) of this section to all nonprofit community programs  
15 in the remainder of the state.

16 (C) If all nonprofit community programs in the remainder  
17 of the state determine not to ~~extend or~~ expand the identified nonresidential  
18 service to ~~persons~~ adults with developmental disabilities in the underserved  
19 county, the division shall provide notice to the general public in a  
20 newspaper of statewide general circulation.

21 (c) In granting an approval under this section, the division shall  
22 give approval in the following order of preference:

23 (1) A qualified nonprofit community program with existing  
24 operations in the county that does not currently offer the specific category  
25 of nonresidential services to ~~persons~~ adults with developmental disabilities  
26 identified by the division as underserved;

27 (2) A qualified nonprofit community program from another county  
28 in the state;

29 (3) An accredited nonprofit entity in the underserved  
30 county;

31 (4) An accredited nonprofit entity from another county in the  
32 state; and

33 (5) An accredited nonprofit entity from outside the state.

34 (d)(1)(A) A license from the division is required for operation of a  
35 nonprofit community program.

36 (B) A qualified nonprofit community program is required to

1 apply to and obtain the approval of the division to implement additional  
2 nonresidential services to ~~persons~~ adults with developmental disabilities  
3 that are not currently offered by the qualified nonprofit community program.

4 (2)(A) If an application is approved, the division shall issue a  
5 new license or service expansion approval if it finds that the proposed  
6 nonresidential service expansion meets the criteria for approval established  
7 by the division.

8 (B) If the application is denied, the division shall send  
9 written notice of the denial to the applicant that sets forth the criteria  
10 that the proposed nonresidential service expansion failed to meet.

11  
12 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the General  
13 Assembly of the State of Arkansas that managed expansion of the child health  
14 management services program and the developmental day treatment clinic  
15 services for children program is in the best interest of children served and  
16 critical to economic efficiencies necessary to sustain the Medicaid program;  
17 that managed expansion is also necessary to ensure adequate geographic  
18 coverage in rural areas; and that the managed expansion rules in place for  
19 developmental day treatment clinic services have worked well and should serve  
20 as the model for child health management services or any successor program.  
21 Therefore, an emergency is hereby declared to exist and this act being  
22 necessary for the immediate preservation of the public peace, health and  
23 safety shall become effective on July 1, 2013.

24  
25 /s/H. Wilkins  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36