

Stricken language will be deleted and underlined language will be added.

1 State of Arkansas  
2 93rd General Assembly  
3 Fiscal Session, 2022  
4

As Engrossed: S3/2/22

# A Bill

SENATE BILL 54

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, 2023; AND FOR OTHER  
12 PURPOSES.  
13  
14

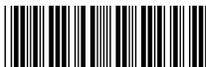
## Subtitle

15 AN ACT FOR THE DEPARTMENT OF HUMAN  
16 SERVICES - DIVISION OF MEDICAL SERVICES  
17 APPROPRIATION FOR THE 2022-2023 FISCAL  
18 YEAR.  
19  
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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 2022-2023 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 2022-2023
32	(1) N027N	DHS DEPUTY DIRECTOR ADULT SERVICES	1	GRADE SE01
33	(2) L016N	REGISTERED PHARMACIST	4	GRADE MP05
34	(3) L009C	NURSE MANAGER	1	GRADE MP03
35	(4) L020C	NURSING SERVICES UNIT MANAGER	1	GRADE MP02
36	(5) L027C	REGISTERED NURSE SUPERVISOR	3	GRADE MP02



1	(6)	L038C REGISTERED NURSE	9	GRADE MP01
2	(7)	D007C INFORMATION SYSTEMS MANAGER	2	GRADE IT08
3	(8)	D030C INFORMATION SYSTEMS COORDINATOR	1	GRADE IT07
4	(9)	D038C SENIOR SOFTWARE SUPPORT ANALYST	1	GRADE IT06
5	(10)	D061C INFORMATION SYSTEMS COORDINATION SPEC	2	GRADE IT05
6	(11)	D058C COMPUTER OPERATIONS COORDINATOR	1	GRADE IT04
7	(12)	D068C INFORMATION SYSTEMS ANALYST	2	GRADE IT04
8	(13)	N016N DHS DEP DIR ADMINISTRATIVE SVCS	1	GRADE GS15
9	(14)	G286C DMS DEPUTY DIRECTOR	1	GRADE GS15
10	<del>(15)</del>	<del>N142N DHS/DAAS DEPUTY DIRECTOR</del>	<del>1</del>	<del>GRADE GS14</del>
11	(16)	A010C AGENCY CONTROLLER II	1	GRADE GS13
12	(17)	N168N DHS DIR HOME & COMMUNITY BASED SVCS	1	GRADE GS12
13	<del>(18)</del>	<del>P004N DHS DIRECTOR OF PUBLIC RELATIONS</del>	<del>1</del>	<del>GRADE GS12</del>
14	(19)	A016C DHS DMS BUSINESS OPERATIONS MANAGER	8	GRADE GS12
15	<del>(20)</del>	<del>N167N DHS POLICY &amp; RESEARCH DIRECTOR</del>	<del>1</del>	<del>GRADE GS12</del>
16	<del>(21)</del>	<del>G076C ADMINISTRATIVE SERVICES MANAGER</del>	<del>1</del>	<del>GRADE GS10</del>
17	(22)	G073C ATTORNEY	1	GRADE GS10
18	(23)	L010C DHS DMS MEDICAL ASSISTANCE MANAGER	3	GRADE GS10
19	(24)	G099C DHS PROGRAM ADMINISTRATOR	16	GRADE GS09
20	(25)	R021C BUDGET ANALYST	1	GRADE GS08
21	(26)	G152C DHS PROGRAM MANAGER	8	GRADE GS08
22	(27)	X067C HEALTH FACILITIES SURVEYOR	1	GRADE GS08
23	(28)	A081C AUDITOR	1	GRADE GS07
24	(29)	G183C DHS PROGRAM COORDINATOR	6	GRADE GS07
25	<del>(30)</del>	<del>M039C MEDICAID SERVICES SUPERVISOR</del>	<del>1</del>	<del>GRADE GS07</del>
26	(31)	P013C PUBLIC INFORMATION COORDINATOR	1	GRADE GS07
27	(32)	C037C ADMINISTRATIVE ANALYST	2	GRADE GS06
28	(33)	R027C BUDGET SPECIALIST	1	GRADE GS06
29	<del>(34)</del>	<del>G180C GRANTS ANALYST</del>	<del>1</del>	<del>GRADE GS06</del>
30	(35)	C013C MEDICAL SERVICES REPRESENTATIVE	1	GRADE GS06
31	<del>(36)</del>	<del>G178C POLICY DEVELOPMENT COORDINATOR</del>	<del>1</del>	<del>GRADE GS06</del>
32	<del>(37)</del>	<del>X136C QUALITY ASSURANCE REVIEWER</del>	<del>1</del>	<del>GRADE GS06</del>
33	(38)	C050C ADMINISTRATIVE SUPPORT SUPERVISOR	1	GRADE GS05
34	(39)	L070C HEALTH CARE ANALYST	7	GRADE GS05
35	(40)	C056C ADMINISTRATIVE SPECIALIST III	4	GRADE GS04
36	(41)	A098C FISCAL SUPPORT SPECIALIST	1	GRADE GS04

1	(42) N249N DHS DIVISION DIRECTOR	1	GRADE SE02
2	(43) D006N STATE SYSTEMS ARCHITECT	1	GRADE IT10
3	(44) P077C DHS COMM & COMMUNITY ENGAGEMENT OFCR	1	GRADE GS14
4	(45) D026N DHS ELIGIBILITY SYSTEM PROGRAM MGR	1	GRADE GS13
5	(46) N110N DHS ASST DIR CONTRACT MONITORING UNIT	1	GRADE GS13
6	(47) G024C DEP ADMINISTRATIVE LAW JUDGE	1	GRADE GS12
7	(48) L040C DIETARY SERVICES DIRECTOR	<u>1</u>	GRADE GS09
8	MAX. NO. OF EMPLOYEES	102	

9

10 SECTION 2. EXTRA HELP - OPERATIONS. There is hereby authorized, for  
 11 the Department of Human Services - Division of Medical Services for the 2022-  
 12 2023 fiscal year, the following maximum number of part-time or temporary  
 13 employees, to be known as "Extra Help", payable from funds appropriated  
 14 herein for such purposes: ten (10) temporary or part-time employees, when  
 15 needed, at rates of pay not to exceed those provided in the Uniform  
 16 Classification and Compensation Act, or its successor, or this act for the  
 17 appropriate classification.

18

19 SECTION 3. APPROPRIATION - OPERATIONS. There is hereby appropriated,  
 20 to the Department of Human Services, to be payable from the paying account as  
 21 determined by the Chief Fiscal Officer of the State, for personal services  
 22 and operating expenses of the Department of Human Services - Division of  
 23 Medical Services for the fiscal year ending June 30, 2023, the following:

24

25	ITEM	FISCAL YEAR
26	<u>NO.</u>	<u>2022-2023</u>
27	(01) REGULAR SALARIES	\$6,555,157
28	(02) EXTRA HELP	201,892
29	(03) PERSONAL SERVICES MATCHING	2,194,598
30	(04) OVERTIME	2,241
31	(05) MAINT. & GEN. OPERATION	
32	(A) OPER. EXPENSE	1,813,290
33	(B) CONF. & TRAVEL	40,099
34	(C) PROF. FEES	500,000
35	(D) CAP. OUTLAY	0
36	(E) DATA PROC.	0

1	(06) DATA PROCESSING SERVICES	<u>1,499,600</u>
2	TOTAL AMOUNT APPROPRIATED	<u><u>\$12,806,877</u></u>

3  
 4 SECTION 4. APPROPRIATION - GRANTS. There is hereby appropriated, to  
 5 the Department of Human Services, to be payable from the paying account as  
 6 determined by the Chief Fiscal Officer of the State, for grant payments of  
 7 the Department of Human Services - Division of Medical Services for the  
 8 fiscal year ending June 30, 2023, the following:

10	ITEM	FISCAL YEAR
11	<u>NO.</u>	<u>2022-2023</u>
12	(01) ARKIDS B PROGRAM	\$207,222,020
13	(02) HOSPITAL AND MEDICAL SERVICES	7,547,865,506
14	(03) PRESCRIPTION DRUGS	579,386,547
15	(04) PRIVATE NURSING HOME CARE	842,142,061
16	(05) CHILD AND FAMILY LIFE INSTITUTE	2,100,000
17	(06) INFANT INFIRMARY	18,588,441
18	(07) PUBLIC NURSING HOME CARE	<u>257,529,350</u>
19	TOTAL AMOUNT APPROPRIATED	<u><u>\$9,454,833,925</u></u>

20  
 21 SECTION 5. APPROPRIATION - NURSING HOME CLOSURE COSTS. There is hereby  
 22 appropriated, to the Department of Human Services - Division of Medical  
 23 Services, to be payable from the Long-Term Care Trust Fund, for the payment  
 24 of relocation costs of residents in long-term care facilities, maintenance  
 25 and operation of a facility pending correction of deficiencies or closure,  
 26 and reimbursement of residents for personal funds lost for the fiscal year  
 27 ending June 30, 2023, the following:

29	ITEM	FISCAL YEAR
30	<u>NO.</u>	<u>2022-2023</u>
31	(01) EXPENSES	<u><u>\$4,500,000</u></u>

32  
 33 SECTION 6. APPROPRIATION - LONG-TERM CARE FACILITY RECEIVERSHIP. There  
 34 is hereby appropriated, to the Department of Human Services, to be payable  
 35 from the Long Term Care Facility Receivership Fund Account, for the payment  
 36 of expenses of long-term care facility receivers as authorized by law of the

1 Department of Human Services - Division of Medical Services - Long-Term Care  
2 Facility Receivership for the fiscal year ending June 30, 2023, the  
3 following:

ITEM	FISCAL YEAR
<u>NO.</u>	<u>2022-2023</u>
(01) EXPENSES	<u>\$100,000</u>

8  
9 SECTION 7. APPROPRIATION - NURSING HOME QUALITY GRANTS. There is  
10 hereby appropriated, to the Department of Human Services, to be payable from  
11 the Long-Term Care Trust Fund, for Nursing Home Quality Care Grants of the  
12 Department of Human Services - Division of Medical Services - Nursing Home  
13 Quality Grants for the fiscal year ending June 30, 2023, the following:

ITEM	FISCAL YEAR
<u>NO.</u>	<u>2022-2023</u>
(01) NURSING HOME QUALITY GRANTS AND AID	<u>\$4,000,000</u>

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

30 The provisions of this section shall be in effect only from July 1, ~~2021~~  
31 2022 through June 30, ~~2022~~ 2023.

1 SECTION 9. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS  
2 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL  
3 SERVICES - GENERAL MEDICAID RATE METHODOLOGY PROVISIONS.

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

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

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

31 Determining the maximum number of employees and the maximum amount of  
32 appropriation and general revenue funding for a state agency each fiscal year  
33 is the prerogative of the General Assembly. This is usually accomplished by  
34 delineating such maximums in the appropriation act(s) for a state agency and  
35 the general revenue allocations authorized for each fund and fund account by  
36 amendment to the Revenue Stabilization law. Further, the General Assembly has

1 determined that the Department of Human Services – Division of Medical  
2 Services may operate more efficiently if some flexibility is provided to the  
3 Department of Human Services – Division of Medical Services authorizing broad  
4 powers under this section. Therefore, it is both necessary and appropriate  
5 that the General Assembly maintain oversight by requiring prior approval of  
6 the Legislative Council or Joint Budget Committee as provided by this  
7 section. The requirement of approval by the Legislative Council or Joint  
8 Budget Committee is not a severable part of this section. If the requirement  
9 of approval by the Legislative Council or Joint Budget Committee is ruled  
10 unconstitutional by a court of competent jurisdiction, this entire section is  
11 void.

12 The provisions of this section shall be in effect only from July 1, ~~2021~~  
13 2022 through June 30, ~~2022~~ 2023.

14

15 SECTION 10. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS  
16 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. FUND  
17 USAGE AUTHORIZED. The Arkansas Children's Hospital may request the Department  
18 of Human Services - Division of Medical Services to retain in the Department  
19 of Human Services Grant Fund account an amount not to exceed \$2,100,000 from  
20 funds made available by this Act in the Child and Family Life Institute line  
21 item of the Grants appropriation to be used to match federal funds used for  
22 supplemental Medicaid payments to Arkansas Children's Hospital. These  
23 retained funds shall not be recovered to transfer to the General Revenue  
24 Allotment Reserve Fund.

25 The provisions of this section shall be in effect only from July 1, ~~2021~~  
26 2022 through June 30, ~~2022~~ 2023.

27

28 SECTION 11. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS  
29 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. STATE  
30 PLAN. The State Plan must include the provision of EPSDT services as those  
31 services are defined in 42 U.S.C. §1396d(r). See 42 U.S.C. §§  
32 1396a(a)(10)(A), 1396d(a)(4)(B); see also 1396a(a)(43). Section 1396d(r)  
33 lists in detail the screening services, vision services, dental services, and  
34 hearing services that the State Plan must expressly include, but with regard  
35 to treatment services, it states that EPSDT means "[s]uch other necessary  
36 health care, diagnostic services, treatment, and other measures described in

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

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

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

1 providers of early intervention day treatment, Arkansas must reimburse those  
2 clinics.

3 The provisions of this section shall be in effect only from July 1, ~~2021~~  
4 2022 through June 30, ~~2022~~ 2023.

5

6 SECTION 12. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS  
7 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL  
8 SERVICES - STATE MEDICAID PROGRAM/PERSONAL CARE PROGRAM.

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

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

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

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

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

36 (f) The private care agencies shall comply with rules and regulations

1 promulgated by the Arkansas Department of Health which shall establish a  
2 separate licensure category for the private care agencies for the provision  
3 of Medicaid reimbursable personal care services seven (7) days a week.

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

6 (h) The purpose of this section is to insure the care provided by the  
7 private care agencies is consistent with the rules and regulations of the  
8 Arkansas Department of Health.

9 The provisions of this section shall be in effect only from July 1, ~~2021~~  
10 2022 through June 30, ~~2022~~ 2023.

11  
12 SECTION 13. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS  
13 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. ARKANSAS  
14 HEALTH AND OPPORTUNITY FOR ME AND ARKANSAS HEALTH INSURANCE MARKETPLACE  
15 RESTRICTIONS. (a) As used in this section, "Arkansas Health and Opportunity  
16 for Me" means Arkansas Health and Opportunity for Me established under the  
17 Arkansas Health and Opportunity for Me Act of 2021, Arkansas Code § 23-61-  
18 1001 et seq.

19 (b)(1) Determining the maximum number of employees, the maximum amount  
20 of appropriation, for what purposes an appropriation is authorized, and  
21 general revenue funding for a state agency each fiscal year is the  
22 prerogative of the General Assembly.

23 (2) The purposes of subdivision (b)(1) of this section are  
24 typically accomplished by:

25 (A) Identifying the purpose in the appropriation act;

26 (B) Delineating such maximums in the appropriation act for  
27 a state agency; and

28 (C) Delineating the general revenue allocations authorized  
29 for each fund and fund account by amendment to the Revenue Stabilization Law,  
30 Arkansas Code § 19-5-101 et seq.

31 (3) It is both necessary and appropriate that the General  
32 Assembly restrict the use of appropriations authorized in this act.

33 (c)(1) Except as provided in this subsection, the Department of Human  
34 Services shall not allocate, budget, expend, or utilize any appropriation  
35 authorized by the General Assembly for the purpose of advertisement,  
36 promotion, or other activities designed to promote or encourage enrollment in

1 the Arkansas Health Insurance Marketplace or Arkansas Health and Opportunity  
2 for Me, including without limitation:

3 (A) Unsolicited communications mailed to potential  
4 recipients;

5 (B) Television, radio, or online commercials;

6 (C) Billboard or mobile billboard advertising;

7 (D) Advertisements printed in newspapers, magazines, or  
8 other print media; and

9 (E) Internet websites and electronic media.

10 (2) This subsection does not prohibit the department from:

11 (A) Direct communications with:

12 (i) Licensed insurance agents; and

13 (ii) Persons licensed by the department;

14 (B) Solicited communications with potential recipients;

15 (C)(i) Responding to an inquiry regarding the coverage for  
16 which a potential recipient might be eligible, including without limitation  
17 providing educational materials or information regarding any coverage for  
18 which the individual might qualify.

19 (ii) Educational materials and information  
20 distributed under subdivision (c)(2)(C)(i) of this section shall contain only  
21 factual information and shall not contain subjective statements regarding the  
22 coverage for which the potential recipient might be eligible; and

23 (D) Using an Internet website for the exclusive purpose of  
24 enrolling individuals in the Arkansas Health Insurance Marketplace or  
25 Arkansas Health and Opportunity for Me.

26 (d) The Department of Human Services shall not apply for or accept any  
27 funds, including without limitation federal funds, for the purpose of  
28 advertisement, promotion, or other activities designed to promote or  
29 encourage enrollment in the Arkansas Health Insurance Marketplace or Arkansas  
30 Health and Opportunity for Me.

31 (e)(1) Except as provided in subdivision (e)(2) of this section, the  
32 Department of Human Services shall not:

33 (A)(i) Except as provided in subdivision (e)(1)(A)(ii) of  
34 this section, allocate, budget, expend, or utilize an appropriation  
35 authorized by the General Assembly for the purpose of funding activities of  
36 navigators, guides, certified application counselors, and certified licensed

1 producers under the Arkansas Health Insurance Marketplace Navigator, Guide,  
2 and Certified Application Counselors Act, Arkansas Code § 23-64-601 et seq.

3 (ii) Subdivision (e)(1)(A)(i) of this section does  
4 not apply to regulatory and training responsibilities related to navigators,  
5 guides, certified application counselors, and certified licensed producers;  
6 and

7 (B) Apply for or accept any funds, including without  
8 limitation federal funds, for the purpose of funding activities of  
9 navigators, guides, certified application counselors, and certified licensed  
10 producers under the Arkansas Health Insurance Marketplace Navigator, Guide,  
11 and Certified Application Counselors Act, Arkansas Code § 23-64-601 et seq.

12 (2) Subdivision (e)(1) of this section does not apply to  
13 certified application counselors at health related institutions, including  
14 without limitation the University of Arkansas for Medical Sciences.

15 (f) An appropriation authorized by the General Assembly shall not be  
16 subject to the provisions allowed through reallocation of resources or  
17 transfer of appropriation authority for the purpose of transferring an  
18 appropriation to any other appropriation authorized for the Department of  
19 Human Services to be allocated, budgeted, expended, or utilized in a manner  
20 prohibited by this section.

21 (g) The provisions of this section are severable, and the invalidity  
22 of any subsection or subdivision of this section shall not affect other  
23 provisions of the section that can be given effect without the invalid  
24 provision.

25 (h) This section expires on June 30, ~~2022~~ 2023.

26  
27 *SECTION 14. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS*  
28 *CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL*  
29 *SERVICES – COMMUNITY AND EMPLOYMENT SUPPORTS MEDICAID WAIVER.*

30 *(a) Of the funding allocated to the Department of Human Services Grants*  
31 *Fund Account under § 19-5-402, the first thirty-seven million six hundred*  
32 *thousand dollars (\$37,600,000) shall be set aside in its own subfund by the*  
33 *Department of Human Services and shall be used only for home and community-*  
34 *based services to individuals with intellectual and developmental*  
35 *disabilities under the Community and Employment Supports Medicaid Waiver*  
36 *Program or a successor Medicaid Waiver program that provides home and*

1 community-based services to individuals with intellectual and developmental  
2 disabilities.

3 (b) At the close of the fiscal year ending June 30, 2023, any  
4 unexpended balance of monies set aside as established in subsection (a)  
5 herein shall be transferred forward and made available for the same purpose  
6 for the fiscal year ending June 30, 2024.

7 (c) The provisions of this section shall be in effect only from July 1,  
8 2022 through June 30, 2023.

9  
10 SECTION 15. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE  
11 ARKANSAS CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW.  
12 ASSISTED LIVING FACILITY REIMBURSEMENT - ACCOUNTING OF HOME AND COMMUNITY-  
13 BASED FUNDS.

14 (a)(1) The Department of Human Services shall take the necessary  
15 action to submit a waiver application to the Centers for Medicare and  
16 Medicaid Services to increase reimbursement rates for assisted living  
17 facilities under the Living Choices Assisted Living Waiver.

18 (2) The department shall study and explore methods to increase the  
19 reimbursement rates for assisted living facilities under the Living Choices  
20 Assisted Living Waiver, including without limitation setting the  
21 reimbursement rate for assisted living facilities under the Living Choices  
22 Assisted Living Waiver as a percentage of the reimbursement rate for nursing  
23 home facilities.

24 (b) The department shall provide an accounting of funds allocated to  
25 qualifying entities under home and community-based services to the  
26 Legislative Council.

27 (c)(1) The Secretary of the Department of Human Services shall  
28 provide, in person, a monthly update to the Legislative Council on the status  
29 of the actions listed in subsections (a) and (b) of this section until the  
30 conclusion or resolution of these actions.

31 (2) If the General Assembly is in  
32 session, the secretary shall provide the updates described in subdivision  
33 (c)(1) of this section to the Joint Budget Committee.

34  
35 SECTION 16. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS  
36 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW.

1 SEVERABILITY. If any provisions of this act or the application of this act  
2 to any person or circumstance is held invalid, such invalidity shall not  
3 affect other provisions or applications of the act which can be given effect  
4 without the invalid provision or application, and to this end the provisions  
5 of this act are declared to be severable.

6  
7 SECTION 17. COMPLIANCE WITH OTHER LAWS. Disbursement of funds  
8 authorized by this act shall be limited to the appropriation for such agency  
9 and funds made available by law for the support of such appropriations; and  
10 the restrictions of the State Procurement Law, the General Accounting and  
11 Budgetary Procedures Law, the Revenue Stabilization Law, the Regular Salary  
12 Procedures and Restrictions Act, or their successors, and other fiscal  
13 control laws of this State, where applicable, and regulations promulgated by  
14 the Department of Finance and Administration, as authorized by law, shall be  
15 strictly complied with in disbursement of said funds.

16  
17 SECTION 18. LEGISLATIVE INTENT. It is the intent of the General  
18 Assembly that any funds disbursed under the authority of the appropriations  
19 contained in this act shall be in compliance with the stated reasons for  
20 which this act was adopted, as evidenced by the Agency Requests, Executive  
21 Recommendations and Legislative Recommendations contained in the budget  
22 manuals prepared by the Department of Finance and Administration, letters, or  
23 summarized oral testimony in the official minutes of the Arkansas Legislative  
24 Council or Joint Budget Committee which relate to its passage and adoption.

25  
26 SECTION 19. EFFECTIVE DATE. This act is effective on and after July 1,  
27 2022.

28  
29 */s/Joint Budget Committee*  
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