

DEPARTMENT OF HUMAN SERVICES, DIVISION OF COUNTY OPERATIONS

SUBJECT: Twelve Months Continuous Coverage of Children Under Age Nineteen (19) & **REPEALS:** DDS Policy 3004: Maltreatment Prohibition, Prevention, Reporting, and Investigation; DDS Policy 3005: Respite Care.

DESCRIPTION: The Director of the Division of County Operations amends Sections A-230 and 510 of the Medical Services Policy Manual. To comply with the passing of the Consolidated Appropriations Act, all children under 19 years of age that are eligible for either Medicaid or CHIP categories will now have 12 months continuous coverage from date of application or renewal. This will guarantee recipients 12 months continuous coverage unless they turn 19 years of age, die, or move out of state. Medically Needy, Pregnant Woman Unborn, Foster Care Spenddown, and Transitional Medicaid categories are excluded from the 12 months continuous coverage eligibility. The Medical Services Policy Manual has been updated to reflect the 12 months continuous coverage.

Pursuant to the Governor's Executive Order 23-02, DHS repeals the following two rules as part of this promulgation:

- (1) DDS Policy 3004 – Maltreatment Prohibition, Prevention, Reporting, and Investigation; and
- (2) DDS Policy 3005 – Respite Care.

PUBLIC COMMENT: No public hearing was held on this rule. The public comment period expired on November 12, 2023. The agency indicated that it received no public comments.

The proposed effective date is January 1, 2024.

FINANCIAL IMPACT: The agency indicated that this rule has a financial impact.

Per the agency, the total estimated cost to implement this rule is \$21,822,281 for the current fiscal year (\$6,110,239 in general revenue and \$15,712,042 in federal funds) and \$43,644,562 for the next fiscal year (\$12,220,477 in general revenue and \$31,424,085 in federal funds). The total estimated cost by fiscal year to state, county, or municipal government to implement this rule is \$6,110,239 for the current fiscal year and \$12,220,477 for the next fiscal year.

The agency indicated that there is a new or increased cost or obligation of at least \$100,000 per year to a private individual, private entity, private business, state government, county government, municipal government, or to two or more of those entities combined. Accordingly, the agency provided the following written findings:

(1) a statement of the rule's basis and purpose;

To comply with the passing of the Consolidated Appropriations Act, all children under 19 years of age that are eligible for either Medicaid or CHIP categories will now have 12

months continuous coverage from date of application or renewal. This will guarantee recipients 12 months continuous coverage unless they turn 19 years of age, die, or move out of state.

This will assist children to keep coverage for 12 months regardless of their HH's circumstances.

(2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;

To comply with the passing of the Consolidated Appropriations Act, all children under 19 years of age that are eligible for either Medicaid or CHIP categories will now have 12 months continuous coverage from date of application or renewal. This will guarantee recipients 12 months continuous coverage unless they turn 19 years of age, die, or move out of state.

This will assist children to keep coverage for 12 months regardless of their HH's circumstances.

*(3) a description of the factual evidence that:
(a) justifies the agency's need for the proposed rule; and*

Per CMS guidelines and to comply with the passing for the Consolidated Appropriations Act of 2023.

(b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;

Children who have health insurance continuously are more likely to be in better health, guaranteeing ongoing coverage ensures children can receive preventive and primary care as well as treatment for any health issues that arise.

(4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;

N/A

(5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;

N/A

(6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or

contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and

None

(7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:

(a) the rule is achieving the statutory objectives;

(b) the benefits of the rule continue to justify its costs; and

(c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

The Agency monitors State and Federal rules and policies for opportunities to reduce and control cost.

LEGAL AUTHORIZATION: The Department of Human Services has the responsibility to administer assigned forms of public assistance and is specifically authorized to maintain an indigent medical care program (Arkansas Medicaid). *See* Ark. Code Ann. §§ 20-76-201(1), 20-77-107(a)(1). The Department has the authority to make rules that are necessary or desirable to carry out its public assistance duties. Ark. Code Ann. § 20-76-201(12). The Department and its divisions also have the authority to promulgate rules as necessary to conform their programs to federal law and receive federal funding. Ark. Code Ann. § 25-10-129(b).

This rule implements § 5112 of the Consolidated Appropriations Act, 2023. Per the Act,

The state plan [for medical assistance] (or waiver of such State plan) shall provide that an individual who is under the age of 19 and who is determined to be eligible for benefits under a State plan (or waiver of such plan) approved under [42 U.S.C. § 1396a(a)(10)(A)] shall remain eligible for such benefits until the earlier of—

(A) the end of the 12-month period beginning on the date of such determination;

(B) the time that such individual attains the age of 19; or

(C) the date that such individual ceases to be a resident of such State.

42 U.S.C. § 1396a(e)(12), *as amended by* Consolidated Appropriations Act, 2023, § 5112.



**ARKANSAS
DEPARTMENT OF
HUMAN
SERVICES**

Division of County Operations

P.O. Box 1437, Slot S301, Little Rock, AR 72203-1437
P: 501.682.8375 F: 501.682.8367 TDD: 501.682.8933

October 12, 2023

Mrs. Rebecca Miller-Rice
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
#1 Capitol, 5th Floor
Little Rock, AR 72201

Dear Mrs. Rebecca Miller-Rice:

RE: Twelve Months Continuous Coverage of Children Under Age Nineteen (19)

Please arrange for this rule to be reviewed by the ALC-Administrative Rules Subcommittee. If you have any questions or need additional information, please contact Mac Golden, Office of Rules Promulgation at 501-320-6383 or by emailing Mac.E.Golden@dhs.arkansas.gov.

Sincerely,

Mary Franklin

Mary Franklin
Director

MF:

Attachments

**QUESTIONNAIRE FOR FILING PROPOSED RULES WITH
THE ARKANSAS LEGISLATIVE COUNCIL**

DEPARTMENT _____
 BOARD/COMMISSION _____
 BOARD/COMMISSION DIRECTOR _____
 CONTACT PERSON _____
 ADDRESS _____
 PHONE NO. _____ EMAIL _____
 NAME OF PRESENTER(S) AT SUBCOMMITTEE MEETING _____
 PRESENTER EMAIL(S) _____

INSTRUCTIONS

In order to file a proposed rule for legislative review and approval, please submit this Legislative Questionnaire and Financial Impact Statement, and attach (1) a summary of the rule, describing what the rule does, the rule changes being proposed, and the reason for those changes; (2) both a markup and clean copy of the rule; and (3) all documents required by the Questionnaire.

If the rule is being filed for permanent promulgation, please email these items to the attention of Rebecca Miller-Rice, miller-ricer@blr.arkansas.gov, for submission to the Administrative Rules Subcommittee.

If the rule is being filed for emergency promulgation, please email these items to the attention of Director Marty Garrity, garritym@blr.arkansas.gov, for submission to the Executive Subcommittee.

Please answer each question completely using layman terms.

1. What is the official title of this rule?

2. What is the subject of the proposed rule? _____
3. Is this rule being filed under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No

If yes, please attach the statement required by Ark. Code Ann. § 25-15-204(c)(1).

If yes, will this emergency rule be promulgated under the permanent provisions of the Arkansas Administrative Procedure Act? Yes No

4. Is this rule being filed for permanent promulgation? Yes No

If yes, was this rule previously reviewed and approved under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No

If yes, what was the effective date of the emergency rule? _____

On what date does the emergency rule expire? _____

5. Is this rule required to comply with a *federal* statute, rule, or regulation? Yes No

If yes, please provide the federal statute, rule, and/or regulation citation.

6. Is this rule required to comply with a *state* statute or rule? Yes No

If yes, please provide the state statute and/or rule citation.

7. Are two (2) rules being repealed in accord with Executive Order 23-02? Yes No

If yes, please list the rules being repealed.

If no, please explain.

8. Is this a new rule? Yes No

Does this repeal an existing rule? Yes No

If yes, the proposed repeal should be designated by strikethrough. If it is being replaced with a new rule, please attach both the proposed rule to be repealed and the replacement rule.

Is this an amendment to an existing rule? Yes No

If yes, all changes should be indicated by strikethrough and underline. In addition, please be sure to label the markup copy clearly as the markup.

9. What is the state law that grants the agency its rulemaking authority for the proposed rule, outside of the Arkansas Administrative Procedure Act? Please provide the specific Arkansas Code citation(s), including subsection(s).

10. Is the proposed rule the result of any recent legislation by the Arkansas General Assembly?
Yes No

If yes, please provide the year of the act(s) and act number(s).

11. What is the reason for this proposed rule? Why is it necessary?

12. Please provide the web address by which the proposed rule can be accessed by the public as provided in Ark. Code Ann. § 25-19-108(b)(1).

13. Will a public hearing be held on this proposed rule? Yes No

If yes, please complete the following:

Date: _____

Time: _____

Place: _____

Please be sure to advise Bureau Staff if this information changes for any reason.

14. On what date does the public comment period expire for the permanent promulgation of the rule? Please provide the specific date. _____

15. What is the proposed effective date for this rule? _____

16. Please attach (1) a copy of the notice required under Ark. Code Ann. § 25-15-204(a)(1) and (2) proof of the publication of that notice.

17. Please attach proof of filing the rule with the Secretary of State, as required by Ark. Code Ann. § 25-15-204(e)(1)(A).

18. Please give the names of persons, groups, or organizations that you anticipate will comment on these rules. Please also provide their position (for or against), if known.

19. Is the rule expected to be controversial? Yes No

If yes, please explain.

NOTICE OF RULE MAKING

The Department of Human Services (DHS) announces for a public comment period of thirty (30) calendar days a notice of rulemaking for the following proposed rule under one or more of the following chapters, subchapters, or sections of the Arkansas Code: §§20-76-201, 20-77-107, and 25-10-129. The proposed effective date is January 1, 2024.

The Director of the Division of County Operations amends Sections A-230 and 510 of the Medical Services Policy Manual. To comply with the passing of the Consolidated Appropriations Act, all children under 19 years of age that are eligible for either Medicaid or CHIP categories will now have 12 months continuous coverage from date of application or renewal. This will guarantee recipients 12 months continuous coverage unless they turn 19 years of age, die, or move out of state. Medically Needy, Pregnant Woman Unborn, Foster Care Spenddown, and Transitional Medicaid categories are excluded from the 12 months continuous coverage eligibility. The Medical Services Policy Manual has been updated to reflect the 12 months continuous coverage. The proposed rule estimates a financial impact of \$21,822,281.00 (\$15,712,042.00 being federal funds) for state fiscal year 2024 and \$43,644,562.00 (\$31,424,085.00 being federal funds) for state fiscal year 2025.

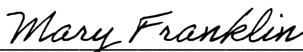
Pursuant to the Governor's Executive Order 23-02, DHS repeals the following two rules as part of this promulgation: (1) [DDS Policy 3004 – Maltreatment Prohibition, Prevention, Reporting, and Investigation](#); and (2) [DDS Policy 3005 – Respite Care](#).

The proposed rule is available for review at the Department of Human Services (DHS) Office of Rules Promulgation, 2nd floor Donaghey Plaza South Building, 7th and Main Streets, P. O. Box 1437, Slot S295, Little Rock, Arkansas 72203-1437. You may also access and download the proposed rule at ar.gov/dhs-proposed-rules.

Public comments must be submitted in writing at the above address or at the following email address: ORP@dhs.arkansas.gov. All public comments must be received by DHS no later than November 12, 2023. Please note that public comments submitted in response to this notice are considered public documents. A public comment, including the commenter's name and any personal information contained within the public comment, will be made publicly available and may be seen by various people.

If you need this material in a different format, such as large print, contact the Office of Rules Promulgation at (501) 320-6428.

The Arkansas Department of Human Services is in compliance with Titles VI and VII of the Civil Rights Act and is operated, managed and delivers services without regard to religion, disability, political affiliation, veteran status, age, race, color or national origin. 4502172997



Mary Franklin, Director
Division of County Operations

From: [Legal Ads](#)
To: [Chloe Crater](#)
Subject: Re: FULL RUN AD - Twelve Months Continuous Coverage of Children Under Age Nineteen (19)
Date: Wednesday, October 11, 2023 11:25:49 AM
Attachments: [image001.png](#)
[image002.png](#)

[EXTERNAL SENDER]

Thanks, Chloe. And I know the feeling!

Will run Sat 10/14, Sun 10/15, and Mon 10/16.

Gregg Sterne, Legal Advertising
Arkansas Democrat-Gazette
legalads@arkansasonline.com

From: "Chloe Crater" <Chloe.Crater@dhs.arkansas.gov>
To: "Legal Ads" <legalads@arkansasonline.com>
Sent: Wednesday, October 11, 2023 9:57:26 AM
Subject: RE: FULL RUN AD - Twelve Months Continuous Coverage of Children Under Age Nineteen (19)

Sorry, Gregg...I was moving too fast! Here ya go.

Let me know if you need anything else from me.

-Thanks
Chloe



CHLOE CRATER-BETTON

OFFICE OF LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS – RULES
PROMULGATION
PROGRAM ADMINISTRATOR

P: 501-320-6217
700 MAIN STREET
Little Rock, AR 72201
Chloe.Crater@dhs.arkansas.gov

humanservices.arkansas.gov



This email may contain sensitive or confidential information.

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From: Legal Ads <legalads@arkansasonline.com>
Sent: Wednesday, October 11, 2023 9:38 AM
To: Chloe Crater <Chloe.Crater@dhs.arkansas.gov>
Subject: Re: FULL RUN AD - Twelve Months Continuous Coverage of Children Under Age Nineteen (19)
Importance: High

[EXTERNAL SENDER]

Chloe,

I also need an unmarked version in MS Word. Please resend.

Thank you.

Gregg Sterne, Legal Advertising
Arkansas Democrat-Gazette
legalads@arkansasonline.com

From: "Chloe Crater" <Chloe.Crater@dhs.arkansas.gov>
To: "legalads" <legalads@arkansasonline.com>
Cc: "Jack Tiner" <jack.tiner@dhs.arkansas.gov>, "Mac Golden" <Mac.E.Golden@dhs.arkansas.gov>, "Lakeya Gipson" <Lakeya.Gipson@dhs.arkansas.gov>, "Elaine Stafford" <elaine.stafford@dhs.arkansas.gov>, "Thomas Herndon" <Thomas.Herndon@dhs.arkansas.gov>
Sent: Wednesday, October 11, 2023 9:30:26 AM
Subject: FULL RUN AD - Twelve Months Continuous Coverage of Children Under Age Nineteen (19)

Hi Gregg,

Please run the attached ad in the Arkansas Democrat-Gazette on the following days:

- Saturday October 14, 2023
- Sunday October 15, 2023
- Monday October 16, 2023

A public hearing will not be held. The public comment period will end on November 12, 2023.

Invoice to: **AR Dept of Human Services**

P.O. Box 1437

Slot S535

Little Rock, AR 72203

ATTN: Elaine Stafford

Elaine.stafford@dhs.arkansas.gov

Or email invoices to: dms.invoices@arkansas.gov

Thanks

-Chloe



CHLOE CRATER-BETTON

OFFICE OF LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS – RULES
PROMULGATION

PROGRAM ADMINISTRATOR

P: 501-320-6217

700 MAIN STREET

Little Rock, AR 72201

Chloe.Crater@dhs.arkansas.gov

humanservices.arkansas.gov



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From: [Chloe Crater](#)
To: [Jasmine Williams](#)
Subject: RE: DHS/DCO - PROPOSED FILING - Twelve Months Continuous Coverage of Children Under Age Nineteen (19)
Date: Wednesday, October 11, 2023 3:05:00 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)

Thank you, Jasmine!



CHLOE CRATER-BETTON

OFFICE OF LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS – RULES

PROMULGATION

PROGRAM ADMINISTRATOR

P: 501-320-6217

700 MAIN STREET

Little Rock, AR 72201

Chloe.Crater@dhs.arkansas.gov

humanservices.arkansas.gov



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From: Jasmine Williams <jasmine.williams@sos.arkansas.gov>

Sent: Wednesday, October 11, 2023 3:01 PM

To: Chloe Crater <Chloe.Crater@dhs.arkansas.gov>; Arkansas Register
<ArkansasRegister@sos.arkansas.gov>

Cc: Mac Golden <Mac.E.Golden@dhs.arkansas.gov>; Jack Tiner <jack.tiner@dhs.arkansas.gov>;
Thomas Herndon <Thomas.Herndon@dhs.arkansas.gov>; Dara Hall <Dara.A.Hall@dhs.arkansas.gov>

Subject: RE: DHS/DCO - PROPOSED FILING - Twelve Months Continuous Coverage of Children Under Age Nineteen (19)

[EXTERNAL SENDER]

The attachment has a received stamp indicating our office has received the rule that was sent to us. It is now uploaded on our website.

Best regards,

Jasmine Williams

From: Chloe Crater <Chloe.Crater@dhs.arkansas.gov>

Sent: Wednesday, October 11, 2023 1:06 PM

To: Arkansas Register <ArkansasRegister@sos.arkansas.gov>

Cc: Mac Golden <Mac.E.Golden@dhs.arkansas.gov>; Jack Tiner <jack.tiner@dhs.arkansas.gov>; Thomas Herndon <Thomas.Herndon@dhs.arkansas.gov>; Dara Hall <Dara.A.Hall@dhs.arkansas.gov>

Subject: DHS/DCO - PROPOSED FILING - Twelve Months Continuous Coverage of Children Under Age Nineteen (19)

External Message

The Rule will run the following three consecutive days in the Arkansas Democrat Gazette.

- Saturday October 14, 2023
- Sunday October 15, 2023
- Monday October 16, 2023

A public hearing will not be held. The public comment period will end on November 12, 2023.

-Thanks

Chloe



CHLOE CRATER-BETTON

OFFICE OF LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS – RULES
PROMULGATION

PROGRAM ADMINISTRATOR

P: 501-320-6217

700 MAIN STREET

Little Rock, AR 72201

Chloe.Crater@dhs.arkansas.gov

humanservices.arkansas.gov

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY.

DEPARTMENT _____
BOARD/COMMISSION _____
PERSON COMPLETING THIS STATEMENT _____
TELEPHONE NO. _____ **EMAIL** _____

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

TITLE OF THIS RULE _____

1. Does this proposed, amended, or repealed rule have a financial impact?
 Yes No

2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?
 Yes No

3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If no, please explain:

(a) how the additional benefits of the more costly rule justify its additional cost;

(b) the reason for adoption of the more costly rule;

(c) whether the reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and

(d) whether the reason for adoption of the more costly rule is within the scope of the agency’s statutory authority, and if so, how.

4. If the purpose of this rule is to implement a *federal* rule or regulation, please state the following:

(a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

(b) What is the additional cost of the state rule?

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

5. What is the total estimated cost by fiscal year to any private individual, private entity, or private business subject to the proposed, amended, or repealed rule? Please identify those subject to the rule, and explain how they are affected.

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

6. What is the total estimated cost by fiscal year to a state, county, or municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes No

If yes, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

FINANCIAL IMPACT STATEMENT ADDENDUM

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes No

If yes, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;

To comply with the passing of the Consolidated Appropriations Act, all children under 19 years of age that are eligible for either Medicaid or CHIP categories will now have 12 months continuous coverage from date of application or renewal. This will guarantee recipients 12 months continuous coverage unless they turn 19 years of age, die, or move out of state.
This will assist children to keep coverage for 12 months regardless of their HH's circumstances.

- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;

Per CMS guidelines and to comply with the passing for the Consolidated Appropriations Act 2023.

Children who have health insurance continuously are more likely to be in better health, guaranteeing ongoing coverage ensures children can receive preventive and primary care as well as treatment for any health issues that arise.

- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;

N/A

- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;

N/A

- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and

None

- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:

- (a) the rule is achieving the statutory objectives;
- (b) the benefits of the rule continue to justify its costs; and
- (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

The Agency monitors State and Federal rules and policies for opportunities to reduce and control cost.

MEDICAL SERVICES POLICY MANUAL, SECTION A

A-200 Medicaid Coverage Periods

A-230 Medicaid Twelve-Month-Continuous-Coverage

A-230 Twelve Months Continuous Coverage

MS Manual [08/15/1401/01/24](#)

Twelve (12) months continuous coverage means that children under nineteen (19) years of age are the individual is guaranteed twelve (12) months of continuous coverage regardless of changes in income and other eligibility criteria which could result in ineligibility.

There are following eligibility groups that are ineligible to receive the are provided twelve (12) months of continuous coverage. The groups that are ineligible to receive the twelve (12) months continuous coverage are:

1. ARKids-B Medically Needy Categories
2. Newborns Pregnant Woman Unborn
3. Foster Care Spenddown
- 2.4. Transitional Medicaid

Changes in income and other eligibility criteria that occur during the year will not affect the child's eligibility. Therefore, participants are not required to report changes in income until renewal. The only time a child loses eligibility during the twelve (12) month period is if he/she the child dies, moves out of state, or an ARKids-B child reaches the age of nineteen (-19) years of age.

NOTE: Some categories require certain eligibility requirements to remain eligible for that category of assistance. (For example: eligibility for adoption subsidies); If the recipient no longer meets requirements to stay in that category, they will be transitioned to ARKids A for the remainder of their twelve (12) months of continuous coverage. (The categories listed above that are ineligible to receive continuous coverage are not eligible to switch to ARKids A if they do not meet requirements of their program.)

For ARKids-B, the twelve (12) -months of continuous coverage will begin with the later of the last approval or last renewal date and will end on the last day of the twelfth (12th) month. For Newborns, coverage will begin on the date of birth and will end on the last day of the month of the child's first-(1st) birthday. (See [MS I-230](#) for transitioning a newborn to ARKids-First.)

EXAMPLE: Mary's ARKids B application date was January 2, 2014, and her application was approved on February 2, 2014. Her coverage will begin January 1, 2014. An income change occurs in July, which caused ineligibility. Mary's ARKids-B case will not be closed until January-December 31, 2015, unless she moves out of state or turns nineteen (19) years of age before the twelve (12) continuous months end.

A-230 Twelve Months Continuous Coverage

MS Manual 01/01/24

Twelve (12) months continuous coverage means that children under nineteen (19) years of age are guaranteed twelve (12) months of continuous coverage regardless of changes in income and other eligibility criteria which could result in ineligibility.

There are eligibility groups that are ineligible to receive the twelve (12) months of continuous coverage. The groups that are ineligible to receive the twelve (12) months continuous coverage are:

1. Medically Needy Categories
2. Pregnant Woman Unborn
3. Foster Care Spenddown
4. Transitional Medicaid

Changes in income and other eligibility criteria that occur during the year will not affect the child's eligibility. Therefore, participants are not required to report changes in income until renewal. The only time a child loses eligibility during the twelve (12) month period is if the child dies, moves out of state, or reaches nineteen (19) years of age.

NOTE: Some categories require certain eligibility requirements to remain eligible for that category of assistance. (For example: eligibility for adoption subsidies) If the recipient no longer meets requirements to stay in that category, they will be transitioned to ARKids A for the remainder of their twelve (12) months of continuous coverage. (The categories listed above that are ineligible to receive continuous coverage are not eligible to switch to ARKids A if they do not meet requirements of their program.)

For ARKids, the twelve (12) months of continuous coverage will begin with the later of the last approval or last renewal date and will end on the last day of the twelfth month. For Newborns, coverage will begin on the date of birth and will end on the last day of the month of the child's first birthday. (See [MS I-230](#) for transitioning a newborn to ARKids.)

EXAMPLE: Mary's ARKids application date was January 2, 2014, and her application was approved on February 2, 2014. Her coverage will begin January 1, 2014. An income change occurs in July, which caused ineligibility. Mary's ARKids case will not be closed until December 31, 2014, unless she moves out of state or turns nineteen (19) years of age before the twelve (12) continuous months end.

MEDICAL SERVICES POLICY MANUAL, SECTION I

I-500 Categorical Changes

I-510 Categorical Changes ARKids A & B

I-510 ARKids A & B

MS Manual ~~07/01/2001~~01/24

If information is provided that would cause the ARKids A-recipient to be ineligible, the ARKids recipient will not change coverage during their twelve (12) month continuous coverage period. (Refer to MS A-230.) for ARKids A or B an advance notice will be sent, and the case closed after expiration of the notice. If the information provided will cause ineligibility for ARKids A and the recipient is determined to be eligible for ARKids B, the case will be certified in ARKids B and the recipient notified of the case change.

I-510 ARKids A & B

MS Manual 01/01/24

If information is provided that would cause the ARKids recipient to be ineligible, the ARKids recipient will not change coverage during their twelve (12) month continuous coverage period.

(Refer to [MS A-230](#).)

PROPOSED

RULES SUBMITTED FOR REPEAL

Rule #1: DDS Policy 3004: Maltreatment Prohibition, Prevention, Reporting, and Investigation

Rule #2: DDS Policy 3005: Respite Care

ARKANSAS DEPARTMENT OF HUMAN SERVICES
DIVISION OF DEVELOPMENTAL DISABILITIES SERVICES
DDS DIRECTOR'S OFFICE POLICY MANUAL

<u>Policy Type</u>	<u>Subject of Policy</u>	<u>Policy No.</u>
Service	Maltreatment Prohibition, Prevention, Reporting, and Investigation	3004-I

1. **Philosophy** Every individual served by the Division of Developmental Disabilities Services (DDS) has the right to be free from maltreatment. DDS strictly prohibits maltreatment (which includes but is not limited to physical, verbal, psychological, or sexual abuse, neglect, exploitation, misappropriation of property, and violation of rights) of individuals receiving services.

2. **Purpose** Each facility shall do all that is within its control to prevent occurrences of maltreatment and to report and investigate maltreatment when it occurs. This policy establishes a maltreatment prohibition protocol and defines responsibilities for reporting and investigating alleged, suspected, and witnessed maltreatment of individuals served by DDS.

This Policy does not replace or remove the mandated legal responsibility of any entity to report maltreatment or of any external entity to conduct investigations as required by law.

3. **Scope** Compliance with this policy is the responsibility of all facility staff, clients, consultants, volunteers, staff of other agencies serving the client, family members, legal guardians, friends, or other individuals. It is the responsibility of the on-site administrator to ensure overall compliance with this policy and to take all necessary precautions to prevent maltreatment.

4. **Definitions**

1. Maltreatment – Actions which include, but are not limited to, physical, verbal, psychological, or sexual abuse, neglect, exploitation, misappropriation of property, and violation of rights of individuals receiving services

2. Founded charge of maltreatment - Credible evidence exists that supports the charge of maltreatment of an individual by a DDS employee.

3. On-site administrator – The administrator or his or her designee.

See other terms as defined by statutes in Appendix A and B.

Replacement: This Policy replaces: DDS Commissioner's Office Policy 3004-I (January 28, 1981, June 4, 1982, and May 25, 1983); DDS Deputy Director's Office Policy 3004-I (January 8, 1987); DDS Director's Office Policy 3004-I (May 1, 1993, December 1, 1993, and May 22, 1995).

References: *Act 1208 of 1991; Arkansas Code Annotated (ACA) § 5-28-101; 12-12-507 (d) (e); 12-12-509 (a) (1); 12-12-509 (2) (A) (B); 12-12-503 (10); DHS Policy 1090; DDS Director's Office Policies 1027, 3010-I, 3011-D, and DDS Procedural Guidelines for Investigations*

Reviewed: *Administrative Rules & Regulations Subcommittee of Arkansas Legislative Council: (New date)*

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5. **Policy** DDS Programs (hereafter referred to as facilities) will implement this policy and develop and implement consistent procedures for the prevention, identification, reporting, and investigation of maltreatment.

6. **Procedures**

A. Prohibition of Maltreatment

The on-site administrator is responsible for implementing this policy and consistent procedures that prohibit maltreatment through screening, training, prevention, and identification. Below are ways in which facilities should implement each component.

1. Screening:

Screen potential employees for a history of maltreatment, as defined by applicable requirements. This includes:

- attempting to obtain information from previous employers and/or current employers,
- checking with the appropriate licensing boards, registries, and DHS personnel offices, and
- performing criminal record checks.

2. Training:

Train employees, through orientation and through on-going sessions, on issues related to maltreatment prohibition practices such as:

- Rights of clients
- Recognition of events that may precede or trigger certain behaviors
- Early intervention techniques for positive behavioral support
- Approved interventions to deal with aggressive and/or catastrophic reactions
- Recognizing signs of staff burnout, frustration and stress that may lead to maltreatment;
- Definition of maltreatment, and
- Reporting suspected maltreatment.

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3. Prevention:

Provide clients, families, and staff information on how and to whom they may report concerns, incidents and grievances; and how they may receive feedback regarding the concerns that have been expressed.

Identify, correct and intervene in situations in which maltreatment are more likely to occur. This includes an analysis of:

- Features of the physical environment that may make maltreatment and/or neglect more likely to occur, such as secluded areas of the facility;
- Failure to recognize and respect client rights.
- The deployment of staff on each shift in sufficient numbers to meet the needs of the clients, and assure that the staff assigned have knowledge of the individual clients' care needs;
- Inappropriate staff behaviors, such as:
 - derogatory language,
 - rough handling,
 - ignoring clients while giving care,
 - directing clients who need toileting assistance to urinate or defecate in their beds; and
 - use of items for staff convenience (i.e., disposable briefs, restraints)
- The assessment, care planning, and monitoring of clients with needs and behaviors which might lead to conflict or neglect. This would include clients with a history of aggressive behaviors, clients who have behaviors such as entering other clients' rooms, clients with self-injurious behaviors, clients with communication disorders, and clients that require extensive care.

4. Identification:

Identify events, occurrences, patterns, and trends, such as bruising of clients, or a change in behavior that may suggest maltreatment.

B. Reporting.

1. All alleged, suspected, and witnessed maltreatment will be immediately reported by all individuals having knowledge of the alleged incident to the on-site administrator.
2. All alleged, suspected, and witnessed maltreatment will be immediately reported to the appropriate abuse reporting hotlines by the on-site administrator.

NOTE: Nothing in this policy removes the right and obligation of a mandated reporter (see Appendix B) to immediately report an incident directly to the appropriate abuse reporting hotline, as well as to the on-site administrator.

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3. Reporting shall not be delayed for any type of investigation.
4. Incidents shall be reported in accordance with DHS Policy 1090, Incident Reporting, and the DHS Incident Reporting and Information System (IRIS).
5. Reports of allegations shall also be made by telephone or fax by the on-site administrator/designee to local law enforcement where the facility is located and to the individual's parent/guardian/advocate.
6. Incidents which are not specifically defined in statute as abuse but which have or may have a negative impact on clients shall be reported as noted in item 4 above. An example would be one or more acts of discourteous treatment by an employee, as defined in DHS Policies 1084 and 1085, Minimum Conduct Standards.

C. Protection of Individuals During Investigations

The on-site administrator is responsible for ensuring that staff accused or suspected of maltreatment leave the facility grounds immediately and have no contact with clients until an investigation has been completed. Under no circumstances will the subject(s) of an investigation resume regular duties or assume new duties at the facility until an investigation is complete.

D. Investigations

1. Investigations will begin promptly after an incident is reported. When applicable, the on-site administrator may delegate this task to a trained investigator on staff.
2. Allegations of maltreatment will be investigated according to DDS Procedural Guidelines for Investigations. Physical evidence (i.e., bruises, marks, etc.) shall be photographed when an incident is reported and again no more than three days later.
3. The on-site administrator may request that the Human Rights Committee review and make recommendations on current investigations and shall notify the Committee of all founded cases of maltreatment.
4. As mandated by statute, the on-site administrator will defer investigations to the proper entity (law enforcement, protective service agencies, Office of Attorney General, etc.).
5. Officials outside DDS who are authorized to conduct investigations shall request and obtain a copy of relevant documents from the on-site administrator.

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E. Investigation Reports

1. When a reported incident has been determined to warrant an investigation, the on-site administrator must submit a report of findings to the Office of Long Term Care (OLTC) within five (5) working days of the facility's knowledge of the incident, to comply with OLTC regulation LTC 300 *et.seq.*
2. If the administrator is unable to submit a final report to OLTC within five days, he or she must submit a status report to OLTC within the five-day timeframe. This status report must detail the findings that have been determined to that point and what areas need further investigation.
3. A full report, in the format of a DDS Investigative File, must be completed and submitted to the DDS Director and to OLTC within 14 calendar days of notification that an incident is being investigated.
4. An extension of the 14-day timeframe must be requested of and granted by the Director's Office. Documentation of the extension approval shall be part of the file.
5. The DDS Director's Office shall send a copy of all investigative files to the appropriate Protective Services Agency, the Office of Chief Counsel, and the Office of the Attorney General.

F. Discipline.

1. Founded charge of maltreatment
The employee is immediately terminated and his/her personnel file is designated as "not eligible for rehire" by DHS.
2. Failure to report alleged, suspected, or witnessed maltreatment
The employee is subject to termination, as in item F-1. If not terminated, the on-site administrator will utilize progressive discipline as noted in DHS Policy 1084 Employee Discipline, unless the documented circumstances clearly warrant a deviation from the guidelines, due to aggravating or mitigating facts.
3. Delay in reporting alleged, suspected, or witnessed maltreatment
The employee is subject to termination, as in item F-1. If not terminated, the on-site administrator will utilize progressive discipline as noted in DHS Policy 1084 Employee Discipline, unless the documented circumstances clearly warrant a deviation from the guidelines, due to aggravating or mitigating facts.

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4. Other Involvement

Any employee who is involved in any way with any aspect of a case of maltreatment and who is not terminated will be required to attend training relative to maltreatment prevention, reporting, and investigation. The on-site administrator shall specify the training course(s) and ensure that documentation of training is maintained.

G. Record Keeping.

1. Each facility shall maintain a copy of all files related to cases of alleged, suspected, or witnessed maltreatment in a secure location. This record will include the original incident report (IRIS) and all follow-up reports; the on-site administrator's investigation report; any correspondence; any documentation of supporting evidence (photos, etc.), and documentation of the actions taken by the on-site administrator. These internal records shall be maintained for no less than ten (10) years. Original investigative files will be maintained in the DDS Director's office and retained indefinitely, in either paper format or other medium.
2. A summary report of investigations of all alleged, suspected, and witnessed maltreatment conducted at the HDCs and subsequent outcomes shall be submitted to the DDS Director by January 15 of each year for the previous calendar year. Individual identifier information shall not be used. Victims shall be identified by case number and staff shall be identified by Job Title.
3. DDS Systems Development Section will also submit a summary report of the same information, as reported by DDS Community Programs, to the DDS Director by January 15 each year for the previous calendar year. Requests for the summary reports noted in G.2 and G.3 shall be made in writing to the DDS Director.

H. Release of Investigative Files.

It is the intent of this policy to protect the anonymity of all clients noted in investigative reports and the names of those who report abuse. For specific guidance for the release of information under the Freedom of Information Act (FOIA), see DHS Policy 1053. All client and reporter identifiers must be deleted (redacted) prior to release.

NOTE: When an investigation results in disciplinary action that is grieved, a copy of pertinent information from the investigation report will be provided to the grievant with client and reporter identifiers deleted. This may not apply to the grievance process at the state level.

I. Confidentiality.

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All aspects of allegations, reports, and investigations of child and adult maltreatment are confidential. Verified violations will be subject to discipline under DHS Policy 1084, Employee Discipline and DHS Policy 1085, Minimum Conduct Standards.

J. Appeals.

Employees who have been disciplined based on provisions set forth in this policy retain the right of appeal according to established grievance procedures outlined in DHS Policy 1086, Employee Grievance Procedure.

REPEAL

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Appendix A

Statutory definitions

Adult abuse (5-28-101)

(1) "**Abuse**" means:

(A) Any intentional and unnecessary physical act which inflicts pain on or causes injury to an endangered or impaired adult, including sexual abuse; or

(B) Any intentional or demeaning act which subjects an endangered or impaired adult to ridicule or psychological injury in a manner likely to provoke fear or alarm;

(2) "**Caregiver**" means a related or unrelated person, owner, agent, high managerial agent of a public or private organization, or a public or private organization that has the responsibility for the protection, care, or custody of an endangered or impaired adult as a result of assuming the responsibility voluntarily, by contract, through employment, or by order of the court;

(3)(A) "**Department**" means the Department of Human Services.

(B) The Director of the Department of Human Services may assign responsibilities for administering the various duties imposed upon the department under this chapter to respective divisions of the department which, in his or her opinion, are best able to render service or administer the provisions of this chapter;

(4) "**Endangered adult**" means:

(A) An adult eighteen (18) years of age or older who is found to be in a situation or condition which poses an imminent risk of death or serious bodily harm to that person and who demonstrates a lack of capacity to comprehend the nature and consequences of remaining in that situation or condition; or

(B) A resident eighteen (18) years of age or older of a long-term care facility, which is required to be licensed under § 20-10-224, who is found to be in a situation or condition which poses an imminent risk of death or serious bodily harm to the person and who demonstrates the lack of capacity to comprehend the nature and consequences of remaining in that situation or condition;

(5) "**Exploitation**" means the illegal use or management of an endangered or impaired adult's funds, assets, or property, or the use of an endangered or impaired adult's person, power of attorney, or guardianship for the profit or advantage of himself, herself, or another;

(6)(A) "**Imminent danger to health or safety**" means a situation in which death or severe bodily injury could reasonably be expected to occur without intervention.

(B) The burden of proof shall be upon the department to show by clear and convincing evidence that such imminent danger exists.

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(7)(A) "**Impaired adult**" means a person eighteen (18) years or older who, as a result of mental or physical impairment, is unable to protect himself or herself from abuse, sexual abuse, neglect, or exploitation, and as a consequence thereof is endangered.

(B) For purposes of this chapter, adult clients of a long-term care facility are presumed to be impaired adults;

(8) "**Neglect**" means acts or omissions by an endangered adult; for example, self-neglect or intentional acts or omissions by a caregiver responsible for the care and supervision of an endangered or impaired adult constituting:

(A) Negligently failing to provide necessary treatment, rehabilitation, care, food, clothing, shelter, supervision, or medical services to an endangered or impaired adult;

(B) Negligently failing to report health problems or changes in health problems or changes in the health condition of an endangered or impaired adult to the appropriate medical personnel; or

(C) Negligently failing to carry out a prescribed treatment plan;

(9)(A) "**Physical injury**" means the impairment of a physical condition or the infliction of substantial pain.

(B) Where the person is an endangered or impaired adult, there shall be a presumption that any physical abuse resulted in the infliction of substantial pain;

(10)(A) "**Protective services**" means services to protect the endangered or impaired adult from:

(i) Self-neglect or self-abuse; and

(ii) Abuse or neglect by others.

(B) Protective services shall include, but not be limited to:

(i) Evaluation of the need for services;

(ii) Arrangements for appropriate services;

(iii) Assistance in obtaining financial benefits to which the person is entitled; or

(iv) Securing medical and legal services.

(C)(i) Protective services may include:

(a) Referrals for services available in the community;

(b) Seeking protective custody or court-ordered services for endangered adults; or

(c) In appropriate cases, assistance in locating an appropriate person or entity interested in and able to assume guardianship over an endangered adult.

(ii) In situations involving exploitation of an endangered or impaired adult not resulting in any imminent danger to health or safety or involving protection of the property of such an impaired adult, protective services may include one (1) or more of the following:

(a) Referrals for legal assistance;

(b) Referrals, as appropriate, to law enforcement or prosecutors; or

(c) Assistance in locating an appropriate person or entity interested in and able to assume guardianship;

(11) "**Serious bodily harm**" means physical abuse, sexual abuse, physical injury, or serious physical injury as defined in this chapter;

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(12) **"Serious physical injury"** means physical injury to an endangered or impaired adult that creates a substantial risk of death or that causes protracted disfigurement, protracted impairment of health, or loss or protracted impairment of the function of any bodily member or organ;

(13) **"Sexual abuse"** means deviate sexual activity, sexual contact, or sexual intercourse, as those terms are defined in § 5-14-101, with another person who is not the actor's spouse and who is incapable of consent because he or she is mentally defective, mentally incapacitated, or physically helpless, as those terms are defined in § 5-14-101; and

(14) **"Subject of the report"** means the endangered or impaired adult, the adult's guardian, and the offender.

Child abuse (12-12-503)

(1) **"Abandonment"** means:

(A) Failure of the parent to provide reasonable support and to maintain regular contact with the juvenile through statement or contact when the failure is accompanied by an intention on the part of the parent to permit the condition to continue for an indefinite period in the future;

(B) Failure to support or maintain regular contact with the juvenile without just cause; or

(C) An articulated intent to forego parental responsibility;

(2)(A) **"Abuse"** means any of the following acts or omissions by a parent, guardian, custodian, foster parent, or any person who is entrusted with the juvenile's care by a parent, guardian, custodian, or foster parent, including, but not limited to, an agent or employee of a public or private residential home, child care facility, public or private school, or any person legally responsible for the juvenile's welfare:

(i) Extreme or repeated cruelty to a juvenile;

(ii) Engaging in conduct creating a realistic and serious threat of death, permanent or temporary disfigurement, or impairment of any bodily organ;

(iii) Injury to a juvenile's intellectual, emotional, or psychological development as evidenced by observable and substantial impairment of the juvenile's ability to function within the juvenile's normal range of performance and behavior;

(iv) Any injury that is at variance with the history given;

(v) Any nonaccidental physical injury;

(vi) Any of the following intentional or knowing acts, with physical injury and without justifiable cause:

(a) Throwing, kicking, burning, biting, or cutting a child;

(b) Striking a child with a closed fist;

(c) Shaking a child; or

(d) Striking a child on the face;

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- (vii) Any of the following intentional or knowing acts, with or without physical injury:
- (a) Striking a child age six (6) or younger on the face;
 - (b) Shaking a child age three (3) or younger; or
 - (c) Interfering with a child's breathing.
- (B)(i) The list in subdivision (2)(A) of this section is illustrative of unreasonable action and is not intended to be exclusive.
- (ii) No unreasonable action shall be construed to permit a finding of abuse without having established the elements of abuse.
- (C)(i) "**Abuse**" shall not include physical discipline of a child when it is reasonable and moderate and is inflicted by a parent or guardian for purposes of restraining or correcting the child.
- (ii) "**Abuse**" shall not include when a child suffers transient pain or minor temporary marks as the result of an appropriate restraint if:
- (a) The person exercising the restraint is an employee of an agency licensed or exempted from licensure under the Child Welfare Agency Licensing Act, § 9-28-401 et seq.;
 - (b) The agency has policy and procedures regarding restraints;
 - (c) No other alternative exists to control the child except for a restraint;
 - (d) The child is in danger or hurting himself or herself or others;
 - (e) The person exercising the restraint has been trained in properly restraining children, de-escalation, and conflict resolution techniques; and
 - (f) The restraint is for a reasonable period of time.
- (iii) Reasonable and moderate physical discipline inflicted by a parent or guardian shall not include any act that is likely to cause and which does cause injury more serious than transient pain or minor temporary marks.
- (iv) The age, size, and condition of the child and the location of the injury and the frequency or recurrence of injuries shall be considered when determining whether the physical discipline is reasonable or moderate;
- (3) "**Caretaker**" means a parent, guardian, custodian, foster parent, or any person ten (10) years of age or older who is entrusted with a child's care by a parent, guardian, custodian, or foster parent, including, but not limited to, an agent or employee of a public or private residential home, child care facility, public or private school, or any person responsible for a child's welfare;
- (4)(A) "**Central intake**", otherwise referred to as the "**child abuse hotline**", refers to a unit that shall be established by the Department of Human Services for the purpose of receiving and recording notification made pursuant to this subchapter.
- (B) Central intake shall be staffed twenty-four (24) hours per day and shall have statewide accessibility through a toll-free telephone number;

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- (5) "**Child**" or "**juvenile**" means an individual who:
- (A) Is from birth to the age of eighteen (18);
 - (B) Is under the age of twenty-one (21) years, whether married or single, who was adjudicated delinquent under the Arkansas Juvenile Code of 1989, § 9-27-301 et seq., for an act committed prior to the age of eighteen (18) years, and for whom the court retains jurisdiction; or
 - (C) Was adjudicated dependent-neglected under the Arkansas Juvenile Code of 1989, § 9-27-301 et seq., before reaching the age of eighteen (18) years, and who, while engaged in a course of instruction or treatments, requests the court to retain jurisdiction until the course has been completed;
- (6) "**Child maltreatment**" means abuse, sexual abuse, neglect, sexual exploitation, or abandonment;
- (7) "**Department**" means the Department of Human Services;
- (8) "**Deviate sexual activity**" means any act of sexual gratification involving:
- (A) Penetration, however slight, of the anus or mouth of one person by the penis of another person; or
 - (B) Penetration, however slight, of the labia majora or anus of one person by any body member or foreign instrument manipulated by another person;
- (9)(A)(i) "**Forcible compulsion**" means physical force, intimidation, or a threat, express or implied, of physical injury to or death, rape, sexual abuse, or kidnapping of any person.
- (ii) If the act was committed against the will of the juvenile, then forcible compulsion has been used.
- (B) The age, developmental state, and stature of the victim, and the relationship of the victim to the assailant, as well as the threat of deprivation of affection, rights, and privileges from the victim by the assailant, shall be considered in weighing the sufficiency of the evidence to prove compulsion;
- (10) "**Indecent exposure**" means the exposure by a person of the person's sexual organs for the purpose of arousing or gratifying the sexual desire of the person or of any other person under circumstances in which the person knows the conduct is likely to cause affront or alarm;
- (11) "**Near fatality**" means an act that, as certified by a physician, places the child in serious or critical condition;
- (12) "**Neglect**" means those acts or omissions of a parent, guardian, custodian, foster parent, or any person who is entrusted with the juvenile's care by a parent, custodian, guardian, or foster parent, including, but not limited to, an agent or employee of a public or private residential home, child care facility, public or private school, or any person legally responsible under state law for the juvenile's welfare, which constitute:
- (A) Failure or refusal to prevent the abuse of the juvenile when the person knows or has reasonable cause to know the juvenile is or has been abused;

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(B) Failure or refusal to provide necessary food, clothing, shelter, and education required by law, excluding the failure to follow an individualized educational program, or medical treatment necessary for the juvenile's well-being, except when the failure or refusal is caused primarily by the financial inability of the person legally responsible and no services for relief have been offered or rejected;

(C) Failure to take reasonable action to protect the juvenile from abandonment, abuse, sexual abuse, sexual exploitation, neglect, or parental unfitness where the existence of such condition was known or should have been known;

(D) Failure or irremediable inability to provide for the essential and necessary physical, mental, or emotional needs of the juvenile;

(E) Failure to provide for the juvenile's care and maintenance, proper or necessary support, or medical, surgical, or other necessary care;

(F) Failure, although able, to assume responsibility for the care and custody of the juvenile or participate in a plan to assume such responsibility; or

(G) Failure to appropriately supervise the juvenile that results in the juvenile's being left alone at an inappropriate age or in inappropriate circumstances that put the juvenile in danger;

(13) **"Parent"** means a biological mother, an adoptive parent, or a man to whom the biological mother was married at the time of conception or birth or who has been found by a court of competent jurisdiction to be the biological father of the juvenile;

(14) **"Pornography"** means:

(A) Obscene or licentious material, including pictures, movies, and videos, lacking serious literary, artistic, political, or scientific value, which, when taken as a whole and applying contemporary community standards would appear to the average person to appeal to the prurient interest; or

(B) Material that depicts sexual conduct in a patently offensive manner lacking serious literary, artistic, political, or scientific value;

(15) **"Serious bodily injury"** means bodily injury that involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty;

(16) **"Severe maltreatment"** means sexual abuse, sexual exploitation, acts or omissions which may or do result in death, abuse involving the use of a deadly weapon as defined by the Arkansas Criminal Code, § 5-1-101 et seq., bone fracture, internal injuries, burns, immersions, suffocation, abandonment, medical diagnosis of failure to thrive, or causing a substantial and observable change in the behavior or demeanor of the child;

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(17) "**Sexual abuse**" means:

(A) By a person ten (10) years of age or older to a person younger than eighteen (18) years of age:

(i) Sexual intercourse, deviate sexual activity, or sexual contact by forcible compulsion;

(ii) Attempted sexual intercourse, deviate sexual activity, or sexual contact;

(iii) Indecent exposure; or

(iv) Forcing, permitting, or encouraging the watching of pornography or live sexual activity;

(B) Between a person eighteen (18) years of age or older and a person not his or her spouse who is younger than sixteen (16) years of age:

(i) Sexual intercourse, deviate sexual activity, or sexual contact or solicitation; or

(ii) Attempted sexual intercourse, deviate sexual activity, or sexual contact; or

(C) Between a person younger than eighteen (18) years of age and a sibling or caretaker:

(i) Sexual intercourse, deviate sexual activity, or sexual contact or solicitation; or

(ii) Attempted sexual intercourse, deviate sexual activity, or sexual contact;

(18)(A) "**Sexual contact**" means any act of sexual gratification involving the touching, directly or through clothing, of the sex organs, buttocks, or anus of a person or the breast of a female.

(B) Provided, that nothing in this section shall permit normal affectionate hugging to be construed as sexual contact;

(19) "**Sexual exploitation**" means allowing, permitting, or encouraging participation or depiction of the juvenile in prostitution, obscene photographing, filming, or obscenely depicting a juvenile for any use or purpose; and

(20) "**Subject of the report**" means:

(A) The offender;

(B) The parents, guardians, and legal custodians of the child who is subject to suspected maltreatment; and

(C) The child who is the subject of suspected maltreatment.

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Appendix B

(5-28-203) Mandated Reporters (adult)

Persons required to report abuse:

(a)(1) Whenever any of the following has observed or has reasonable cause to suspect that an endangered or impaired adult has been subjected to conditions or circumstances which would reasonably result in abuse, sexual abuse, neglect, or exploitation, as defined in this chapter, he or she shall immediately report or cause a report to be made in accordance with the provisions of this section:

- (A) A physician;
- (B) A surgeon;
- (C) A coroner;
- (D) A dentist;
- (E) An osteopath;
- (F) A resident intern;
- (G) A registered nurse;
- (H) Hospital personnel who are engaged in the administration, examination, care, or treatment of persons;
- (I) Any social worker;
- (J) A case manager;
- (K) A case worker;
- (L) A mental health professional;
- (M) A peace officer;
- (N) A law enforcement officer;
- (O) A facility administrator;
- (P) An employee in a facility;
- (Q) An employee of the Department of Human Services;
- (R) A firefighter; or
- (S) An emergency medical technician.

(2) Whenever a person is required to report under this chapter in his or her capacity as a member of the staff, an employee in a facility, or an employee of the department, he or she shall immediately notify the person in charge of the institution, facility, or agency, or that person's designated agent, who shall then become responsible for making a report or cause a report to be made.

(3) In addition to those persons and officials required to report suspected adult abuse, sexual abuse, or neglect, any other person may make a report if the person has reasonable cause to suspect that an adult has been abused, neglected, or exploited, as defined in this chapter.

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- (b)(1) A report required under this chapter shall be made to the central registry by the receiving agency for abused or neglected adults not residing in long-term care facilities.
- (2) A report for abused or neglected adults residing in a long-term care facility shall be made immediately to the local law enforcement agency for the jurisdiction in which the facility is located and to the Office of Long Term Care of the Division of Medical Services of the Department of Human Services, pursuant to regulations of that office.
- (3) The office shall notify the central registry and the office of the Attorney General. No privilege or contract shall relieve anyone required by this subchapter to make notification of the requirement of making notification.

12-12-507. Reports of suspected abuse or neglect (child)

- (a) Any person with reasonable cause to suspect child maltreatment or that a child has died as a result of child maltreatment, or who observes a child being subjected to conditions or circumstances that would reasonably result in child maltreatment, may immediately notify the child abuse hotline.
- (b) When any of the following has reasonable cause to suspect that a child has been subjected to child maltreatment or has died as a result of child maltreatment, or who observes a child being subjected to conditions or circumstances that would reasonably result in child maltreatment, he or she shall immediately notify the child abuse hotline:
- (1) Any child or foster care worker;
 - (2) A coroner;
 - (3) A day care center worker;
 - (4) A dentist;
 - (5) A domestic abuse advocate;
 - (6) A domestic violence shelter employee;
 - (7) A domestic violence shelter volunteer;
 - (8) An employee of the Division of Youth Services of the Department of Human Services;
 - (9) An employee working under contract for the Division of Youth Services of the Department of Human Services;
 - (10) A family service worker;
 - (11) A judge;
 - (12) A law enforcement official;
 - (13) A licensed nurse;
 - (14) Any medical personnel who may be engaged in the admission, examination, care, or treatment of persons;
 - (15) A mental health professional;
 - (16) An osteopath;
 - (17) A physician;

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- (18) A peace officer;
- (19) A prosecuting attorney;
- (20) A resident intern;
- (21) A school counselor;
- (22) A school official;
- (23) A social worker;
- (24) A surgeon; or
- (25) A teacher.

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No.

Service	Respite Care
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3005-D

1. Purpose. This policy has been prepared to define and set parameters for Human Development Center respite care services provided by Developmental Disabilities Services.
2. Scope. All users/applicants for HDC respite care services, their families/surrogates, other interested parties, and DDS employees are affected by this policy.
3. Eligibility and Selection. Individuals eligible for respite care services are those defined in DDS Policy #1035. Selection is based upon space availability, chronological order of request, priority of need, and proximity to home.
4. Respite Care Defined. Human Development Centers offer short term residential and supervisory services intended to provide a period of relief from the care of an individual who has exceptional and demanding needs. Unless approved by the HDC Superintendent/designee, respite care services will not include planned education, habilitation or training.
 - A. Regular Respite Care: Twenty-four (24) hour care services provided for up to fourteen (14) days, and may be extended up to thirty (30) days upon approval of the HDC Superintendent/designee.
 - B. Emergency Respite Care: Twenty-four (24) hour care services provided to assist individuals and families through emergency situations in which the health and welfare of the individual and/or family is seriously jeopardized, in increments of no more than fourteen (14) days, for a maximum of thirty (30) days.
 - C. Short-Term Respite Care: Twenty-four (24) hour care services provided for one (1) or two (2) days, no more than twice a month to give individuals and/or family brief but more frequent relief from family services.

Replacement Notation: This policy replaces 3005-D, effective December 17, 1979; January 26, 1980; March 18, 1980; November 21, 1981; February 25, 1983; January 8, 1987; and May 4, 1987; and December 1, 1993.

Effective Date: December 1, 1997

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Administrative Rules & Regulations Sub Committee of the Arkansas Legislative Council:
November 4, 1993.

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D. Summer Respite Care: Twenty-four (24) hour care provided annually for fourteen (14) days to give individuals and/or families an opportunity to have summer vacation experiences.

E. Crisis Abatement: Thirty (30) days or less of consecutive placement and no more than 48 cumulative days per waiver eligible year, to reduce or prevent escalation of behaviors of persons receiving Home and Community Based Waiver Services.

5. Fees.

A. If at all possible, recipients of respite care will pay something for the services, even if the amount is minimal.

B. Fees will be charged based on a sliding scale according to the family/responsible party income.

C. Fees will be automatically adjusted annually as costs fluctuate.

1) Sliding fees will be based on the total income of persons living in the household. If an individual receives income from a third party source or other personal income, the fee will be the total of that income less \$30.00, of the amount according to the sliding scale for the household, whichever is greater.

2) For adults living with family members, the fee will be based on household income, or third party payment less \$30.00, whichever is greater.

D. If an adult lives in an apartment, group home, or other public housing, only his or her income should be considered. Fees will be total income less \$30.00.

E. For the purpose of the sliding fee scale, exemptions shall be the number as determined by IRS guidelines for tax purposes.

Effective Date: December 1, 1997

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F. RESPITE CARE FEES

Daily Fee Scale

GROSS ANNUAL INCOME	DEPENDENTS					
	1	2	3	4	5	6
\$ 0 - 4,999	-0-	-0-	-0-	-0-	-0-	-0-
5,000 - 7,299	1.00	-0-	-0-	-0-	-0-	-0-
7,300 - 9,599	2.00	1.00	-0-	-0-	-0-	-0-
9,600 - 11,899	3.00	2.00	1.00	-0-	-0-	-0-
11,900 - 14,199	4.00	3.00	2.00	1.00	-0-	-0-
14,200 - 16,499	5.00	4.00	3.00	2.00	1.00	-0-
16,500 - 18,799	6.00	5.00	4.00	3.00	2.00	1.00
18,800 - 21,099	7.00	6.00	5.00	4.00	3.00	2.00
21,100 - 23,399	8.00	7.00	6.00	5.00	4.00	3.00
23,400 - 25,699	9.00	8.00	7.00	6.00	5.00	4.00
25,700 - 27,999	10.00	9.00	8.00	7.00	6.00	5.00
28,000 - 30,299	11.00	10.00	9.00	8.00	7.00	6.00
30,300 - 32,599	12.00	11.00	10.00	9.00	8.00	7.00
32,600 - 34,899	13.00	12.00	11.00	10.00	9.00	8.00
34,900 - 37,199	14.00	13.00	12.00	11.00	10.00	9.00
37,200 - 39,499	15.00	14.00	13.00	12.00	11.00	10.00
39,500 - 41,799	16.00	15.00	14.00	13.00	12.00	11.00
41,800 - 44,099	17.00	16.00	15.00	14.00	13.00	12.00
44,100 - 46,399	18.00	17.00	16.00	15.00	14.00	13.00
46,400 - 48,699	19.00	18.00	17.00	16.00	15.00	14.00
48,700 - Above	20.00	19.00	18.00	17.00	16.00	15.00

NOTE: Fee Scale effective July 22, 1983

6. Limitation. No Human Development Center shall jeopardize compliance with any applicable State or Federal Law or regulation when providing respite care services.

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7. Procedural Guidelines.

- A. The DDS Service Coordinator will provide a packet of descriptive information on the individual as a request for services to include current social, psychological, and medical information at a minimum.
- B. The Superintendent/designee will respond in writing to all formal requests for respite services.
- C. Upon approval, admission arrangements will be coordinated through the HDC social services department.
 - 1. Entry requirements include a current TB skin test and physical examination to include assurance that the individual is free from infectious disease.
 - 2. The individual will bring a medication supply sufficient for the entire respite stay.
 - 3. A completed agreement to pay work sheet informs the responsible party of the daily charge for services, if any, and confirms that this payment responsibility has been discussed prior to initiation of services.
 - 4. In an emergency situation entry, all requirements can be waived by the Superintendent.
- D. Emergency respite requests are coordinated through the Field Services Supervisor. In an emergency situation, all entry requirements can be waived by the Superintendent.

8. Cancellation of Respite Request. Under certain circumstances, the Human Development Center may find it necessary to cancel respite care.

- A. The HDC may cancel a scheduled respite referral twenty-four (24) hours prior to admission date if bed space becomes unavailable. Notice goes back to the DDS Service Coordinator, who notifies the individual/parent or guardian and Field Services Supervisor.

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- B. If the HDC finds it necessary to terminate early, respite care in progress, the DDS Service Coordinator who made the referral shall be contacted. The Service Coordinator is responsible for contacting the parents/guardians and providing explanation. If Service Coordinator is unavailable, and discharge must occur immediately, HDC staff will assume this responsibility. If possible, an alternate HDC respite care site will be found where the individual can be transferred.
9. Abuse of Service. When abuse of respite care occurs the DDS Service Coordinator shall be notified by the HDC staff and then shall counsel with the individual and/or parent/guardian and inform them that continued practice could/would result in failure to receive further respite service.
10. Abandonment. If the individual's parent or responsible party fails to pick up the individual on the agreed date of discharge, the DDS Service Coordinator (HDC staff if Field staff unavailable) shall call the parents or responsible party to find out why pickup was not made.
- If the Service Coordinator cannot reach the individual's parent or responsible party by 2 hours after the agreed day and time of discharge, or if the individual's parent or responsible party refuses to pick up the individual, the Superintendent/designee shall call the appropriate Protective Services authority to charge abandonment. Call Division of Children and Family Services, Protective Services Unit, if the individual is a minor; or call Division of Aging and Adult Services, Adult Protection Services Unit, if the individual is 18 or over.
- NOTE: At Superintendent/designee discretion, extension of time may be allowed for extenuating circumstances.
11. Appeal Process. If at any point in this process the request for respite services is denied, the individual/parent/guardian has the right to appeal this decision following the DDS Director's Office Policy #1076.

AGREEMENT TO PAY WORKSHEET

INDIVIDUAL'S NAME: _____ COUNTY:

GUARDIAN (if applicable):

ADDRESS:

Estimate of Fees:	Amount of person's income per month	\$
	Less personal spending money	\$ <u>-30.00</u>
	Subtotal	\$
	\$ _____ divided by the =	\$
	Subtotal number of days in	Daily charge for
	the month	services

REPEAL

I understand that the above amount is an estimate only and the final charges will be computed on the day of admission. I understand that I am responsible for payment.

Individual Date

Parent/Guardian (if applicable) Date

Witness Date

(2) CONFORMING AMENDMENTS FOR ASSURANCE OF AFFORDABILITY STANDARD FOR CHILDREN AND FAMILIES.—Section 1902(gg)(2) of the Social Security Act (42 U.S.C. 1396a(gg)(2)) is amended—

(A) in the paragraph heading, by striking “THROUGH SEPTEMBER 30, 2027” and inserting “THROUGH SEPTEMBER 30, 2029”; and

(B) by striking “2027” each place it appears and inserting “2029”.

SEC. 5112. CONTINUOUS ELIGIBILITY FOR CHILDREN UNDER MEDICAID AND CHIP.

(a) UNDER THE MEDICAID PROGRAM.—Section 1902(e) of the Social Security Act (42 U.S.C. 1396a(e)) is amended by striking paragraph (12) and inserting the following new paragraph:

“(12) 1 YEAR OF CONTINUOUS ELIGIBILITY FOR CHILDREN.—The State plan (or waiver of such State plan) shall provide that an individual who is under the age of 19 and who is determined to be eligible for benefits under a State plan (or waiver of such plan) approved under this title under subsection (a)(10)(A) shall remain eligible for such benefits until the earlier of—

“(A) the end of the 12-month period beginning on the date of such determination;

“(B) the time that such individual attains the age of 19; or

“(C) the date that such individual ceases to be a resident of such State.”.

(b) UNDER THE CHILDREN’S HEALTH INSURANCE PROGRAM.—Section 2107(e)(1) of the Social Security Act (42 U.S.C. 1397gg(e)(1)) is amended—

(1) by redesignating subparagraphs (K) through (T) as subparagraphs (L) through (U), respectively; and

(2) by inserting after subparagraph (J) the following new subparagraph:

“(K) Section 1902(e)(12) (relating to 1 year of continuous eligibility for children), except that a targeted low-income child enrolled under the State child health plan or waiver may be transferred to the Medicaid program under title XIX for the remaining duration of the 12-month continuous eligibility period, if the child becomes eligible for full benefits under title XIX during such period.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first fiscal quarter that begins on or after the date that is 1 year after the date of enactment of this Act.

SEC. 5113. MODIFICATIONS TO POSTPARTUM COVERAGE UNDER MEDICAID AND CHIP.

Effective as if included in the enactment of sections 9812 and 9822 of the American Rescue Plan Act of 2021 (Public Law 117–2), subsection (b) of each such section is amended by striking “during the 5-year period”.

SEC. 5114. EXTENSION OF MONEY FOLLOWS THE PERSON REBALANCING DEMONSTRATION.

(a) IN GENERAL.—Subsection (h) of section 6071 of the Deficit Reduction Act of 2005 (42 U.S.C. 1396a note) is amended—