

ARKANSAS REGISTER

Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State

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For Office

Use Only:

Effective Date _____ Code Number _____

Name of Agency Division of Workforce Services - Arkansas Rehabilitation Services

Department Department of Commerce

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Statutory Authority for Promulgating Rules Ark. Code Ann. § 20-79-401(a)(2)(B)

Rule Title: Telecommunications Access Program Rules

Intended Effective Date
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☐ Emergency (ACA 25-15-204)

☐ 10 Days After Filing (ACA 25-15-204)

☒ Other January 1, 2022
(Must be more than 10 days after filing date.)

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Date

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Dec. 17, 2021

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Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Charles Lyford

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Dec. 17, 2021

Contact Person

E-mail Address

Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Signature

501-682-2286

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Phone Number

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Arkansas Rehabilitation Services General Counsel

Title

December 17, 2021

Date

**ARKANSAS DIVISION OF WORKFORCE SERVICES
ARKANSAS REHABILITATION SERVICES**

RULES FOR THE TELECOMMUNICATIONS ACCESS PROGRAM

1) Program Title. The telecommunication equipment distribution shall be known as the Telecommunications Access Program, or TAP. This program was established under Act 501 of 1995, as amended by Act 530 of 2001, Act 173 of 2011, and Act 263 of 2021.

2) Definitions.

a) Adaptive telecommunication equipment is any item, piece of equipment, or product system that is modified or customized to provide individuals with disabilities access to telecommunication network.

b) **Adjusted gross income** is the amount claimed by an applicant as adjusted gross income on the most recent state or federal income tax return. **Adjusted gross income** may also be determined by reference to an applicant's wages, SSI/SSDI benefits, or retirement benefits.

c) **Telecommunications service** is the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point or between or among points.

d) **Maintenance** is general care for adaptive telecommunication equipment, to include the supply of batteries, cables, bulbs, and other items required for operation of the equipment; protection of the equipment from the elements; and cleaning the equipment.

Maintenance does not include repairs or modifications. Individuals are prohibited from repairing or modifying equipment during the initial two-year period after the equipment is distributed.

3) Eligibility for TAP.

Applicants must satisfy the following criteria in order to be determined eligible:

a) Residency in Arkansas;

b) Disability that impairs effective access to telecommunications services, including individuals who are:

- (i) Deaf or hard of hearing;
- (ii) Deaf-Blind;
- (iii) Blind or vision impaired;
- (iv) Speech-impaired;
- (v) Cognitively impaired; or
- (vi) Mobility-impaired.

(c) Certification that the applicant:

- (i) Has at least one qualifying disability; and

- (ii) Would substantially benefit, in terms of access to telecommunications service, from the use of adaptive telecommunications equipment.

Certification may be supplied by a medical professional, home-health provider, audiologist, speech pathologist, occupational or physical therapist, social worker, special-education teacher, or vocational-rehabilitation counselor. TAP staff will maintain a list of approved certifiers.

(d) Proof of active telecommunications service, at the time of application or within 30 days of submitting the application. This includes a landline, wireless service, voice over Internet, or other telecommunications service. Depending on the information provided in the application, TAP staff will consult with the individual as to acceptable documentation for this requirement.

(e) Adjusted Gross Income not to exceed \$50,000.00 per year. Adjusted Gross Income for applicants under the age of 18 will be determined by the income of the applicant's parent or guardian. Otherwise eligible applicants with Adjusted Gross Incomes exceeding \$50,000.00 per year will be charged one third (1/3) of the cost to TAP for any equipment distributed under the program.

f) Agreement to follow all rules and related conditions for TAP, evidenced by the individual's signature on the TAP application.

(g) Eligibility determinations will remain in effect for three (3) years. After three (3) years, an individual must re-apply in order to be considered for further participation in TAP.

4) Adaptive telecommunication equipment.

a) Adaptive telecommunication equipment shall be provided in sufficient scope to meet the needs of eligible individuals. Equipment and services shall be procured in a cost-effective manner, using the rules applicable to Arkansas Rehabilitation Services (ARS) as a state public procurement unit.

b) TAP staff shall maintain a list of adaptive telecommunication equipment and services available through the program. TAP staff will update the list to ensure the availability of equipment that meet the needs of eligible individuals.

c) Adaptive equipment may be distributed that does not appear on the list provided with an individual's application, but only if the alternate equipment is (1) comparably priced to equipment appearing on the list, and (2) suited to meet the individual's need for access to telecommunications service.

d) Adaptive telecommunication equipment that attaches to an existing telephone, or replace an existing telephone, will be given first priority. If first-priority equipment does not meet the individual's need for access to telecommunications service, equipment that does not directly attach to or replace an existing telephone will be considered.

e) Eligible individuals may receive no more than two (2) items of equipment that provide direct access to telecommunications service. Individuals may receive no more than four (4) items of

equipment that provide alerts to activity on a telecommunications network (e.g., an audible or visual signaler-receiver).

f) TAP staff may request that an individual demonstrate use of a particular item, in order to ensure that the equipment best meets his or her need for access to telecommunications service.

5) Ownership and Options Once Equipment is Distributed.

a) Ownership.

(i) Adaptive telecommunications equipment distributed under TAP will remain the property of ARS until two (2) years have elapsed from the date that an eligible individual takes delivery.

iii) Upon completion of the two-year period, ownership of the equipment will transfer in full to the individual. The equipment will be removed from the TAP inventory.

b) Exchanges. An eligible individual may exchange equipment if it is not functioning as anticipated with regard to the individual's disability. TAP staff will work with the individual to determine appropriate equipment to issue in exchange. The equipment originally issued will be returned to the TAP inventory.

(c) Substitutions. An eligible individual may request substitute equipment without making an exchange, but only if:

(A) The equipment was damaged or lost due to natural disaster, fire, vandalism, or theft.

(B) An insurance claim, police report, or fire report is submitted to TAP staff.

(C) The request for substitute equipment is made within thirty (30) days of the damage or loss.

Appropriate substitute equipment will be issued if the request is accepted. TAP staff may seek additional information from the individual.

d) Repairs.

(i) So long as an individual's eligibility determination is current, ARS will be responsible for repairs to equipment that result from normal wear and tear.

(ii) TAP staff will consult with the individual if repairs are requested, and may contact the vendor that provided the equipment.

(iii) If non-wireless equipment is accepted for repair, TAP staff may issue a temporary replacement. Any equipment issued as a replacement will be governed by these rules.

- (iv) Decisions by TAP staff concerning whether ARS is responsible for repairs are final.

At all times, costs related to the maintenance are the sole responsibility of the individual.

e) Returns

- (i) Equipment **must be returned** if one of the following occurs during the initial two-year period after the equipment is distributed:

- (A) The individual ceases to be a resident of Arkansas.

- (B) The individual dies, in which case the executor or administrator of the individual's estate will contact TAP to arrange for return. TAP staff reserve the option to transfer equipment to another individual in lieu of a return. Such transfers will be evaluated on a case-by-case basis. All individuals who receive transferred equipment must be eligible for TAP and will be subject to these rules.

- (C) The individual loses active telecommunications service for ninety (90) days or more.

- (D) The individual is suspended from participation in TAP (see section 6, below).

Returns must be made to TAP, or, if directed by TAP staff, to an authorized vendor. Returns must be made within 30 days of the events described above. Equipment that is functioning or capable of repair may be returned to TAP inventory.

- (ii) An individual may **choose to return** equipment at any time. TAP staff will discuss options such as referral to other programs with the individual returning the equipment.

6) Suspensions and Permanent Ineligibility.

- a) An individual will be suspended from participation in TAP if, during the initial two-year period after the equipment is distributed:

- (i) the individual sells, consigns, gifts, or otherwise officially transfers possession of the equipment to a third party;

- (ii) the individual damages or misuses the equipment in violation of the rules for TAP, or in a manner that voids the warranty for the equipment.

- b) Suspensions will last for three (3) years.

- c) Any equipment distributed to an individual suspended from participation must be returned to TAP staff within 30 days of the date the suspension takes effect.

- d) An individual will be permanently ineligible for participation in TAP if the individual:

- (i) Receives a third suspension;

(ii) Commits an act of fraud or material misrepresentation at any point during the TAP process, beginning with application. Equipment distributed to an individual determined to have committed fraud must be returned to TAP staff within 30 days of that determination.

(e) ARS reserves the right to pursue civil or criminal action against individuals who are suspended or determined permanently ineligible.

7) Appeals of Certain Determinations.

The following may be appealed to the ARS Commissioner:

a) Suspension of an individual.

b) Determination that an individual is permanently ineligible.

Appeals must be made by sending a written request to: Arkansas Rehabilitation Services – Commissioner’s Office, P.O. Box 3781, Little Rock, AR 72203:

8) Miscellaneous.

a) Eligible individuals must notify TAP staff of any permanent change of address within Arkansas. TAP staff must also be notified if an individual’s telephone number changes. Such notifications should be given in writing within ten (10) calendar days of the change.

b) Except to the extent disclosure may be required under the Arkansas Freedom of Information Act or other law, materials submitted by applicants and eligible individuals will be kept confidential.

c) At the close of each state fiscal year, TAP staff will perform the accounting:

(i) The TAP surcharge revenues collected during the fiscal year just ended will be determined.

(ii) The TAP expenditures during the fiscal year just ended will be determined. The amount of expenditures will be multiplied by three (3).

(iii) If three times the amount of expenditures is greater than the amount of surcharge revenues, no further action will be taken.

(iv) If three times the amount of expenditures is equal to, or less than, the amount of surcharge revenues, ARS will petition the Arkansas Public Service Commission to cease collection of the surcharge.

(v) ARS will not petition to reinstate collection of the surcharge until one-half (1/2) of the surplus has been exhausted. Surplus is defined as the TAP surcharge revenues determined in subsection (i).