

ARKANSAS REGISTER

Proposed Rule Cover Sheet



Secretary of State
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Little Rock, Arkansas 72201-1094
(501) 682-5070
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Name of Department _____

Agency or Division Name _____

Other Subdivision or Department, If Applicable _____

Previous Agency Name, If Applicable _____

Contact Person _____

Contact E-mail _____

Contact Phone _____

Name of Rule _____

Newspaper Name _____

Date of Publishing _____

Final Date for Public Comment _____

Location and Time of Public Meeting _____

QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL

DEPARTMENT/AGENCY Department of Commerce
DIVISION Workforce Services – Arkansas Rehabilitation Services
DIVISION DIRECTOR Joseph Baxter
CONTACT PERSON Charles Lyford, General Counsel
ADDRESS 1 Commerce Way, Suite 206; Little Rock, AR 72202
PHONE NO. 501-682-2286 FAX NO. 501-296-1687 E-MAIL charles.lyford@arkansas.gov
NAME OF PRESENTER AT COMMITTEE MEETING Charles Lyford
PRESENTER E-MAIL charles.lyford@arkansas.gov

INSTRUCTIONS

Please make copies of this form for future use.

Please answer each question **completely** using layman terms. You may use additional sheets, if necessary.

If you have a method of indexing your rules, please give the proposed citation after “Short Title of this Rule” below.

Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Jessica Whittaker
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201

1. What is the short title of this rule? Telecommunications Access Program Rules

2. What is the subject of the proposed rule? the adaptive-equipment program administered by ARS, which provides telecommunications equipment to eligible applicants with disabilities

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes ☐ No ☒

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

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes ☐ No ☒

If yes, what is the effective date of the emergency rule? N/A

When does the emergency rule expire? N/A

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act?

Yes ☐No ☒Is this a new rule? Yes ☐ No ☒If yes, please provide a brief summary explaining the regulation. N/ADoes this repeal an existing rule? Yes ☐ No ☒

If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does. N/A

Is this an amendment to an existing rule? Yes ☒ No ☐

If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled “mark-up.”** Please see attached.

Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation.

Ark. Code Ann. § 20-79-401(a)(2)(B) (authorizing Arkansas Rehabilitation Services to undertake “promulgation of procedures, rules, and criteria necessary to implement and administer” the Telecommunications Access Program).

7. What is the purpose of this proposed rule? Why is it necessary? These amendments replace the current rules for the Telecommunications Access Program, or TAP, which were last updated in 2007. Since that time, statutes affecting TAP have been enacted, such as the Transformation and Efficiencies Act of 2019 and Act 263 of 2021, which changed end-of-year accounting procedures for TAP staff.

Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b). <https://arcareered.org/publicreview>.

9. Will a public hearing be held on this proposed rule? Yes ☒ No ☐
If yes, please complete the following:

Date: October 6, 2021Time: 10 to 11 a.m.Place: 1 Commerce Way, Little Rock, AR72202

When does the public comment period expire for permanent promulgation? (Must provide a date.)

October 25, 2021

What is the proposed effective date of this proposed rule? (Must provide a date.)

January 1, 2022

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice. See attached.

13. Please provide proof of filing the rule with the Secretary of State and the Arkansas State Library as required pursuant to Ark. Code Ann. § 25-15-204(e). See attached.

14. Please give the names of persons, groups, or organizations that you expect to comment on these rules. Please provide their position (for or against) if known. Unknown at this time.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Department of Commerce

DIVISION Workforce Services - Arkansas Rehabilitation Services

PERSON COMPLETING THIS STATEMENT Charles Lyford, General Counsel

TELEPHONE 501-682-2286 **FAX** 501-296-1687 **EMAIL:** charles.lyford@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Telecommunications Access Program Rules

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

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 ☐

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 an agency is proposing a more costly rule, please state the following: N/A

How the additional benefits of the more costly rule justify its additional cost;

The reason for adoption of the more costly rule;

Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and

Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.

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

What is the cost to implement the federal rule or regulation? N/A

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	_____

What is the additional cost of the state rule? N/A

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 _____

What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

No costs to private individuals or entities are anticipated.

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

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

There should be no implementation costs associated with these amendments.

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.

These are amendments to rules for an equipment-distribution program administered by Arkansas Rehabilitation Services. This program, known as the Telecommunications Access Program or TAP, provides phone-related equipment to eligible applicants with disabilities. The current TAP rules have been in place since in 2007. Since that time, statutes affecting TAP have been enacted, such as the Transformation and Efficiencies Act of 2019 and Act 263 of 2021, which changed end-of-year accounting procedures for TAP staff.

~~DEPARTMENT~~ ARKANSAS DIVISION OF WORKFORCE ~~EDUCATION~~ SERVICES
ARKANSAS REHABILITATION SERVICES

RULES FOR THE TELECOMMUNICATIONS ACCESS PROGRAM ~~RULES~~

Rules for the ARS Telecommunications Access Program Rules

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

2) Definitions.

~~a) **Adaptive telecommunications equipment** is equipment that translates, enhances or otherwise transforms the receiving or sending of telecommunications into a form accessible to individuals with disabilities and includes equipment/devices, adaptive telephone, and other adaptive equipment that provides access to the telecommunication infrastructure.~~

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 Arkansas State state or federal income tax return, or other appropriate documentation as specified by TAP personnel. **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.

~~e) **Telecommunication service** is a service that supplies the transmission and reception of information to and from customer equipment.~~

~~d) **Eligible applicants** are individuals who have been certified as having a disability that impairs their ability to effectively access the telecommunication network and meet TAP eligibility requirements.~~

~~e) **Program** means the program developed and administered by the Arkansas Rehabilitation Services to provide the specialized equipment.~~

~~f) **Maintenance** is batteries, paper, light bulbs, artificial larynx accessories, any other miscellaneous supplies and general care.~~

3) Applicant 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.

a) Eligible applicant must--

i) Be a resident of the state of Arkansas;

ii) Meet program's financial eligibility requirements. A child's (under the age of 18 years) eligibility will be based on his/her parents' or guardians' income and residency. Income shall not

exceed \$50,000 adjusted gross income annually. If income exceeds the maximum, the equipment may be provided for 1/3 of the item's cost to the program.

iii) Have personal telecommunication service or obtain service within 30 days. If the individual lives in a nursing home, group home or other institutional care facility, the applicant must also have personal telecommunication service.

iv) Applicants not having their own telecommunications services will be evaluated on their individual situation based on documented need.

v) Be certified by one of the program approved certifying authorities as having a disability which limits or prohibits the use of the telecommunications network without specialized equipment and also certify the probable benefit of using the equipment applicable for their disability.

vi) Apply for equipment using application forms supplied by the program. If applying for new/replacement equipment, applicants must provide updated application and information every 3 years.

vii) Supply any additional information, which the program deems necessary to determine the applicant's eligibility and to assist in determining the adaptive equipment which best meets the applicant's needs.

viii) Sign an agreement to follow the program rules and cooperate with inventory follow up. The signed and dated Equipment Loan Contract should be returned within 30 days of receiving equipment.

ix) If requested, be able to demonstrate an ability to use the equipment, and

x) Agree to support and indemnify the State of Arkansas from any and all claims, damages, and expenses arising out of use or misuse of equipment.

b) Each Applicant shall be eligible for up to two primary devices that provide access to telecommunication service and up to 4 alerting devices needed to access the telecommunications network (ie. Signaler and receiver either audible or visual).

4) Adaptive telecommunication equipment provided.

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 for Equipment Once 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, so long as:

(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 will be 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 referral to other programs with the individual, as well as whether another application for TAP would be beneficial.

5) Ownership, Replacement, and Repair of Devices.

a) Equipment Ownership

~~i) Equipment is loaned to user but remains the property of the state of Arkansas for two (2) years. After the initial 2-year period, equipment may be removed from inventory and will not need to be returned unless dollar value dictates the necessity of doing so. User agrees to cooperate and comply with inventory/follow-up requests during the two (2) year time period.~~

~~ii) After two (2) years, full ownership of the equipment will be given to the recipient and the equipment becomes his/her property.~~

~~iii) If recipient is a minor, and their 18th birthday occurs within two years of issuance of equipment, all obligations and responsibilities will be transferred to them.~~

~~iv) Returns~~

~~(1) If equipment was issued within the past 2 years, the recipient must return it within 30 days in the event one of the following occurs:~~

(a) Recipient leaves the state and moves to another state.
(b) If the recipient loses telecommunication service and is not reconnected within 90 days. (c) If there is evidence of intentional abuse or neglect. TAP has the right to remove the equipment from users' home.

(d) No longer needs it.

v) Change in Personal Situation

(1) Within the first 2 years after receiving the equipment, recipient has 10 days to notify TAP of new address and phone number if they move to another address in Arkansas.

(2) Within the first 2 years of issuance of equipment, recipient may travel out of Arkansas with the equipment for short trips, vacations, or to attend an educational institution. Any out of state travel for more than 90 days requires permission of the program.

(3) If death occurs in the first two years after receipt of equipment, executor or other responsible person should contact TAP to make arrangements for possible return of the equipment if applicable or supply appropriate information to complete transfer of equipment to another eligible individual (including, but not limited to, certification of disability.)

b) Replacements

i) Applicants will not be eligible for more equipment until what they have no longer works or does not meet their needs. Equipment may be exchanged within 60 days of receipt if it does not meet their needs. TAP staff may help in determining appropriate equipment and may ask for more information to support the need for an exchange.

ii) Equipment may be exchanged if it is damaged through natural disasters.

iii) Equipment may be replaced if damaged or stolen from vandalism, theft or fire. A police or fire report must accompany the request.

iv) If a recipient's disability worsens or there is a change in their disability status, which renders the equipment inappropriate to meet their needs, they may exchange it. A statement from the certifying authority may be necessary and accompany the request.

v) Upon approval, program may replace equipment that becomes broken, non usable and/or cannot be repaired due to normal wear and tear as long as the individual meets the eligibility criteria.

e) Repairs

i) TAP is responsible for repairs for the two (2) year period after issuance if the repairs are the result of normal wear and tear on the equipment.

ii) Recipient is responsible for all repair costs after the first 2 years.

iii) Loaner equipment may be available during repair of original equipment if repair is not the result of negligence or abuse.

iv) User must pay repair and/or shipping cost resulting from misuse by user in full before device will be returned to user.

v) The maintenance and repair of wireless devices are the sole responsibility of the customer.

5) Equipment Provided.

a) Adaptive telecommunication equipment shall be provided in sufficient scope to meet the needs of individuals with all types of disabilities and shall be procured in a cost effective manner.

b) The program shall develop and maintain a list of adaptive telecommunication equipment designed to provide reasonable access to telecommunication service for individuals with a wide range of disabilities. The list will be provided with the application and certification forms. The

program will monitor the market for devices that might be added to the program to better meet individual needs and will update the list as necessary to remain current with the market.

e) Adaptive telephones or adaptive devices that attach to the telephone shall be considered first to provide access. For the majority of program applicants, adaptive equipment that attaches to or replaces the typical end unit telephone will be available on the approved list to meet their needs. The program may provide equipment that does not directly attach to or replace the phone when no other device will deliver the needed access.

d) The program may provide equipment not on the list if such equipment is necessary for telecommunication access and is comparably priced.

6. Supplies and Maintenance

a) User responsible for batteries, paper, light bulbs, artificial larynx accessories, any other miscellaneous supplies.

b) User responsible for keeping equipment clean and protected from bugs, rain, heat, pets, liquid, sticky/greasy substances and will not change or modify the equipment.

7 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.

(d) All determinations as to suspension and permanent ineligibility are final. ARS reserves the right to pursue civil or criminal action against individuals who are suspended or determined permanently ineligible.

~~a) Suspension will be 4 years from the date the incident became known.~~

~~i) Recipient will be suspended from the program if they sell, pawn, transfer ownership of equipment, willfully or negligently damage equipment including misuse or damage that voids the warranty, or violates other provisions of the rules.~~

~~ii) The equipment must remain in possession of original recipient unless appropriate transfer has been completed, or face repossession, prosecution or liability for purchase price.~~

8. Approval of Certifying Agencies and Agents

~~a) Entities desiring to be approved as a certifying agency shall request such designation from the program. The program will review agency qualifications and may require an agency to complete training provided by the program prior to approval.~~

~~b) The program will maintain a list of approved certifying agencies and those personnel of the agency who are approved to certify.~~

9 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:

~~Applicants may appeal any disapproval of an equipment request by filing a written appeal to the Arkansas Rehabilitation Services Commissioner's Office, P. O. Box 3781, Little Rock, Arkansas 72203. A copy of the Arkansas Rehabilitation Services Policy Client Rights and Appeal Decisions is available upon request.~~

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 total 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 equal to, or greater than, the amount of surcharge revenues, no further action will be taken.

(iv) If three times the amount of expenditures is less than the amount of surcharge revenues, ARS will petition the Arkansas Public Service Commission to pause collection of the surcharge or reduce the surcharge to \$.01.

(v) ARS will not petition to reinstate the surcharge, or to increase the surcharge to \$.02, until one-half (1/2) of the surplus has been exhausted. Surplus is defined as the TAP surcharge revenues determined in subsection (i).

~~v) Change in Personal Situation~~

~~(1) Within the first 2 years after receiving the equipment, recipient has 10 days to notify TAP of new address and phone number if they move to another address in Arkansas.~~

~~(2) Within the first 2 years of issuance of equipment, recipient may travel out of Arkansas with the equipment for short trips, vacations, or to attend an educational institution. Any out of state travel for more than 90 days requires permission of the program.~~

11. Confidentiality ~~All applicant information shall be kept confidential except for approved release of information for purposes specified on the application form.~~

ARKANSAS DIVISION OF WORKFORCE SERVICES
ARKANSAS REHABILITATION SERVICES

RULES FOR THE TELECOMMUNICATIONS ACCESS PROGRAM

Rules for the ARS Telecommunications Access Program

1) Program Title. This telecommunication equipment distribution shall be known as the Telecommunications Access Program, or TAP. TAP was established under Act 501 of 1995, 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 for Equipment Once Distributed.

a) Ownership.

(i) 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, so long as:

(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 will be 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 staff to arrange for return.

(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 will be returned to TAP inventory.

(ii) An individual may **choose to return** equipment at any time. TAP staff will discuss referral to other programs with the individual, as well as whether another application for TAP would be beneficial.

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 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) All determinations as to suspension and permanent ineligibility are final. ARS reserves the right to pursue appropriate civil or criminal action in the event of a suspension or ineligibility determination.

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 written request mailed to: Arkansas Rehabilitation Services – Commissioner’s Office, P.O. Box 3781, Little Rock, AR 72203:

8) End-of-year accounting.

At the close of each state fiscal year, TAP staff will complete the following steps to ensure compliance with Act 263 of 2021:

(i) Determine the surcharge revenues collected during the fiscal year just ended.

(ii) Determine the total expenditures during the fiscal year just ended.

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

(iv) If three times the amount of expenditures is less than the amount of surcharge revenues, ARS will petition the Arkansas Public Service Commission to pause collection of the surcharge, or reduce the surcharge to \$.01.

(v) ARS will not petition to reinstate the surcharge, or to increase the surcharge to \$.02, until one-half (1/2) of the surplus has been exhausted. Surplus is defined as the surcharge revenues determined in subsection (i).

9) Miscellaneous.

a) Eligible individuals must notify TAP staff of any permanent change of address. 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.