

ARKANSAS REGISTER



Proposed Rule Cover Sheet

Secretary of State
John Thurston
500 Woodlane Street, Suite 026
Little Rock, Arkansas 72201-1094
(501) 682-5070
www.sos.arkansas.gov



Name of Department Arkansas Department of Health
Agency or Division Name Div. of Health Related Boards & Commissions
Other Subdivision or Department, If Applicable Arkansas State Board of Dental Examiners
Previous Agency Name, If Applicable _____
Contact Person Meredith Rogers
Contact E-mail meredith.rogers@arkansas.gov
Contact Phone 501-682-2085

Name of Rule XXV: Licensure Fees
Newspaper Name Arkansas Democrat-Gazette
Date of Publishing June 26-28, 2022
Final Date for Public Comment July 26, 2022
Location and Time of Public Meeting There were no comments.



Arkansas Department of Health

Arkansas State Board of Dental Examiners

101 E. Capitol Ave., Suite 111 • Little Rock, Arkansas 72201 • (501) 682-2085 • Fax: (501) 682-3543 • asbde@Arkansas.gov

Governor Asa Hutchinson

José Romero, MD, Secretary of Health

Meredith Rogers, Executive Director

PROPOSED AMENDMENT TO THE ARKANSAS STATE BOARD OF DENTAL EXAMINERS

PURPOSE

The Arkansas Department of Health is seeking Governor Hutchinson's review of proposed amendments to the Board of Dental Examiners Rule promulgated by the Board.

BACKGROUND

Pursuant to ACA 17-82-208 the Board has authority to promulgate rules necessary to carry out the functions of the Board. Legislation was enacted in the previous session that affected the Board's administrative functions and amendment to the rules would be required. The Board and legal counsel prepared the attached article as a result of this legislation. The Board approved this article at their September 10, 2021 meeting.

KEY POINTS

The proposed article:

- Establishes the licensure/application fees that are charged by the Arkansas State Board of Dental Examiners.
- Provides an initial fee waiver for eligible low-income individuals.
- Complies with Acts 725 and 1101 of 2021.

RECOMMENDATION

We recommend that the proposed article to the Board's rules be approved as proposed by the Board.

1 State of Arkansas

As Engrossed: S3/10/21

2 93rd General Assembly

A Bill

3 Regular Session, 2021

SENATE BILL 153

4

5 By: Senators Gilmore, *B. Ballinger, Beckham, Bledsoe, B. Davis, Flipppo, T. Garner, K. Hammer, Hester,*
6 *B. Johnson, D. Sullivan, C. Tucker, D. Wallace*

7 By: Representatives Ray, *Beaty Jr., M. Berry, Boyd, Brooks, Brown, Furman, Haak, McCollum,*
8 *Underwood, Wardlaw*

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For An Act To Be Entitled

11

AN ACT TO CREATE THE WORKFORCE EXPANSION ACT OF 2021;

12

AND FOR OTHER PURPOSES.

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14

15

Subtitle

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TO CREATE THE WORKFORCE EXPANSION ACT OF

17

2021.

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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

21

22 SECTION 1. Arkansas Code Title 4, Chapter 25, Subchapter 1, is amended
23 to add an additional section to read as follows:

24 4-25-110. Fee waiver for certain individuals.

25 (a) Notwithstanding any law to the contrary, the initial filing fees,
26 permit fees, and licensing fees associated with the formation of a business
27 in this state shall be waived for applicants who meet the requirements in the
28 Workforce Expansion Act of 2021, § 17-4-101 et seq.

29 (b) Appropriate state entities shall:

30 (1) Publish notice of the fee waiver on:

31 (A) The website maintained by the appropriate state
32 entity; and

33 (B) Any relevant forms that an applicant is required to
34 complete; and

35 (2) Promulgate any necessary rules to implement this section.

36



1 SECTION 2. Arkansas Code Title 17, is amended to add an additional
2 chapter to read as follows:

3 Chapter 4 – Workforce Expansion Act of 2021

4
5 17-4-101. Title.

6 This chapter shall be known and may be cited as the "Workforce
7 Expansion Act of 2021".

8
9 17-4-102. Legislative findings – Purpose.

10 (a) The General Assembly finds that:

11 (1) Entrepreneurs and workers must pay various fees in order to
12 work in a government-regulated profession or occupation or to start a small
13 business in Arkansas;

14 (2) Families trying to break the cycle of government dependency
15 should not have to pay the state to earn a living; and

16 (3) Arkansas should waive initial fees associated with
17 occupational and professional regulations and the formation of a business for
18 low-income individuals.

19 (b) It is the purpose of this chapter to increase access to
20 professional and occupational licenses that would otherwise be cost
21 prohibitive for certain individuals.

22
23 17-4-103. Definitions.

24 As used in this chapter:

25 (1) "License" means a license, certificate, registration,
26 permit, or other form of authorization required by law or rule that is
27 required for an individual to engage in a particular occupation or
28 profession; and

29 (2)(A) "Licensing entity" means an office, board, commission,
30 department, council, bureau, or other agency of state government having
31 authority to license, certify, register, permit, or otherwise authorize an
32 individual to engage in a particular occupation or profession.

33 (B) "Licensing entity" does not include a political
34 subdivision of the state or any other local or regional governmental entity,
35 including without limitation a city of the first class, a city of the second
36 class, an incorporated town, or a county.

1 17-4-104. Fee waiver.

2 (a) Notwithstanding any law to the contrary, a licensing entity shall
3 not require an initial fee for individuals who are seeking to receive a
4 license in this state if the applicant:

5 (1) Is receiving assistance through the Arkansas Medicaid
6 Program, the Supplemental Nutrition Assistance Program, the Special
7 Supplemental Nutrition Program for Women, Infants, and Children, the
8 Temporary Assistance for Needy Families Program, or the Lifeline Assistance
9 Program;

10 (2) Was approved for unemployment within the last twelve (12)
11 months; or

12 (3) Has an income that does not exceed two hundred percent
13 (200%) of the federal poverty income guidelines.

14 (b) The waiver of the initial fee does not include fees for:

15 (1) A criminal background check;

16 (2) An examination or a test; or

17 (3) A medical or drug test.

18 (c) The Department of Human Services and the Division of Workforce
19 Services shall collaborate with a licensing entity concerning verification of
20 eligibility for public benefits for applicants, which may include obtaining a
21 signed consent form from the applicant.

22

23 17-4-105. Licensing entity duties.

24 A licensing entity shall:

25 (1) Publish notice of the fee waiver on:

26 (A) The website maintained by the licensing entity; and

27 (B) Any relevant forms that an applicant is required to
28 complete; and

29 (2) Promulgate any necessary rules to implement this chapter.

30

31 SECTION 3. EFFECTIVE DATE.

32 SECTIONS 1 and 2 of this act shall be effective on and after January 1,
33 2022.

34

35 /s/Gilmore

36 APPROVED: 4/15/21

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021

A Bill

HOUSE BILL 1937

4
5 By: Representative Gonzales

For An Act To Be Entitled

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7
8 AN ACT TO AMEND ARKANSAS LAW CONCERNING
9 ADMINISTRATIVE FEES AND PENALTIES; TO AMEND THE LAW
10 CONCERNING REVIEW OF AGENCY RULES BY THE LEGISLATIVE
11 COUNCIL; AND FOR OTHER PURPOSES.

Subtitle

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14 TO AMEND ARKANSAS LAW CONCERNING
15 ADMINISTRATIVE FEES AND PENALTIES; AND TO
16 AMEND THE LAW CONCERNING REVIEW OF AGENCY
17 RULES BY THE LEGISLATIVE COUNCIL.

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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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23 SECTION 1. Arkansas Code § 10-3-309(f), concerning review and approval
24 of state agency rules, is amended to add an additional subdivision read as
25 follows:

26 (4) A committee or subcommittee under this section considering a
27 rule containing a fee or penalty submitted in accordance with § 25-15-105 is
28 not required to state the grounds under subdivision (f)(1) of this section
29 when not approving a rule containing a fee or penalty, and may choose not to
30 approve a rule containing a fee or penalty submitted under § 25-15-105 for
31 any reason.

32

33 SECTION 2. Arkansas Code § 25-15-105 is amended to read as follows:
34 25-15-105. Administrative fees and penalties.

35 (a) As used in this section, "agency" means the same as defined at §
36 25-15-202.



1 (b)(1) An agency shall not assess a fee or penalty without specific
 2 statutory authority to:

- 3 (A) Assess a certain type and amount of fee or penalty; or
- 4 (B) Impose a fee or penalty in general.

5 ~~(2)(A) A fee or penalty established in the rules of an agency~~
 6 ~~before the effective date of this section that does not comply with~~
 7 ~~subdivision (b)(1) of this section may remain in effect until July 1, 2013,~~
 8 ~~but shall not be increased above the amount established by the agency for~~
 9 ~~that fee or penalty as of the effective date of this section~~ An agency
 10 assessing or imposing a fee or penalty shall promulgate the fee or penalty by
 11 rule.

12 (B) An agency is not required to promulgate a fee or
 13 penalty by rule if the specific amount of the fee or penalty is set by
 14 statute; and

15 (C) A rule assessing or imposing a fee or penalty shall be
 16 submitted to Legislative Council for review and approval before a fee or
 17 penalty may be assessed or imposed by the agency.

18 (c) Subsection (b) of this section does not affect an agency's
 19 authority to deny, suspend, and revoke licenses within its regulatory
 20 authority.

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APPROVED: 5/3/21

QUESTIONNAIRE
FOR FILING PROPOSED RULES WITH THE
ARKANSAS LEGISLATIVE COUNCIL

DEPARTMENT/AGENCY Arkansas Department of Health
DIVISION Division of Health Related Boards & Commissions/Arkansas State Board of Dental Examiners
DIVISION DIRECTOR Matt Gilmore/Meredith Rogers
CONTACT PERSON Meredith Rogers
ADDRESS 101 E. Capitol Avenue, Suite 111, Little Rock AR 72201
PHONE NO. (501) 682-2085 **FAX NO.** (501) 682-3543 **E-MAIL** meredith.rogers@arkansas.gov
NAME OF PRESENTER AT COMMITTEE MEETING Meredith Rogers
PRESENTER E-MAIL meredith.rogers@arkansas.gov

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this
- D. Rule" below.
- E. Submit two (2) copies of the 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 C. Sutton
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?

2. What is the subject of the proposed rule?

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.

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? _____

When does the emergency rule expire? _____

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes No

5. Is this a new rule? Yes No If yes, please provide a brief summary explaining the rule.

This new rule establishes application/licensure fees that are charged by the agency, and provides an initial fee waiver for eligible low-income individuals.

Does 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.

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."

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

Arkansas Code Annotated Section 17-82-208

7. What is the purpose of this proposed rule? Why is it necessary?

The purpose of this proposed rule is to maintain compliance with Acts 725 and 1101 of 2021, requiring the board's licensure/application fees to be promulgated in its rules and to provide an initial fee waiver for eligible low-income individuals.

8. 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://www.healthy.arkansas.gov/programs-services/topics/arkansas-state-board-of-dental-examiners>

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

Date: 01/14/2022

Time: 9:00 am

Place: 101 E. Capitol Avenue (Cox Conference Room - basement), Little Rock AR 72201

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

01/14/2022

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

02/01/2022

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 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.

Arkansas State Dental Association (Billy Tarpley, Executive Director)

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Department of Health

DIVISION Division of Health Related Boards & Commissions/Arkansas State Board of Dental Examiners

PERSON COMPLETING THIS STATEMENT Meredith Rogers

TELEPHONE NO. (501) 682-2085 **FAX NO.** (501) 682-3543 **EMAIL:** meredith.rogers@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two (2) copies with the Questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Fees

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

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

n/a

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

n/a

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

n/a

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

n/a

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

Next Fiscal Year

General Revenue \$ 0.00
 Federal Funds \$ 0.00
 Cash Funds \$ 0.00
 Special Revenue \$ 0.00
 Other (Identify) \$ 0.00
 Total \$ 0.00

General Revenue \$ 0.00
 Federal Funds \$ 0.00
 Cash Funds \$ 0.00
 Special Revenue \$ 0.00
 Other (Identify) \$ 0.00
 Total \$ 0.00

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

Current Fiscal Year

Next Fiscal Year

General Revenue \$ 0.00
 Federal Funds \$ 0.00
 Cash Funds \$ 0.00
 Special Revenue \$ 0.00
 Other (Identify) \$ 0.00
 Total \$ 0.00

General Revenue \$ 0.00
 Federal Funds \$ 0.00
 Cash Funds \$ 0.00
 Special Revenue \$ 0.00
 Other (Identify) \$ 0.00
 Total \$ 0.00

5. 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.

Current Fiscal Year

Next Fiscal Year

\$ Unknown at this time

\$ Unknown at this time

The impact to the Board's income is unknown at this time, but it will have a positive impact on low-income applicants.

6. 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.

Current Fiscal Year

Next Fiscal Year

\$ 0

\$ 0

n/a

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.

MARKUP

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Article XXV: FEES

<u>Dental License by Examination</u>	<u>\$150</u>
<u>Dental License by Credentials/Reciprocity</u>	<u>\$1,000</u>
<u>Dental License by Credentials (for educators of CODA-approved programs)</u>	<u>\$150</u>
<u>Dental Specialty License</u>	<u>\$300</u>
<u>Collaborative Care Permit for Dentists</u>	<u>\$500</u>
<u>Hygiene License by Examination</u>	<u>\$100</u>
<u>Hygiene License by Credentials</u>	<u>\$350</u>
<u>Collaborative Care Permit I for Hygienists</u>	<u>\$100</u>
<u>Collaborative Care Permit II for Hygienists</u>	<u>\$150</u>
<u>Corporation Registration</u>	<u>\$25</u>
<u>General/Deep Sedation Permit</u>	<u>\$500</u>
<u>Moderate Sedation Permit</u>	<u>\$150</u>
<u>Local Anesthesia Permit</u>	<u>\$25</u>
<u>Fictitious Name Request</u>	<u>\$50</u>
<u>Facility Permit (general/deep sedation)</u>	<u>\$500</u>
<u>Facility Permit (moderate sedation)</u>	<u>\$50</u>
<u>Mobile Dental Facility Permit</u>	<u>\$1,000</u>
<u>Registration for Dental Assistants</u>	<u>\$75</u>

Renewal

<u>Dentist</u>	<u>\$300</u>
<u>Corporations (Dentists)</u>	<u>\$20 each</u>
<u>Anesthesia Permit (Dentists)</u>	<u>\$80 each</u>
<u>Dental Hygienists</u>	<u>\$100</u>
<u>Reinstatement for Dentists and Hygienists</u>	<u>\$200 plus renewal fee</u>
<u>Dental Assistant</u>	<u>\$50</u>
<u>Facility Permit</u>	<u>\$80</u>

Other

<u>RDA Educational Packet</u>	<u>\$50</u>
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<u>Dental Practice Act</u>	<u>\$25</u>
<u>Listings (DDS, RDH, or RDA)</u>	<u>\$100</u>
<u>License Verification</u>	<u>\$25</u>
<u>Wall Certificate Remake for dentists & hygienists</u>	<u>\$25</u>
<u>Reprocessing Fee for Renewals</u>	<u>\$25</u>
<u>NSF (returned) Check Fee</u>	<u>\$25</u>
<u>Background Checks</u>	<u>\$38.50</u>
<u>Evaluator for Facility Permit</u>	<u>\$150/400 max per day for multiple evaluations</u>

Fee Waiver

1. Pursuant to Act 725 of 2021, an applicant may receive a waiver of the initial licensure fee, if eligible. Eligible applicants are applicants who:
 - 1) Are receiving assistance through the Arkansas, or current state of residence equivalent, Medicaid Program, the Supplemental Nutrition Assistance Program (SNAP), the Special Supplemental Nutrition Program for Women, Infants, and Children (SSNP), the Temporary Assistance for Needy Families Program (TEA), or the Lifeline Assistance Program (LAP);
 - 2) Were approved for unemployment within the last twelve (12) months; or
 - 3) Have an income that does not exceed two hundred percent (200%) of the federal poverty income guidelines.
2. Applicants shall provide documentation showing their receipt of benefits from the appropriate State Agency.
 - 1) For Medicaid, SNAP, SSNP, TEA, or LAP, documentation from the Arkansas Department of Human Services (DHS), or current state of residence equivalent agency;
 - 2) For unemployment benefits approval in the last twelve (12) months, the Arkansas Department of Workforce Services, or current state of residence equivalent agency; or
 - 3) For proof of income, copies of all United States Internal Revenue Service Forms, indicating applicant's total personal income for the most recent tax year e.g., "W2," "1099," etc.
3. Applicants shall attest that the documentation provided under subsection 2. is a true and correct copy and fraudulent or fraudulently obtained documentation shall be grounds for denial or revocation of license.

Article XXV: FEES

CLEAN VERSION

Dental License by Examination	\$150
Dental License by Credentials/Reciprocity	\$1,000
Dental License by Credentials (for educators of CODA-approved programs)	\$150
Dental Specialty License	\$300
Collaborative Care Permit for Dentists	\$500
Hygiene License by Examination	\$100
Hygiene License by Credentials	\$350
Collaborative Care Permit I for Hygienists	\$100
Collaborative Care Permit II for Hygienists	\$150
Corporation Registration	\$25
General/Deep Sedation Permit	\$500
Moderate Sedation Permit	\$150
Local Anesthesia Permit	\$25
Fictitious Name Request	\$50
Facility Permit (general/deep sedation)	\$500
Facility Permit (moderate sedation)	\$50
Mobile Dental Facility Permit	\$1,000
Registration for Dental Assistants	\$75
Renewal	
Dentist	\$300
Corporations (Dentists)	\$20 each
Anesthesia Permit (Dentists)	\$80 each
Dental Hygienists	\$100
Reinstatement for Dentists and Hygienists	\$200 plus renewal fee
Dental Assistant	\$50
Facility Permit	\$80
Other	
RDA Educational Packet	\$50

Dental Practice Act	\$25
Listings (DDS, RDH, or RDA)	\$100
License Verification	\$25
Wall Certificate Remake for dentists & hygienists	\$25
Reprocessing Fee for Renewals	\$25
NSF (returned) Check Fee	\$25
Background Checks	\$38.50
Evaluator for Facility Permit	\$150/400 max per day for multiple evaluations

Fee Waiver

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 - 1) Are receiving assistance through the Arkansas, or current state of residence equivalent, Medicaid Program, the Supplemental Nutrition Assistance Program (SNAP), the Special Supplemental Nutrition Program for Women, Infants, and Children (SSNP), the Temporary Assistance for Needy Families Program (TEA), or the Lifeline Assistance Program (LAP);
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