

POLICY 1089 — CRITERIA FOR EXPANSION OF DDS SERVICES

1. Purpose. This policy implements Ark. Code Ann. § 20-48-105, as amended by Act 645 of 2007.

2. Scope. This policy applies to all Division of Developmental Disabilities Services (“DDS” or “division”) staff charged with implementation of licensure requirements, and to DDS licensed community based providers of nonresidential services covered under the Arkansas DDTCS program to individuals who have a developmental disability. This policy does not apply to DDS Waiver Services or Early Intervention Services

3. Definitions.

A. Existing Provider:

- 1) A DDS licensed nonprofit community program that offers nonresidential services covered under the Arkansas DDTCS program at an approved site within the county in question, or;
- 2) A DDS licensed nonprofit community program that does not have an approved site in a county but provides developmental disabilities services covered under the Arkansas DDTCS program to 10 or more individuals who reside in that county.

B. Underserved: A county is underserved if:

- 1) There is no DDS licensed provider operating a site offering Adult Development or Preschool community-based, nonresidential services covered by the Arkansas DDTCS program in the county.
- 2) There is at least one site operated by a DDS licensed provider in the county, but a service covered under the DDTCS program is unavailable to an eligible recipient at an existing site in that county.
- 3) There is at least one site operated by a DDS licensed provider in the county, but a parent, guardian, recipient, or prospective eligible individual who has exhausted the grievance mediation procedure set forth in section 5 of this policy remains dissatisfied and desires another choice of providers of DDTCS covered services in that county.

4. Existing Provider Expansion: Existing providers having no approved site within the county may purchase, construct, or lease a site in the county subject to DDS site approval. Approval is limited to providers that serve at least 10 eligible, enrolled, and participating residents of that county in one category of service, either adult development or preschool services, covered under the Arkansas DDTCS program.

5. Dissatisfied Parent, Guardian, Recipient, or Prospective Eligible Individual Grievance Mediation Procedure. If a parent, guardian, recipient, or prospective eligible individual provides DDS with a written statement of dissatisfaction with an eligible individual's current service provider, and asserts that other providers in the recipient's county of residence cannot meet his or her needs, DDS will schedule mediation between authorized representatives of the parties as soon as practicable but no later than 45 days from the date of receipt of the statement of dissatisfaction.

- A. Every parent, guardian, recipient will be provided notice by their chosen provider of available service options and grievance procedures, including DDS contact information regarding grievances in compliance with DDS licensure standards.
- B. If DDS receives an allegation that the statement of dissatisfaction was solicited in violation of DDS licensure policy, DDS shall investigate the allegation. The individual or organization making the allegation shall provide DDS with all documents, supporting materials, and other relevant information which form the basis of the allegation within ten (10) business days.
- C. If the mediation fails to resolve the grievance, and parent, guardian, recipient, or prospective eligible individual desires another choice of provider, DDS shall declare the county underserved as defined in section 3(B)(3) of this policy.
- D. The purpose of the mediation process is to provide a mechanism to resolve a legitimate grievance brought by a parent, guardian, recipient, or prospective eligible individual, and is subject to the following provisions:
 - (i) The grievance mediation procedure is intended to resolve disputes related to dissatisfaction with the quality or quantity of services provided or available.
 - (ii) In the exercise of its discretion, if DDS determines that a statement of dissatisfaction is wholly unrelated to the quality or quantity of services provided or available, the division may decline to schedule the mediation.
 - (iii) In the exercise of its discretion, if DDS determines that a statement of dissatisfaction is wholly unrelated to the quality or quantity of services provided or available, the division shall not declare the recipient's county of residence as underserved as defined in section 3(B)(3).

6. General Provisions. DDS may authorize the expansion of the number of developmental disabilities service providers sites in a specific county if it determines the county as underserved. Following such a determination, DDS will apply the following procedures:

- A.** DDS will send written notice that a county is underserved to all qualified nonprofit community program as defined in Ark. Code Ann. §20-48-101(6)(A) that are existing providers in the underserved county. The notified providers shall have 30 days from receipt of notice to state in writing to DDS whether they wish to alter their operations to eliminate the reason or reasons the county is underserved.
 - 1) Any provider stating an intention to alter its operations must accomplish the alteration within 90 days from the date it receives notification from DDS that the county is underserved.
 - 2) The 90 day period may be extended by DDS if the provider demonstrates in writing to the division that there is good cause for the delay. In no event shall an aggregate of 180 days be exceeded unless substantial progress has been made towards meeting site approval requirements. DDS shall consider the following: Whether a lease has been secured or construction commenced; whether staff has been recruited or hired for employment.
 - 3) If no existing provider of a qualified nonprofit community program states an intention to alter its services, or if a provider expresses an intention to alter its services but fails to accomplish the alteration before deadlines stated above DDS shall proceed to the following step.
- B.** DDS shall send written notice that the county is underserved to all qualified nonprofit community programs, as defined in Ark. Code Ann. §20-48-101(6)(A), having one or more approved sites within the State of Arkansas. The notified providers shall have 30 days from receipt of notice to state in writing to DDS whether they wish to expand operations to eliminate the reason or reasons that the county is underserved.
 - 1) Any provider stating an intention to alter its operations must accomplish the alteration within 90 days from the date it receives notification from DDS that the county is underserved.
 - 2) The 90 day period may be extended by DDS if the provider demonstrates in writing to the division that there is good cause for the delay. In no event shall an aggregate of 180 days be exceeded unless substantial progress has been made towards meeting site approval requirements. DDS shall consider the following: Whether a lease has been secured or construction commenced; whether staff has been recruited or hired for employment.

- 3) If no existing provider of a qualified nonprofit community program states an intention to alter its services, or if a provider expresses an intention to alter its services but fails to accomplish the alteration before deadlines stated above DDS shall proceed to the following step.

C. DDS will publish notice to the general public in statewide print media that the agency is accepting applications from any accredited nonprofit entity, as defined in Ark. Code Ann. §20-48-101(1)(A), that does business in the underserved county. Any such entity shall have 30 days from the date of publication to state in writing that it desires to obtain a license and offer the services in question.

- 1) Any accredited nonprofit entity that states in writing an intention to begin providing services under this section shall have 90 days from the date it received notification from DDS to obtain a license from DDS and begin provision of the services in question.
- 2) The 90 day period may be extended by DDS if the provider demonstrates in writing to the division that there is good cause for the delay. In no event shall an aggregate of 180 days be exceeded unless substantial progress has been made towards meeting site approval requirements. DDS shall consider the following: Whether a lease has been secured or construction commenced; whether staff has been recruited or hired for employment
- 3) If no in-state accredited nonprofit entity indicates a desire to apply for a DDS license, or if such an organization fails to obtain a license and begin providing services prior to the deadline, DDS will accept applications from accredited nonprofit organization from outside the State of Arkansas.

7. Limitation: Existing providers who are on a regular with requirements; temporary, or provisional licensure status with DDS, or are excluded under DHS Policy 1088 may not file any notice or application to expand under this policy.

Effective Date:

References: Ark. Code Ann. §20-48-101; § 20-48-105.