

ARKANSAS REGISTER

Proposed Rule Cover Sheet



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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 _____

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT _____

DIVISION _____

PERSON COMPLETING THIS STATEMENT _____

TELEPHONE NO. _____ **FAX NO.** _____ **EMAIL:** _____

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 _____

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 Does this proposed, amended, or repealed rule have a financial impact?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;
 - (b) The reason for adoption of the more costly rule;
 - (c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and
 - (d) Whether the reason is within the scope of the agency's statutory authority, and if so, please explain.
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 _____

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____

Other (Identify) _____

Total _____

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, 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

\$ _____

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

\$ _____

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;

This rule establishes the eligibility criteria and covered services under the DDS Children with Chronic Health Conditions (CHC) program. CHC is Arkansas's Children with Special Health Care Needs (CSHCN) program under the Maternal and Child Health Block Grant.

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

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(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;

This rule is necessary for DHS to access federal funds under the Maternal and Child Health Block Grant.

(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.

Statement of Necessity and Rule Summary Children with Chronic Health Conditions

Statement of Necessity

The rule establishes the eligibility criteria to receive services and the types of services that will be provided under Arkansas's Children with Special Health Care Needs program, the Children with Chronic Health Conditions (CHC) program and will enable the state to access federal funding for this purpose.

Rule Summary

This rule establishes the eligibility criteria to receive services under the Children with Chronic Health Conditions (CHC) program. CHC is Arkansas's Children with Special Health Care program that enables the state to access federal funding to assist children with chronic illness or disability and their parent or guardian. This rule contains eligibility criteria based on residency, medical diagnoses, age, and household income. The rule excludes recipients already receiving services in other programs.

The rule establishes the types of services and supports available to recipients within certain limits. It provides a process for a parent or guardian of a child to appeal a denial of services. Finally, the rule sets out provider requirements and the billing procedures they must use.

ARKANSAS DEPARTMENT OF HUMAN SERVICES
DIVISION OF DEVELOPMENTAL DISABILITIES SERVICES
CHILDREN WITH CHRONIC HEALTH CONDITIONS
DDS DIRECTOR'S OFFICE POLICY MANUAL

<u>Policy Type</u>	<u>Subject of Policy</u>	<u>Policy No.</u>
Administrative	Children with Chronic Health Conditions Program	

1. Purpose. To establish the eligibility criteria and covered services under the Children with Chronic Health Conditions (CHC) program of the Department of Human Services, Division of Developmental Disabilities Services (DDS).
2. Mission. CHC is committed to ensuring that Children with Special Health Care Needs (CSHCN) in Arkansas receive the services and support necessary to achieve their greatest potential. CHC will work together with families and health care providers to promote assessment, intervention, education, and coordination of services.
3. Authority. Title V of the Social Security Act, codified at 42 USC §§ 701 et seq.
4. Definitions. For purposes of this policy, the following definitions apply:
 - A. *Activities of Daily Living (ADLs)*—The basic tasks of everyday life, including eating, communication, dressing, mobility, bathing, and toileting.
 - B. *Children with Chronic Health Conditions Program (CHC)* – Arkansas’s program for CSHCN funded by the Maternal and Child Health Services Block Grant. The CHC program is housed within the Division of Developmental Disabilities Services (DDS) in the Department of Human Services (DHS).
 - C. *Children with Special Health Care Needs (CSHCN)* - The Maternal and Child Health Bureau (MCHB) broadly defines CSHCN as: “.... those that have or are at increased risk for chronic physical, developmental, behavioral, or emotional conditions and that also require health and related services of a type or amount beyond that required by children generally.”
5. Referrals. Any person or organization may refer a child for diagnosis or treatment of an eligible condition.

Referrals must be made to DDS Centralized Intake and Referral Unit. Contact information can be found [here](#).
6. Eligibility Criteria. Eligibility must be determined on an annual basis.
 - A. *Residency Requirement.*

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CHILDREN WITH CHRONIC HEALTH CONDITIONS
DDS DIRECTOR'S OFFICE POLICY MANUAL

Policy Type	Subject of Policy	Policy No.
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- 1) The child and his or her family must be current residents of Arkansas at the time services are provided. Proof of residency will be required.
 - 2) If the child is not a naturalized citizen (e.g., the parent has a work visa), the family must provide proof the child has been in the United States for twelve (12) consecutive months and current residency in Arkansas.
 - 3) The individual applying for services on behalf of the child must:
 - a. Be the parent or guardian of the child; and
 - b. Be a current resident of the state of Arkansas.
- B. *Medical eligibility.* A child diagnosed with a condition that causes chronic illness or disability may be eligible for CHC services when the illness or disability results in the need for periodic pediatric specialty treatment and follow-up. The family must provide medical documentation of the illness or disability and the continued need for periodic treatment and follow-up by a specialty physician.
- C. *Age Restrictions.* A child is eligible to receive CHC services if they are under eighteen (18) years of age and meet all other eligibility criteria.
- D. *Financial eligibility.* The family's annual household gross income cannot exceed 250% of the Federal Poverty Level (FPL).
- 1) The "household" includes: the parents, step-parents, the child, all siblings, half-siblings, and step-siblings. The household does not include any siblings over eighteen (18) years of age, a significant other or the significant other's child(ren), and other relatives.
 - 2) *Income.*
 - a. Income includes regular salary (including military income and income from self-employment) and overtime, as well as:
 - cost of employer furnished housing or utilities,
 - per diem for travel to and from work,
 - bonuses,
 - tips,
 - educational stipends, grants, scholarships, and fellowships to the extent they cover living expenses
 - unemployment benefits,

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DIVISION OF DEVELOPMENTAL DISABILITIES SERVICES
CHILDREN WITH CHRONIC HEALTH CONDITIONS
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- stock and bond dividends,
- charitable contributions,
- Social Security Benefits,
- adoption subsidy, and
- royalties.

b. Income does NOT include:

- Income from those not counted in the household;
- Income from the siblings, half-sibling, and step-siblings;
- Grants, Scholarships, and fellowships to the extent they cover educational expenses (tuition, books, etc.);
- Foster Care Board Payments; and
- Income from the child, unless emancipated.

- 1) If parents have joint custody, income is determined based on the parent who has primary physical custody of the child.
- 2) Failure to truthfully disclose the following may result in denial of the CHC application:
 - All sources of income
 - Pending litigation
 - Other sources of payment, such as awards and settlements for medically necessary services.

7. Exclusions.

The following are not eligible to receive CHC Services:

- A. Children who are eligible to receive case management services through another program (i.e., children enrolled in a Provider-Led Arkansas Shared Savings Entity (PASSE)).
- B. Recipients of the 1915(c) Autism Waiver.
- C. Recipients receiving Hospice Care without concurrent disease modifying treatment.

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DIVISION OF DEVELOPMENTAL DISABILITIES SERVICES
CHILDREN WITH CHRONIC HEALTH CONDITIONS
DDS DIRECTOR'S OFFICE POLICY MANUAL

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Administrative	Children with Chronic Health Conditions Program	

- D. Children living in a residential care setting, such as a skilled nursing facility or intermediate care facility. This includes residential treatment facilities for children with behavioral health diagnoses.

8. Assistance Categories:

CHC may provide assistance with the following categories of services and supports, up to the applicable service and support limits. Service limits are subject to change based on available funding and are published [here](#).

- A. *Medically Necessary Item or Equipment.* A medically necessary item or piece of equipment that is prescribed by a primary care physician (PCP), Specialty Physician, Physician's Assistant, or Advance Practice Registered Nurse that addresses the eligible condition(s) and is not otherwise covered by insurance, including Medicaid State Plan or Medicaid Early and Periodic Screening, Diagnosis, and Treatment (EPSDT).

The following will **not** be covered by CHC:

- Continuous Positive Airway Pressure (CPAP Machines)/Bilevel Positive Airway Pressure (BiPAP Machines)
- Intrapulmonary Percussive Ventilator (IPV)
- Insufflator/Exsufflator (Cough Assist Machines) Machines, unless the child is not eligible for Medicaid coverage.
- Prescription or over-the-counter medication.

- B. *Parent Education.* Fees and necessary expenses associated with parents attending conferences and workshops related to the needs of an eligible child. Parent education may also include purchase of books, tapes, or other educational materials. The activity or material must assist the parent in acquiring knowledge of their eligible child's CHC qualifying disability or delay.

- C. *Medical Camps.* Camps specifically designed to provide opportunities for children with medical needs or developmental delays to increase independence and learn from social interactions with peers. The camp must be designed to meet that child's specific medical or developmental needs.

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D. *Adaptive Equipment.* Any assistive technology device, equipment, or product system that is used to increase, maintain, or improve the performance of ADLs for an eligible child. This excludes any environmental modifications. Adaptive equipment may be purchased off-the-shelf, modified, or custom made. All adaptive equipment must be prescribed by an appropriate, licensed clinician.

E. *Respite Services.* Respite services provide temporary relief, allowing the primary caregiver of a child with a disability or special health care needs to have an occasional break from caring for the child.

1. The primary caregiver must be the guardian of the child.
2. To qualify for respite services, the child must have deficits in at least two (2) ADLs or must have recently had an emergency or crisis that requires respite to allow the situation to de-escalate.

Note: An example of an emergency or crisis would be when the primary caregiver of the child is scheduled for surgery and will need assistance.

3. Approved respite funding must be paid to a Medicaid enrolled provider of respite, supportive living, or personal care services.

F. *Vehicle Modification.* Modification to a vehicle that allows the vehicle to be accessible to an eligible child and increase the eligible child's mobility or access to services. The vehicle must be owned by the family or the eligible individual. Examples of allowed vehicle modifications include: lift installation or wheelchair carrier. The modification must be in accordance with Americans with Disabilities Act (ADA) Requirements and necessary to maintain the individual in the community. Vehicle modifications will only be provided once to each eligible child or his or her family.

9. CHC Providers and Billing:

A. *Enrollment.* To receive payment for CHC services, the individual or entity must be enrolled as a Medicaid Provider or enrolled as a CHC provider and be willing to accept Electronic Funds Transfer (EFT).

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- B. *Prohibition on Balance Billing.* Providers must agree that payment from CHC will be considered payment in full and the eligible child and his or her family may not be billed the balance.
- C. *Prior Authorization.* All covered services for eligible children must be prior authorized prior to billing. A request for prior authorization can be submitted through the Medicaid Management Information System (MMIS) portal.
- D. *Deductibles and Coinsurance.* For covered services paid for by private insurance, CHC may assist with the deductible or coinsurance amount up to one (1) month of household gross monthly, provided it does not exceed the service limit.
- E. *Payor of last resort.* CHC will not pay for covered services before all other funding sources have been exhausted.
- 1) CHC cannot pay for any service that would be covered by medical insurance, including Medicaid or Medicare.
 - 2) If it appears that the family or child would be eligible for Medicaid (ARKids, TEFRA, or SSI) or for insurance through the Affordable Care Act (ACA) the family must apply for coverage before they can be eligible for CHC services.
 - 3) CHC will not cover services for a child who is TEFRA Medicaid eligible but has lost TEFRA Medicaid due to failure to pay the required premium.
9. Appeals. If the parent or guardian feels their child's case has been denied unfairly, they may appeal in writing to the CHC Program Director within ten (10) business days from the date of notification.

Reconsideration Requests/ Appeals should be mailed to:

DDS Director's Office
P.O. Box 1437, Slot N501
Little Rock, AR 72201-1437