

ARKANSAS REGISTER

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Proposed Rule Cover Sheet

Secretary of State

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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 _____

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES -
OTHER TYPES OF CARE

Revised: ~~January~~ April 1, 2022~~2~~

4.b. Early and Periodic Screening and Diagnosis of Individuals Under 21 Years of Age and
Treatment of Conditions Found (Continued)

(19) Physical Therapy, Occupational Therapy, and Speech-Language Therapy Services

Effective for dates of service on or after October ~~1~~, 1999, the Arkansas Medicaid maximum rates for physical therapy services, occupational therapy services and speech-**language** therapy services are based on court-ordered rates issued by the United States District Court, Eastern District of Arkansas, Western Division and agreed upon by the Division of Medical Services and representatives of the Arkansas Physical Therapy Association, the Arkansas Occupational Therapy Association and the Arkansas Speech-Language-Hearing Association.

Effective April 1, 2022, the agency's ~~therapy~~ fee schedule rates **for occupational therapy, physical therapy, and speech-language pathology treatment services** were set **based on an average of 2019 Medicare utilization data for the same services as of January 1, 2008 and are effective for services on or after that date. The fee schedule rates for occupational therapy, physical therapy, and speech-language pathology evaluations were determined to be in line with Medicare and were not changed. The occupational therapy, physical therapy, and speech-language pathology treatment rate adjustments will be implemented over two (2) years. An initial rate increase will be implemented on April 1, 2022, and the second will be implemented on April 1, 2023.**

~~All therapy~~ The applicable fee schedule ~~of~~ rates **at any given time** are published on the agency's website (**Fee Schedules - Arkansas Department of Human Services**www.medicaid.state.ar.us). A uniform rate for these services is paid to all governmental and non- governmental providers unless otherwise indicated in the state plan. The State assures that physical therapists, occupational therapists and speech-**language** therapists will meet the requirements contained in 42 CFR 440.110.

Therapy Assistants - Effective for dates of service on or after October 1, 1999, the Arkansas Medicaid maximum for the physical therapy assistant, occupational therapy assistant and the speech-**language** therapy assistant is based on 80% of the amount reimbursed to the licensed therapist.

Fee schedule service reimbursement is based on the lesser of the amount billed or the Arkansas Title XIX (Medicaid) maximum charge allowed.

1. Physical Therapy

Listed below are covered physical therapy services:

Description

Evaluation for physical therapy
Individual physical therapy Group
physical therapy
Individual physical therapy by physical therapy assistant Group
physical therapy by physical therapy assistant

At the beginning of each calendar year, Medicaid officials and the Arkansas Physical Therapy Association or its successor will arrive at mutually agreeable increase or decrease in reimbursement rates based on the market forces as they impact on access. Any agreed upon increase or decrease will be implemented at the beginning of the following state fiscal year, July 1 with any appropriate State Plan changes.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Department of Human Services

DIVISION Division of Developmental Disabilities Services

PERSON COMPLETING THIS STATEMENT Jason Callan

TELEPHONE (501) 320-6540 **FAX** _____ **EMAIL:** Jason.Callan@dhs.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 Occupational Therapy, Physical Therapy, and Speech-Language Pathology State Plan Amendment

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	<u>\$0.00</u>
Federal Funds	<u>\$0.00</u>
Cash Funds	_____
Special Revenue	_____
Other (Identify)	_____

Next Fiscal Year

General Revenue	<u>\$0.00</u>
Federal Funds	<u>\$0.00</u>
Cash Funds	_____
Special Revenue	_____
Other (Identify)	_____

Total	<u>\$0.00</u>	Total	<u>\$0.00</u>
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(b) What is the additional cost of the state rule?

Current Fiscal Year

General Revenue	<u>\$1,914,383</u>
Federal Funds	<u>\$4,831,154</u>
Cash Funds	<u> </u>
Special Revenue	<u> </u>
Other (Identify)	<u> </u>
 Total	 <u>\$ 6,745,537</u>

Next Fiscal Year

General Revenue	<u>\$14,836,472</u>
Federal Funds	<u>\$37,441,441</u>
Cash Funds	<u> </u>
Special Revenue	<u> </u>
Other (Identify)	<u> </u>
 Total	 <u>\$52,277,913</u>

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

\$ 0.00

Next Fiscal Year

\$ 0.00

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

\$ 1,914,383

Next Fiscal Year

\$ 14,836,472

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;

The purpose of this Rule is to implement the requirements of Arkansas Code §§ 20-76-201, 20-77-107, and 25-10-129.

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

The purpose of this Rule is to implement the requirements of Arkansas Code §§ 20-76-201, 20-77-107, and 25-10-129.

- (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;

The purpose of this Rule is to implement the requirements of Arkansas Code §§ 20-76-201, 20-77-107, and 25-10-129.

- (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;

There are no less costly alternatives.

- (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;

N/A

- (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

N/A

- (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.

The Agency monitors State and Federal rules and policies for opportunities to reduce and control costs.

Statement of Necessity and Rule Summary
Occupational Therapy, Physical Therapy, and Speech-Language Pathology State Plan
Amendment

Statement of Necessity

This amendment updates the Arkansas Medicaid State Plan with the new occupational therapy, physical therapy, and speech-language pathology services rate review methodology and most recent rate review results.

Summary

- Updates the occupational therapy, physical therapy, and speech-language pathology services rate review methodology.
- Includes timeframe for implementing rate adjustments related to most recent rate review.

Please attach additional documents if necessary

NOTICE OF RULE MAKING

The Director of the Division of Developmental Disabilities Services of the Department of Human Services announces for a public comment period of thirty (30) calendar days a notice of rulemaking for the following proposed rule under one or more of the following chapters, subchapters, or sections of the Arkansas Code: §§20-76-201, 20-77-107, and 25-10-129.

Effective July 1, 2022:

The Director of the Division of Developmental Disabilities Services amends the Arkansas Medicaid State Plan. This amendment updates the Arkansas Medicaid State Plan to incorporate the new rate review methodology and most recent rate review results. Effective April 1, 2022, the agency's fee schedule rates for occupational therapy, physical therapy, and speech-language pathology treatment services were set based on an average of 2019 Medicare utilization data for the same services. The fee schedule rates for occupational therapy, physical therapy, and speech-language pathology evaluations were determined to be in line with Medicare and were not changed. The occupational therapy, physical therapy, and speech-language pathology treatment rate adjustments will be implemented over two (2) years. An initial rate increase of 16% will be implemented on April 1, 2022, and a second increase of 15% will be implemented on April 1, 2023, resulting in a total 31% increase from the current rate. The projected annual cost of this change beginning SFY 2022 is \$6,745,537.00, of which, the federal share is \$4,831,154.00, and for SFY 2023 is \$52,277,913.00, of which, the federal share is \$37,441,441.00.

The proposed rule is available for review at the Department of Human Services (DHS) Office of Rules Promulgation, 2nd floor Donaghey Plaza South Building, 7th and Main Streets, P. O. Box 1437, Slot S295, Little Rock, Arkansas 72203-1437. You may access and download the proposed rule at <https://humanservices.arkansas.gov/do-business-with-dhs/proposed-rules/>. This notice also shall be posted at the local office of the Division of County Operations (DCO) of DHS in every county in the state.

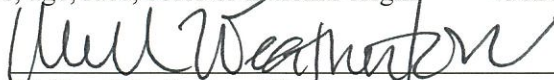
Public comments must be submitted in writing at the above address or at the following email address: ORP@dhs.arkansas.gov. All public comments must be received by DHS no later than May 7, 2022. Please note that public comments submitted in response to this notice are considered public documents. A public comment, including the commenter's name and any personal information contained within the public comment, will be made publicly available and may be seen by various people.

A public hearing by remote access only through a Zoom webinar will be held on April 18, 2022, at 2:00 p.m. and public comments may be submitted at the hearing. Individuals can access this public hearing at <https://us02web.zoom.us/j/83174399619>. The webinar ID is 831 7439 9619. If you would like the electronic link, "one-tap" mobile information, listening only dial-in phone numbers, or international phone numbers, please contact ORP at ORP@dhs.arkansas.gov.

If you need this material in a different format, such as large print, contact the Office of Rules Promulgation at 501-396-6428.

The Arkansas Department of Human Services is in compliance with Titles VI and VII of the Civil Rights Act and is operated, managed and delivers services without regard to religion, disability, political affiliation, veteran status, age, race, color or national origin.

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Melissa Weatherton, Director
Division of Developmental Disabilities Services