

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 _____

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

April 1, 2002 March-
15, April 1, 2020

7. Home Health Services (Continued)

c. Medical Supplies, Equipment and Appliances Suitable for Use in the Home (continued)

- (2) Durable Medical Equipment (DME) - Reimbursement is based on amount billed not to exceed the Title XIX maximum.

Effective for claims with dates of service on or after April 1, 2020, the reimbursement rate maximums for codes will be set subject to Section 1903(i)(27) of the Social Security Act. All rates are published on the agency's website (<http://medicaid.mmis.arkansas.gov/>). Except as otherwise noted in the plan, state developed fee schedule rates are the same for both governmental and private providers.

Purchase: The Title XIX maximum for new equipment is based on Medicare's 1990 DME Fee Schedule. For those items which Medicare did not have a rate, the lowest manufacturer cost plus 10% was used. Arkansas Medicaid is following Medicare's policy of purchasing any item that costs \$150.00 or less.

Rental ~~or~~ Capped Rental: Capped Rental equipment may not be rented for more than four hundred and fifty-five (455) consecutive days. The reimbursement rates for capped rental items will be established by dividing the purchase price by four hundred and fifty-five (455) days to arrive at a daily rental rate. Once the four hundred and fifty-five (455) day rental maximum is reached, Arkansas Medicaid will cease to pay rent on the equipment, however the equipment will remain in the recipient's home as long as determined medically necessary by the recipient's physician. The equipment will remain the property of the DME company.

A provider may bill for maintenance. ~~H,~~ however, this maintenance fee may not be billed until either one hundred and eighty-two (182) days have elapsed after the four hundred and fifty-five (455) day rental period or one hundred and eighty-two (182) days have elapsed from the end of the period the item is no longer covered under the suppliers or manufacturer's warranty, whichever is later. Maintenance will continue to be paid at six-month intervals if equipment is determined to be medically necessary. Reimbursement of the maintenance is the lesser of the amount billed or the Title XIX maximum. The Title XIX maximum was established by arraying all the Title XIX monthly maximums for capped rental items and utilizing the 50th percentile.

For those items which are rental-only, the Medicare 1990 DME Fee Schedule monthly rental rate was used to calculate the Medicaid daily rental rate. The Medicare monthly rental rate was multiplied by twelve (12) to determine the one-year rental amount and divided by three hundred and sixty-five (365) to arrive at the Medicaid daily rental amount.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Department of Human Services

DIVISION Division of Medical Services

PERSON COMPLETING THIS STATEMENT Lynn Burton

TELEPHONE (501) 682-1857 **FAX** (501) 682-8155 **EMAIL:** Lynn.burton@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 SPA #2020-007 Durable Medical Equipment Rate Adjustment

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	_____
Other (Identify)	_____
Total	_____

Next Fiscal Year

General Revenue	_____
Federal Funds	_____
Cash Funds	_____
Special Revenue	_____
Other (Identify)	_____
Total	_____

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

Current Fiscal Year

General Revenue	<u>\$(- 359,831)</u>
Federal Funds	<u>\$(905,842)</u>
Cash Funds	<u></u>
Special Revenue	<u></u>
Other (Identify)	<u></u>
Total	<u>\$(1,265,673)</u>

Next Fiscal Year

General Revenue	<u>\$(1,439,322)</u>
Federal Funds	<u>\$(3,623,366)</u>
Cash Funds	<u></u>
Special Revenue	<u></u>
Other (Identify)	<u></u>
Total	<u>\$(5,062,688)</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

\$

Next Fiscal Year

\$

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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

\$ (359,831)

Next Fiscal Year

\$ (1,439,322)

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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.

Statement of Necessity and Rule Summary

SPA #2020-0007 Durable Medical Equipment Rate Adjustment

Statement of Necessity

Effective for dates of service occurring on or after April 1, 2020, the Arkansas Department of Human Services' (DHS) Division of Medical Services (DMS) will adjust the Medicaid maximum unit reimbursement rate for durable medical equipment codes, subject to Section 1903(i)(27) of the Social Security Act. DMS revises the Arkansas Medicaid State Plan to comply with the Social Security Act, as described in the State Medicaid Director (SMD) Letter 18-001. Currently, Arkansas Medicaid may have to repay \$5,062,687.67 due to DME expenditures exceeding what Medicare would have paid.

Rule Summary

A revision to the Arkansas Medicaid State Plan is necessary for claims with dates of service on or after April 1, 2020, to adjust the reimbursement rate maximums for codes subject to Section 1903(i)(27) of the Social Security Act. The rates will be set to comply with the Social Security Act Section 1903(i)(27). All rates are published on the agency's website (<http://medicaid.mmis.arkansas.gov/>). Except as otherwise noted in the plan, state developed fee schedule rates are the same for both governmental and private providers.