

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 _____

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 _____

NOTICE OF RULE MAKING

The Director of the Division of Medical 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, 2020:

Pursuant to the State Plan Under Title XIX of the Social Security Act for self-directed personal assistance services under 1915(j), the Arkansas Department of Human Services, Division of Medical Services, intends to adjust the self-direction budget calculation methodology promulgated in the State Plan Amendment and the Independent Choices Provider Manual. Specifically, the self-direction budget calculation methodology would increase from 57.8% of the personal care rate to 73.0% of the personal care rate. This change is necessary to address the impact on the self-direction program from increases in the minimum wage since 2008, and to tie the self-direction budget calculation methodology to the personal care rate more accurately in order to eliminate the need for further calculation changes. The changes will impact approximately 2,800 current beneficiaries who are in the self-direction program. The annual financial impact per state fiscal year is \$7,730,368.

The self-direction waiver program allows a beneficiary to employ caregivers of the beneficiary's choice using Medicaid funds with the assistance of a fiscal agent. The beneficiary's budget is set through an assessment of hours of needed care, a determination of funds available to pay for needed care and other goods and services, and the creation of a plan of care. The cost of care is equal to the number of hours of care multiplied by the wage paid to the caregiver, plus the cost of applicable taxes. The average number of hours of care in plans of care under Independent Choices is approximately 25 hours. The maximum available number of hours under Independent Choices for personal care under State Plan Medicaid is 14.75 hours. However, ARChoices beneficiaries can select to receive self-direction through the Independent Choices program and receive additional hours of care.

Since 2008, the minimum wage has increased from \$6.25 per hour to \$10.00 per hour. On January 1, 2021, the minimum wage will increase to \$11.00 per hour, which is 76% higher than it was in 2008. Increases in the minimum wage negatively impact the Independent Choices program when the minimum wage is more than the maximum allowed hourly wage plus applicable taxes as the beneficiary will not be able to pay for the number of hours of care the beneficiary needs due to the increased cost of care related to the increase in the minimum wage.

In addition to being unable to absorb the impact of minimum wage increases, the current self-direction budget calculation does not accurately reflect the difference between the self-direction program and the agency-based personal care rate. The 73.0% percentage was calculated using the same method to calculate the personal care rate except that it is based on the current personal care rate and accounts for the lack of administrative overhead costs for self-direction beneficiaries. The link to the personal care rate will allow future adjustments due to changing economic conditions to be accounted solely through changes to the personal care rate. At 73.0% of the current personal care rate, self-direction beneficiaries would have maximum budgets equal to the number of hours of needed care per month, multiplied by \$13.32 per hour of needed care. These funds could be used to pay for caregivers and other goods and services allowed under the Independent Choices program.

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 also access and download the proposed rule on the Medicaid website at <https://medicaid.mmis.arkansas.gov/General/Comment/Comment.aspx>. 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 9, 2020**. 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.

If you need this material in a different format, such as large print, contact the Office of Rules Promulgation at 501-320-6266.

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. 4501888131



Janet Mann, Director
Division of Medical Services