

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 _____

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
MEDICAL ASSISTANCE PROGRAM
STATE ARKANSAS

ATTACHMENT 3.1-A
Page 1a

AMOUNT, DURATION AND SCOPE OF
SERVICES PROVIDED

Revised:

~~October 1, 2014~~ July 1, 2020

CATEGORICALLY NEEDY

1. Inpatient Hospital Services

~~All inpatient admissions to an acute care or /general hospital, Long Term Acute Care Hospital (LTAC) or rehabilitative hospital will be allowed up to four (4) days of service per admission when determined inpatient care is medically necessary. Four (4) days of service per admission will be allowed when determined inpatient care is medically necessary for all inpatient admissions to:~~

- ~~_____ a. an acute care;~~
- ~~_____ b. general hospital;~~
- ~~_____ c. Long Term Acute Care Hospital (LTAC); or~~
- ~~_____ d. rehabilitative hospital.~~

On the fifth day of hospitalization, if the physician determines the patient should not be discharged on ~~the fifth day of hospitalization~~ that day, the hospital may contact the Quality Improvement Organization (QIO) and request an extension of inpatient days. The Quality Improvement Organization will then determine medically necessary days. Calls for extension of days may be made at any point from the fourth day of stay through discharge. However, the provider must accept the financial liability should the stay not meet the necessary medical criteria for inpatient services. Medically necessary inpatient days are available to individuals under age one (1) without regard to the four-day limit and extension procedures required under the plan. ~~Additionally, effective for dates of service on or after November 1, 2001, a benefit limit of twenty four (24) days per State Fiscal Year (July 1 through June 30) is imposed for recipients age twenty one (21) and older in acute care or /general hospitals or rehabilitative hospitals. No extensions will be authorized. The 24 day limit does not apply to recipients receiving care in a Long Term Acute Care Hospital, LTAC if the care has been prior authorized. The benefit limit does not apply to recipients under age twenty one (21) in the Child Health Services (EPSDT) Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program or beneficiaries, regardless of age, who meet the following criteria:~~

~~Diagnosis, (one of the following):~~

~~the presence of two or more diagnoses on Axis I and/or Axis II is indicative of a serious emotional disorder; or
the presence of a diagnosis on Axis I or Axis II and a diagnosis on Axis III;~~

~~Poor prognostic factors are as evidenced by:~~

~~early age at time of onset;
positive family history for major mental illness;
prior treatment has been ineffective; treatment failure, poor response to treatment;
co-occurring presentation, such as (medical illness, developmental disability, substance abuse or substance abuse /disorder & and mental illness);~~

~~non-compliance with treatment;
compromised social support system; or
other evidence-based poor prognostic factors that (varies by condition or disorder);~~

~~Patient was referred by another behavioral health professional for an expert opinion;~~

~~Effective for dates of service on or after October 1, 2014, days over twenty-four (24) 24 days per State
Fiscal Year will be reimbursed for age twenty-one (21) 21 and older.~~

Inpatient hospital services required for pancreas or /kidney transplants, liver or /bowel transplants, and skin transplants for burns are covered for eligible Medicaid recipients in the Child Health Services Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program. Refer to Attachment 3.1-E, Pages 2, 4 and 6.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
MEDICAL ASSISTANCE PROGRAM
STATE ARKANSAS

ATTACHMENT 3.1-A
Page 1aa

AMOUNT, DURATION AND SCOPE OF
SERVICES PROVIDED

~~September 1, 1999~~ July 1,

2020

CATEGORICALLY NEEDY

1. Inpatient Hospital Services

A. Rehabilitative Hospital

1. Augmentative Communication Device (ACD) Evaluation - Effective for dates of service on or after September 1, 1999, ~~Augmentative Communication Device (ACD) evaluation~~ Evaluation is covered for eligible Medicaid recipients of all ages. One ~~(1) Augmentative Communication Device~~ ACD evaluation may be performed every three ~~(3)~~ years based on medical necessity. The benefit limit may be extended for individuals under age ~~twenty-one~~ (21).

B. Long Term Acute Care Hospital (LTAC)

1. Long Term Acute Care Hospital ~~LTAC~~ provider enrollment is limited to those providers that were enrolled as of July 1, 2020, unless a needs assessment is performed and indicates an access to care issue exists and enrollment should be reopened.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
MEDICAL ASSISTANCE PROGRAM
STATE ARKANSAS

ATTACHMENT 3.1-B
Page 2a

AMOUNT, DURATION AND SCOPE OF
SERVICES PROVIDED

Revised:

~~October 1, 2014~~ July 1, 2020

MEDICALLY NEEDY

1. Inpatient Hospital Services

~~All inpatient admissions to an acute care/ or general hospital, Long Term Acute Care Hospital (LTAC) or rehabilitative hospital will be allowed up to four (4) days of service per admission when determined inpatient care is medically necessary. Four (4) days of service per admission will be allowed when determined inpatient care is medically necessary for all inpatient admissions to:~~

- ~~_____ a. an acute care;~~
- ~~_____ b. general hospital;~~
- ~~_____ c. Long Term Acute Care Hospital (LTAC); or~~
- ~~_____ d. rehabilitative hospital.~~

On the fifth day of hospitalization, if the physician determines the patient should not be discharged on ~~the fifth day of hospitalization~~ that day, the hospital may contact the Quality Improvement Organization (QIO) and request an extension of inpatient days. The ~~Quality Improvement Organization-QIO~~ will then determine medically necessary days. Calls for extension of days may be made at any point from the fourth day of stay through discharge. However, the provider must accept the financial liability should the stay not meet the necessary medical criteria for inpatient services. Medically necessary inpatient days are available to individuals under age one (1) without regard to the four-day limit and extension procedures required under the plan. ~~Additionally, effective for dates of service on or after November 1, 2001, a benefit limit of twenty-four (24) days per State Fiscal Year (July 1 through June 30) is imposed for recipients age twenty-one (21) and older in acute care or /general hospitals or rehabilitative hospitals. No extensions will be authorized. The 24-day limit does not apply to recipients receiving care in a Long Term Acute Care Hospital, LTAC if the care has been prior authorized. The benefit limit does not apply to recipients under age twenty-one (21) 21 in the Child Health Services Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program.~~

~~Effective for dates of service on or after October 1, 2014, days over twenty-four (24) days per State Fiscal Year will be reimbursed for age twenty-one (21) 21 and older.~~

Inpatient hospital services required for pancreas or kidney transplants, liver or bowel transplants, and skin transplants for burns are covered for eligible Medicaid recipients in the Child Health Services (EPSDT) Program. Refer to Attachment 3.1-E, Pages 2, 4, and 6.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
MEDICAL ASSISTANCE PROGRAM
STATE ARKANSAS

ATTACHMENT 3.1-B
Page 2aa

AMOUNT, DURATION AND SCOPE OF
SERVICES PROVIDED

September 1, 1999July 1,

2020

MEDICALLY NEEDY

1. Inpatient Hospital Services

A. Rehabilitative Hospital

1. ~~Augmentative Communication Device~~ ~~Evaluation~~ ~~Device (ACD) Evaluation~~ - Effective for dates of service on or after September 1, 1999, ~~Augmentative Communication Device~~ ACD evaluation is covered for eligible Medicaid recipients of all ages. One (1) ~~Augmentative Communication Device~~ ACD evaluation may be performed every three (3) years based on medical necessity. The benefit limit may be extended for individuals under age twenty-one (21).

B. Long Term Acute Care Hospital (LTAC)

1. LTAC provider enrollment is limited to those providers that were enrolled as of July 1, 2020, unless a needs assessment is performed and indicates an access to care issue exists and enrollment should be reopened.

TOC not required**201.000 Hospital General Information****8-1-057-1-
20**

The ~~Division of Health of the~~ Arkansas Department of Health ~~and Human Services~~ licenses several types of hospitals, facilities, and institutions that may qualify for participation in the Arkansas Medicaid Program.

- A. The ~~Division Arkansas Department~~ of Health licenses ~~four-five (5)~~ types of acute care hospitals that are eligible for enrollment in the Arkansas Medicaid Hospital Program. ~~They are:~~
1. General hospitals;
 2. Maternity and general medical care hospitals;
 3. Maternity hospitals; ~~and~~
 4. Surgery and general medical care hospitals; ~~and,~~
 5. Long Term Acute Care (LTAC) hospitals. Provider enrollment is limited to those providers that were enrolled as LTACs as of July 1, 2020, unless a need assessment is performed that indicates an access to care issue exists and enrollment should be reopened.
- B. The Arkansas Title XIX (Medicaid) State Plan employs the terms "acute care" and "acute care/general" interchangeably as general references to any of these ~~four-five (5)~~ types of hospitals, ~~(or their counterparts in other states,)~~ to avoid repeating the entire list each time that a reference is made to hospitals that are eligible for participation in the Arkansas Medicaid Hospital Program.

201.100 Arkansas Medicaid Participation Requirements for Acute Care/General Hospitals**8-1-057-1-
20**

Following are the minimum requirements for participation in the Arkansas Medicaid Hospital Program:

- A. An in-state hospital must be licensed by the ~~Division Arkansas Department~~ of Health ~~of the Arkansas Department of Health and Human Services~~ as an acute care/general hospital.
- B. An out-of-state hospital must be licensed as an acute care/general hospital by the appropriate licensing agency within its home state.
- C. A hospital must be certified as an acute care/general hospital Title XVIII (Medicare) provider.
- D. Long Term Acute Care (LTAC) hospitals must be licensed as such by the Arkansas Department of Health and must also be certified as an LTAC Title XVIII (Medicare) provider.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Department of Human Services

DIVISION Division of Medical Services

PERSON COMPLETING THIS STATEMENT Elizabeth Pitman

TELEPHONE 501-244-3944 **FAX** 501-682-1197 **EMAIL:** Elizabeth.Pitman@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#2020-0006, Hospital 2-20, Long Term Acute Care Hospitals (LTAC)

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;
N/A

(b) The reason for adoption of the more costly rule;
N/A

(c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;
N/A

(d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.
N/A

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</u>
Federal Funds	<u>\$0</u>
Cash Funds	<u>\$0</u>
Special Revenue	<u>\$0</u>
Other (Identify)	<u>\$0</u>
Total	<u>\$0</u>

Next Fiscal Year

General Revenue	<u>\$0</u>
Federal Funds	<u>\$0</u>
Cash Funds	<u>\$0</u>
Special Revenue	<u>\$0</u>
Other (Identify)	<u>\$0</u>
Total	<u>\$0</u>

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

Current Fiscal Year

General Revenue	\$0
Federal Funds	\$0
Cash Funds	\$0
Special Revenue	\$0
Other (Identify)	\$0
Total	\$0

Next Fiscal Year

General Revenue	\$0
Federal Funds	\$0
Cash Funds	\$0
Special Revenue	\$0
Other (Identify)	\$0
Total	\$0

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

Next Fiscal Year

\$ 0

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

\$ 0

Next Fiscal Year

\$ 0

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#2020-0006, Hospital 2-20, Long Term Acute Care Hospitals (LTAC)

Statement of Necessity

Arkansas Medicaid has six (6) Long Term Acute Care Hospitals (LTACs) enrolled within the state and co-located within acute care or general hospitals. These hospitals are very similar to other long-term care facilities serving Medicaid members. Arkansas Medicaid recognizes a very limited need for these hospitals' specialized services. Therefore, the Department of Human Services is seeking to implement State Plan and program rules that recognize these hospitals accordingly. The agency also seeks to limit the number of such hospitals to the six (6) LTACs already enrolled, unless a needs assessment indicates an access to care issue.

Rule Summary

- The rule changes the hospital policy to recognize LTACs as their own licensed and certified entity and to limit enrollment to those already enrolled as of July 1, 2020.
- Hospital Manual Section 201.000 is revised to add LTACs as the fifth type of acute care hospital eligible for enrollment in the Arkansas Medicaid Hospital Program.
- Section 201.100 is revised to add LTAC licensure and certification as minimum requirements for participation in the Arkansas Medicaid Hospital Program.
- Arkansas Medicaid State Plan pages 3.1-A, page 1a; 3.1-A, page 1 aa; 3.1-B, page 2a and 3.1-B, page 2aa have been revised to add the LTAC as its own designation with limitations on enrollment.