

# 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 \_\_\_\_\_

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Name of Rule \_\_\_\_\_

Newspaper Name \_\_\_\_\_

Date of Publishing \_\_\_\_\_

Final Date for Public Comment \_\_\_\_\_

Location and Time of Public Meeting \_\_\_\_\_

## TOC required

**201.100 Arkansas Medicaid Participation Requirements for Prescribing Pharmacists and for Pharmacies Administering Vaccines****2-1-2016-1-22**

The Arkansas Medicaid Program will allow pharmacists to enroll individually as atypical providers to prescribe and administer specified drugs and test and screen for certain health conditions, per current allowable protocols. Pharmacists are not billing providers, but they may be rendering providers on medical claims. Pharmacists will be allowed as prescribing providers on pharmacy claims for drugs identified in current protocol.

The Arkansas Medicaid Program will reimburse pharmacies the cost and administration fee for selected vaccines and immunizations for Medicaid ~~beneficiaries clients seven (7)~~three (3) years of age ~~to eighteen (18) years of age under a general written~~and older under current protocol and written consent of the parent or legal guardian of the minor. ~~Consent must be obtained before the administration of the vaccine or immunization. Written protocol and consent must be retained and is subject to reporting requirements. The Arkansas Medicaid Program will continue to reimburse pharmacies the cost and administration fee of selected vaccines for Medicaid beneficiaries nineteen (19) years of age and older.~~ For a complete list of covered vaccines and CMS-1500 billing instructions, please refer to the [CMS-1500 Claim Form Billing Instructions](#).

The Arkansas Medicaid Program will reimburse pharmacies the administration fee for selected vaccines that are obtained through the Vaccine for Children Program (VFC) or ARKids-B SCHIP Vaccine Program. ~~Please refer to section 292.950 of the Physician manual for VFC vaccines billing procedures and section 262.430 for ARKids-B SCHIP vaccine. All Arkansas State Board of Pharmacy laws and regulations will apply.~~

To be eligible for participation, the pharmacy must meet the following criteria, in addition to those specified in Section 201.000:

- A. Complete Section III, Item 22, of the enrollment application ([view or print Provider Enrollment application material](#)) if the pharmacist is certified to administer the influenza virus and pneumococcal polysaccharide vaccines; and
- B. Pharmacies must be enrolled in the Title XVIII (Medicare) Program to administer the vaccines.

Refer to Section 210.100 for scope of coverage; Section 213.000 for benefit limits.

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

ATTACHMENT 3.1-A  
Page 3b

AMOUNT, DURATION AND SCOPE OF  
SERVICES PROVIDED  
~~—2022~~

Revised: ~~December-June 1, 2001~~

CATEGORICALLY NEEDY

6. Medical Care and any other type of remedial care recognized under State law, furnished by licensed practitioners within the scope of their practice as defined by State law. (Continued)

6.d. Other Practitioners' Services (Continued)

(5) Psychologists

Refer to Attachment 3.1-A, Item 4.b. (13).

(6) Obstetric - Gynecologic and **Gerontological** Nurse Practitioner

Refer to Attachment 3.1-A, Item 24 for coverage limitations.

(7) Pharmacists

Pharmacists may enroll individually as atypical providers to prescribe and administer specified drugs and test and screen for certain health conditions, per current allowable protocols. Pharmacists are not billing providers, but they may be rendering providers on medical claims. Pharmacists will be allowed as prescribing providers on pharmacy claims for drugs identified in current protocol.

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

ATTACHMENT 3.1-B  
Page 3d

AMOUNT, DURATION, AND SCOPE OF  
SERVICES PROVIDED  
~~—2022~~

Revised: ~~December-June 1, 2001~~

MEDICALLY NEEDY

6. Medical care and any other type of remedial care recognized under State law, furnished by licensed practitioners within the scope of their practice as defined by State law. (Continued)

6.d. Other Practitioners' Services (Continued)

(5) Psychologists

Refer to Attachment 3.1-A, Item 4.b.(13).

(6) Obstetric - Gynecologic and **Gerontological** Nurse Practitioner

Refer to Attachment 3.1-B, Item 21 for coverage limitations.

(7) Pharmacists

Pharmacists may enroll individually as atypical providers to prescribe and administer specified drugs and test and screen for certain health conditions, per current allowable protocols. Pharmacists are not billing providers, but they may be rendering providers on medical claims. Pharmacists will be allowed as prescribing providers on pharmacy claims for drugs identified in current protocol.

## FINANCIAL IMPACT STATEMENT

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT** Department of Human Services

**DIVISION** Division of Medical 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** Pharmacy Manual Update 3-21 and SPA 2022-0001

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	\$2,602
Federal Funds	\$6,565
Cash Funds	_____
Special Revenue	_____
Other (Identify)	_____
Total	\$9,167

**Next Fiscal Year**

General Revenue	\$31,218
Federal Funds	\$78,782
Cash Funds	_____
Special Revenue	_____
Other (Identify)	_____
Total	\$110,000

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**

\$ 2,602

**Next Fiscal Year**

\$ 31,218

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**  
**Pharmacy Manual 3-21 and SPA 2022-0001 Per Acts 406, 407, 408 and 503**

**Why is this change necessary? Please provide the circumstances that necessitate the change.**

The 93<sup>rd</sup> General Assembly enacted Acts 406, 407, 408, and 503 that give pharmacists a new scope of practice to prescribe certain vaccines, immunizations, and certain prescriptions. They also allow for prescription of over the counter (OTC) drugs and testing for certain infections and viruses per protocol. These Acts were put into place officially in compliance with the Prep Act due to COVID-19 U.S. Department of Health and Human Services (HHS) regulation, but also expands other prescribing and testing allowances for pharmacists individually. Legislation did not address reimbursement to pharmacists for these services, but rather allows pharmacists to be the prescriber on the pharmacy and medical claims in the pharmacy. The Division of Medical Services is revising Section 201.100 of the Pharmacy Manual, to comply with the Acts. The Medicaid State Plan Amendment (SPA) has been updated to reflect the changes in the Acts.

**What is the change? Please provide a summary of the change.**

Pharmacy Manual Section II

Section 201.100

- Renamed the section title.
- Added, “The Arkansas Medicaid Program will allow pharmacists to enroll individually as atypical providers to prescribe and administer specified drugs and test and screen for certain health conditions, per current allowable protocols. Pharmacists are not billing providers, but they may be rendering providers on medical claims. Pharmacists will be allowed as prescribing providers on pharmacy claims for drugs identified in current protocol.”
- Changed seven (7) to three (3).
- Deleted, “... to eighteen (18) years of age under a general written...”
- Added, “...and older under current...”
- Deleted, “The Arkansas Medicaid Program will continue to reimburse pharmacies the cost and administration fee of selected vaccines for Medicaid beneficiaries nineteen (19) years of age and older.”

State Plan Amendment (SPA)

SPA page 3.1-A, page 3b- Added, “(7) Pharmacists. Pharmacists may enroll individually as atypical providers to prescribe and administer specified drugs and test and screen for certain health conditions, per current allowable protocols. Pharmacists are not billing providers, but they may be rendering providers on medical claims. Pharmacists will be allowed as prescribing providers on pharmacy claims for drugs identified in current protocol.”

SPA page 3.1-B, page 3d- Added, “(7) Pharmacists. Pharmacists may enroll individually as atypical providers to prescribe and administer specified drugs and test and screen for certain health conditions, per current allowable protocols. Pharmacists are not billing providers, but they may be rendering providers on medical claims. Pharmacists will be allowed as prescribing providers on pharmacy claims for drugs identified in current protocol.”

**Please attach additional documents if necessary**



## 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, & 25-10-129.

### **Effective June 1, 2022:**

The Director of the Division of Medical Services (DMS) amends the Medicaid State Plan and the Pharmacy Manual to comply with Acts 406, 407, 408, and 503 of the 93<sup>rd</sup> General Assembly. Arkansas Medicaid Program will allow pharmacists to enroll individually as atypical providers to prescribe and administer specific drugs as well as test and screen for certain health conditions.

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 at <https://humanservices.arkansas.gov/do-business-with-dhs/proposed-rules/>. Public comments must be submitted in writing at the above address or at the following email address: [ORP@dhs.arkansas.gov](mailto:ORP@dhs.arkansas.gov). All public comments must be received by DHS no later than April 11, 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 March 24, 2022, at 11:30 a.m. and public comments may be submitted at the hearing. Individuals can access this public hearing at <https://us02web.zoom.us/j/87865566387>. The webinar ID is 878 6556 6387. 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](mailto: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. 4502035775



Elizabeth Pitman, Director  
Division of Medical Services