

# ARKANSAS REGISTER

## Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State

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For Office

Use Only:

Effective Date \_\_\_\_\_ Code Number \_\_\_\_\_

Name of Agency Department of Human Services

Department Office of Chief Counsel

Contact Mac E. Golden E-mail Mac.E.Golden@dhs.arkansas.gov Phone 501.320.6383

Statutory Authority for Promulgating Rules Arkansas Code §§ 20-76-201 and 25-15-206.

Rule Title: Declaratory Orders

Intended Effective Date  
(Check One)

☐ Emergency (ACA 25-15-204)

☐ 10 Days After Filing (ACA 25-15-204)

☒ Other 10/01/2022  
(Must be more than 10 days after filing date.)

Legal Notice Published .....

Final Date for Public Comment .....

Reviewed by Legislative Council .....

Adopted by State Agency .....

Date

06/26/2022

07/25/2022

09/16/2022

10/01/2022

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Toni Roy

toni.roy@dhs.arkansas.gov

09/16/2022

Contact Person

E-mail Address

Date

### CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted  
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

  
\_\_\_\_\_  
Signature  
(501) 396.6456 Phone Number  
brett.hays@dhs.arkansas.gov E-mail Address

\_\_\_\_\_  
DHS Deputy Chief Counsel

\_\_\_\_\_  
Title

\_\_\_\_\_  
09/16/2022

\_\_\_\_\_  
Date

## Declaratory Orders

### A. Purpose and Use of Declaratory Orders

A declaratory order is a means of resolving a controversy or answering questions or doubts concerning the applicability of statutory provisions, rules, or orders over which the agency has enforcement authority. A petition for declaratory order may be used only to resolve questions or doubts as to how the statutes, rules, or orders may apply to the petitioner's particular circumstances. A declaratory order is not the appropriate means for determining the conduct of another person or for obtaining a policy statement of general applicability from an agency. A petition for declaratory order must describe the potential impact of statutes, rules, or orders upon the petitioner's interests.

### B. The Petition

The process for obtaining a declaratory order is begun by filing with the Arkansas Department of Human Services-Office of Chief Counsel a petition that provides the following information:

1. The name, address, telephone number, and email of the petitioner;
2. The name, address, telephone number, and email of the attorney of the petitioner;
3. The statutory provision, agency rules, or agency order on which the declaratory order is sought;
4. Statements of fact setting forth the petitioner's particular set of circumstances that the petitioner alleges may be substantially affected by the statute, rule, or order;
5. A description of how the statute, rule, or order may substantially affect the petitioner's particular set of circumstances;
6. The question or issue on which the petitioner seeks a declaratory order;
7. The signature of the petitioner or petitioner's attorney; and
8. The date.

### C. Agency Disposition

1. The agency may rely on the statements of fact set out in the petition without taking any position with regard to the validity of the facts. Within ninety (90) days of the filing of the petition, the agency will render a final order denying the petition or issuing a declaratory order.
2. The petitioner may request administrative reconsideration of a declaratory order. A basis must be provided for the request and the petitioner may submit information or documentation for consideration by the agency.
3. A request for administrative reconsideration must be submitted to the agency within thirty (30) days of issuance of the declaratory order. The agency will render a decision within thirty (30) days of the filing of the request for administrative reconsideration.
4. Requests for administrative reconsideration must be mailed to:

Arkansas Department of Human Services  
Office of Chief Counsel  
P.O. Box 1437-Slot S260  
Little Rock, AR 72203-1437