

# ARKANSAS REGISTER

## Transmittal Sheet



Sharon Priest  
Secretary of State  
State Capitol Room 017  
Little Rock, AR 72201-1094

For Office Use Only: Effective Date 2/13/98 Code Number 016.20.98--003

Name of Agency Department of Human Services

Department Division of County Operations

Contact Person Joie Wallis

Statutory Authority for Promulgating Rules Ark. Code Ann. 20-76-201 et Seq., and Ark. Code Ann. 25-15-201 et Seq.

Intended Effective Date	Date
<input type="checkbox"/> Emergency	Legal Notice Published . . . . . <u>12/26/97</u>
<input checked="" type="checkbox"/> <sup>30</sup> / <sub>10</sub> Days After Filing	Final Date for Public Comment . . . . . <u>01/24/98</u>
<input type="checkbox"/> Other	Filed With Legislative Council . . . . . <u>12/23/97</u>
	Reviewed by Legislative Council . . . . . _____
	Adopted by State Agency . . . . . <u>02/12/98</u>

### CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted  
In Compliance with Act 434 of 1967 As Amended.

Ray Hart  
Signature  
Director, Division of County Operations  
Title  
12-22-97  
Date

FILED  
ARK. REGISTER DIV.  
98 FEB -3 AM 10:54  
SHARON PRIEST  
SECRETARY OF STATE  
STATE OF ARKANSAS

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STATE OF ARKANSAS  
BY \_\_\_\_\_

•• FRIDAY, DECEMBER 26, 1997  
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#### NOTICE OF RULEMAKING

Pursuant to Ark. Code Ann. 25-15-201 et Seq. and Ark. Code Ann. 20-76-201 et Seq., the Director of the Division of County Operations issues the proposed changes to the Medical Services Policy manual that increases the income eligibility limit for the Alternatives for Adults with Physical Disabilities Home and Community Based Waiver program to 300% of the SSI limit. This income increase also establishes a new group of individuals who can be determined eligible for the waiver.

Copies of these changes may be obtained by writing the Division of County Operations, P.O. Box 1437 - Slot 1223, Little Rock, AR 72203-1437. All comments must be submitted in writing to the address above no later than thirty days from the date of this publication.

If you need this material in a different format, such as large print, contact our Americans with Disabilities Act Coordinator at 682-8920 (voice) or 682-8922 (TDD).

The Arkansas Department of Human Service is in compliance with Titles VI and VII of the Civil Rights Act and operates, manages, and delivers services without regard to age, religion, disability, political affiliation, veteran status, sex, race, color, or national origin.

/s/ Roy Hart II  
Division Director  
8385829

# MANUAL TRANSMITTAL

## Arkansas Department of Human Services

### Division of County Operations

☒ Policy ☐ Form ☐ Policy Directive

Issuance Number: MS 97-11

Medical Services Policy Manual

Issuance Date: 10-01-97

From: Roy Hart, Director

Expiration Date: Until  
Superseded

SUBJ: Revised Policy

<u>Pages to be Deleted</u>	<u>Dated</u>	<u>Pages to be Added</u>	<u>Dated</u>
MS 2078 - 2078.6	7/1/97	MS 2078 - 2078.7	10/1/97

#### Summary

The Medical Services policy for the Alternatives for Adults with Physical Disabilities (AAPD) waiver has been amended to reflect a new group of individuals who may be determined eligible (MS 2078.1 #1). The income eligibility limit for this waiver has also increased to 300% of the SSI income level (MS 2078.1 #5). It will be the responsibility of the county office to verify income and resources of non-SSI applicants and recipients.

These policy revisions are effective 10/1/97 and should be used when determining eligibility on or after that date.

Inquiries to: Terri Wright, 682-8258  
Ann Dawson, 682-8254  
Boyce Lovett, 682-1562

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AR. REGISTER DIV.  
98 FEB -3 AM 10:55  
SARAH HEST  
SECRETARY OF STATE  
STATE OF ARKANSAS  
BY \_\_\_\_\_

## 2078 Alternatives for Adults with Physical Disabilities Waiver

Federal Regulations at 42 CFR 435.217 allow states to provide home and community based waiver services to physically disabled individuals to avoid institutionalization. On July 1, 1997, Arkansas implemented the statewide Alternatives for Adults with Physical Disabilities (AAPD) Home and Community-Based Waiver Program for individuals age 21 through 64.

The Division of Aging and Adult Services (DAAS) have administrative responsibility for the AAPD Waiver's operation. The AAPD Waiver has been approved for an initial three (3) year period. There will be a limited number of recipients who will be served by this Waiver; 200 in the first year, 300 in the second and 400 in the third.

AAPD Waiver recipients will receive the full range of Medicaid services plus will be eligible for the added Waiver services of environmental accessibility adaptations and attendant care.

### 2078.1 Eligibility Criteria

The following requirements must be met to be found eligible for the AAPD Waiver program:

- \* 1. SSI Recipients - Receipt of SSI may be verified by an SSI Award Letter, SSA-1610, "SSI Recipients" printout, WTPY Response, bank statement showing direct deposit or by viewing SSI check.  
or  
Categorically Related Blind, or Disabled individuals who would be Medicaid eligible if in an institution (Re. MS#3322).
2. Physically Disabled - The individual's disability will be verified by viewing the Diagnosis Prognosis section on the AAS-703 or by contact with the Social Security Administration. An individual who is diagnosed with a mental disability will not be eligible for the AAPD waiver.
3. Age twenty-one (21) through sixty-four (64).
4. Intermediate Level of Care - This determination will be made by the Utilization Review Committee of the Division of Aging and Adult Services.
- \* 5. Income - Countable income not exceeding the current LTC income limits (See NOTE below). For those individuals not in receipt of SSI, income will be determined and verified according to LTC guidelines (Re. MS 3340-3348). SSI exclusions (Re. MS 3348) are not allowed from gross income in determining eligibility.
- \* 6. Resources - Countable resources not exceeding the current LTC resource limits. Resource will be determined and verified according to LTC guidelines (See NOTE below).

Although an uncompensated transfer will not effect SSI eligibility, it does affect Medicaid and a penalty will be imposed for resources transferred without compensation. If a penalty is imposed, the individual will not be eligible for AAPD Waiver services. Counties will check the WRTR screen, "SSI Recipients with Reported Transfer of Resources," prior to initial certification and thereafter at each annual case review.

NOTE: Medicaid will accept, by the individual's receipt of SSI that income and resources have been determined and verified to meet all applicable SSI income and resources limits by the Social Security Administration. The county office need not reverify income and resources (except for transferred resources) of SSI recipients, unless questionable.

The Waiver application will not be certified until any discrepancies in income and/or resources, including uncompensated transfers, have been resolved. Income or resources discovered by DCO that result in ineligibility will be reported to SSA. DAAS will be notified via the DHS-3330, Slot 1412.

7. Citizen of the United States or Qualified Alien - (Re. MS 3310 #3).
8. Resident of Arkansas - (Re. MS 2200).
9. Social Security Enumeration - (Re. MS 1390).
10. Mandatory Assignment of Rights to Medical Support/Third Party Liability - (Re. MS 1350).
11. Cost Effectiveness Criteria - The average cost of home and community based services provided to any individual may not exceed the cost of services provided in a nursing facility.

It may be assumed by DCO that an individual applying for the AAPD Waiver program will meet the cost effectiveness criteria. If at any time DAAS determines that cost effectiveness is not met, DCO will be notified via the DHS-3330 and the AAPD Waiver case will be closed.

\* 2078.2 Disability Determinations

SSA Disability Determination - Applicants currently receiving SSI (or SSA) on the basis of a disability will be considered disabled. If a disability determination was made by SSA within the past year but the SSI or SSA benefits were terminated for nondisability reasons, documentation from SSA will be obtained for the case record. The applicant will be considered disabled based on the previous SSA disability determination.

MRT Disability Determination - For all non-SSI and non-SSA individuals for whom an SSA disability determination has not been made within the past year, an MRT referral must be made. The DCO-106 will be completed, and disability guidelines at MS 3322 will be followed. Any Waiver recipient whose certification was based on a previous SSA disability determination must have a disability redetermination made by MRT at the first reevaluation for Waiver eligibility.

2078.3 Application Process

1. Division of County Operations

Individuals applying at the county office for the AAPD Waiver program will be assisted in calling a toll free number (1-800-981-4457) to contact the Division of Aging and Adult Services for an application packet. The packets will be issued by DAAS and will contain a DCO-777, Application for Assistance; DCO-727, Disposal of Assets Disclosure; and an AAS-703, Evaluation of Need for Nursing Home Care. A pamphlet (AAS-9558) giving

instructions on completion of the packet will also be included. Individuals will be instructed to return the packet to their resident county office when all forms have been completed.

The county office will schedule an application interview immediately upon receipt of the completed packet. The application will be registered on WIMA in category 41 or 31. A waiver indicator code of "PD" will be entered in the WVR field (f.11).

- \* Other forms to be completed during the application process are the DCO-86, DCO-87, DCO-662, DCO-707, and DCO-769. Forms DCO-106, DCO-107, DCO-108 and DHS-81's will be completed if the disability is to be established by MRT.

Individuals will be referred to DAAS, Slot 1412, via the DHS-3330 for development of the Plan of Care and determination of medical necessity. The completed AAS-703 will be attached and submitted along with the DHS-3330. If the individual does not meet the level of care requirement, the Medicaid Waiver application will be denied.

The county office worker will have a maximum of 45 days to dispose of the application. Within 30 days of filing the application, the county office worker will check with the DAAS CO and/or the LTCU screen to determine if the AAS-703 has been processed. If the worker learns that the AAS-703 is being processed, the application will be held pending receipt of the DCO-704. If the AAS-703 is not being processed, the county office worker will forward the applicant a 10 day notice that the application will be denied. If there is no indication within 45 days of filing the application that the AAS-703 is being processed, the application will be denied. DAAS will be notified of applications certified (and denied) via the DHS-3330.

## 2. Division of Aging and Adult Services

DAAS Waiver Counselors will be responsible for developing an individualized Plan of Care and determining cost effectiveness for each individual under the Waiver. The Plan of Care will describe the services to be provided and the type of provider who will furnish each service. Periodic reviews of the individual's plan of care will be conducted at a minimum of every 12 months.

DAAS Utilization Review Committee will determine if the applicant meets the Intermediate Level of Care requirement. The results will be routed via the DCO-704 to the resident county office and to the Waiver Counselors. The individual's level of care will be reviewed annually by the Utilization Review Committee.

DAAS will have the responsibility of tracking the number of individuals approved under the Waiver. The county offices will be notified by DAAS when no more applications can be certified.

## 2078.4

### Residents of Residential Care Facilities

If an individual living in a residential care facility (RCF) applies for AAPD waiver services, the county office worker will explain to the applicant that, according to current LTC and RCF policy, he/she does not meet the required level of care to receive waiver services and the application will be denied (Denial Reason 58).

## 2078.5 Certification Procedures

After all eligibility criteria have been established, the worker will complete form DCO-57 (or DCO-765) to certify the case on ACES. The effective date of AAPD Waiver eligibility will be the date on which the Medicaid Waiver eligibility is finalized (completion of the DCO-57) by the county office. Retroactive coverage for AAPD Waiver services will not be given under this program. The SSI case number, if one is available, will be used to open the AAPD Waiver case.

- \* Application approvals will be entered first on WASM and then WAIV, unless the case is an open SSI. For open SSI, entries will be made on WAIV prior to entry on WASM. An Action Type of "NA" with Action Reason 103 and all other appropriate fields (Re. DCOUM 3721) will be entered. The gross income of the individual will be entered in the appropriate fields on the DCO-57 and also in the PROT MAINT field on WAIV. AAPD Waiver individuals will not be required to make a contribution to the cost of their care.

Waiver numbers "2930" will be entered in the WVNO field (f.15) to identify individuals entering the Waiver from a community setting and "2935" to identify individuals entering the Waiver from a LTC facility.

On WASM, a "B" Action Type and Action Reason 101 will be entered.

## 2078.6 Temporary Absences From the Home

Once an AAPD application has been approved, Waiver services must be provided in the home for eligibility to continue. Unless stated otherwise below, the county office will be notified immediately by the Waiver Counselor when Waiver services are discontinued, and action will be initiated by the county office to close the Waiver case.

### 1. Institutionalization

An individual cannot receive AAPD Waiver services while in an institution. However, the following policy will apply to active Waiver cases when the individual is hospitalized or enters a nursing facility.

#### a. Hospitalization

When a Waiver recipient enters a hospital, the county office will not be notified and no action is necessary unless the recipient does not return home within 20 days from the date of entry. If after 20 days the recipient has not returned home, the Waiver Counselor will notify the county office via Form DHS-3330, and action will be initiated by the county office to close the Medicaid Waiver case.

#### b. Nursing Facility Admission

If the county becomes aware that an AAPD Waiver recipient has entered a nursing facility and it is anticipated that the stay will be short, the case will be closed on WAIV effective the date of entry. The Medicaid case will be left open on WASM. When the individual returns home, the AAPD Waiver case may be reopened on WAIV effective the date of return home, if the Waiver Counselor

has provided the county with a copy of Page 2 of the Plan of Care, showing election of AAPD. A new DCO-703 and DCO-704 will not be required unless the last review was completed more than 6 months prior to facility entry. A new DCO-777 will not be required unless it is time for the annual case reevaluation. It will not be necessary to register a new application in this situation.

If the individual requests payment for the temporary stay in the nursing facility, a signed DCO-777 must be obtained and registered, along with a DCO-703 and DCO-704. If it is time for the annual case reevaluation, the reevaluation must be completed prior to certification on WNHU. If all eligibility requirements are met, eligibility for vendor will begin effective the date of entry into the nursing facility. If the stay in the facility was less than 30 days, vendor may still be authorized because AAPD recipients are considered to be "institutionalized" for Medicaid purposes and the AAPD eligibility prior to the facility stay may be applied toward the 30 day institutionalization requirement.

If the individual does not return home, i.e., stays in the facility and requests LTC services, the Medicaid SSI case on WASM will be left open while processing the registered LTC application.

If found eligible for vendor, the case will be opened on WNHU effective the date of NF entry. When approving the recipient, first key on WNHU an NA Action Type, Action Reason 102 and all appropriate fields (Re. DCOUM 3721). Next key on WASM, the register number, application date, action date, B Action Type, Worker number, Notice indicator, and Action Reason 102.

If found NOT eligible for vendor payment (or if after 20 days in a facility the individual does NOT apply for vendor payment), appropriate notice will be given for permanent closure of the AAPD Waiver case on WAIV.

## 2. Absence From the Home - Non-Institutionalization

When a waiver recipient is absent from the home for reasons other than institutionalization, the county office will not be notified unless the recipient does not return home within 20 days. If after 20 days the recipient has not returned home and the providers can no longer deliver services as prescribed by the plan of care (e.g., the recipient has left the state and the return date is unknown), the Waiver Counselor will notify the county office via form DHS-3330 and action will be taken by the county office to close the Medicaid Waiver case.

### 2078.7 Continuing Eligibility

#### A. Reevaluations

Eligibility for AAPD Waiver cases will be redetermined every 12 months, or at any time a change occurs which effects eligibility. Completion of forms DCO-777, DCO-707, DCO-727, and DCO-769 are necessary for each reevaluation.



The AAPD Waiver Counselor will be responsible for coordinating the completion of the AAS-703 and submission to the Utilization Review Committee for a redetermination of medical necessity.

B. Changes/Closure

Recipients will be informed to report changes within 10 days. When a change occurs that results in ineligibility, a 10 day advance notice must be given unless an advance notice is not required (MS 3633). A copy of the 10 day notice will be sent to the AAPD Waiver Counselor. Eligibility will terminate at the end of the 10 day advance notice period. The Waiver Counselors will be notified of any change resulting in closure via the DHS-3330.

AAPD Waiver services will terminate for any recipient who reaches the age of 65 while certified under the AAPD Waiver. A 10 day advance notice will be issued prior to closure. Closure code 191 will be utilized for this purpose. The county office will determine eligibility for the individual under the ElderChoices Waiver program.

DEPARTMENT Department of Human Services  
DIVISION County Operations  
PERSON COMPLETING THIS STATEMENT Joie Wallis  
TELEPHONE NO. 501-682-8253 FAX NO. 501-682-1597

FINANCIAL IMPACT STATEMENT

To comply with Act 884 of 1995, please complete the following Financial Impact Statement and file with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE MS 97-11 Alternatives for Adults with Physical Disabilities Waiver.

1. Does this proposed, amended, or repealed rule or regulation have a financial impact? Yes X No
2. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain. The financial impact of this rule will be none or nil. The increase in the number of eligibles due to this rule are assured to be our current nursing home population.
3. If the purpose of this rule or regulation is to implement a federal rule or regulation, please give the incremental cost for implementing the regulation.

<u>1997-98 Fiscal Year</u>	<u>1998-99 Fiscal Year</u>
General Revenue <u>                    </u>	General Revenue <u>                    </u>
Federal Funds <u>                    </u>	Federal Funds <u>                    </u>
Cash Funds <u>                    </u>	Cash Funds <u>                    </u>
Special Revenue <u>                    </u>	Special Revenue <u>                    </u>
Other <u>                    </u>	Other <u>                    </u>
Total <u>None</u>	Total <u>None</u>

4. What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule or regulation?

<u>1997-98 Fiscal Year</u>	<u>1998-99 Fiscal Year</u>
<u>None</u>	<u>None</u>

5. What is the total estimated cost by fiscal year to the agency to implement this regulation?

<u>1997-98 Fiscal Year</u>	<u>1998-99 Fiscal Year</u>
<u>None</u>	<u>None</u>

July 28, 1995

QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS  
WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE

DEPARTMENT/AGENCY Department of Human Services  
DIVISION County Operations  
DIVISION DIRECTOR Roy Hart  
CONTACT PERSON Joie Wallis  
ADDRESS P.O. Box 1437, Little Rock, AR 72203  
PHONE NO. 501-682-8253 FAX NO. 501-682-1597

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms.  
You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire attached to the front of two (2) copies of your proposed rule and mail or deliver to:

Donna K. Davis  
Subcommittee on Administrative Rules and Regulations  
Arkansas Legislative Council  
Bureau of Legislative Research  
Room 315, State Capitol  
Little Rock, AR 72201

\*\*\*\*\*

- 1. What is the short title of this rule?  
MS 97-11, Alternatives for Adults with Physical Disabilities Waiver.
- 2. What is the subject of the proposed rule?  
The increase of the income eligibility limit to 300% pf SSI and the addition of a new group of eligibles.
- 3. Is this rule required to comply with federal statute or regulations? Yes X No

If yes, please provide the federal regulation and/or statute citation. 42 CFR 435.217

- 4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes X No

If yes, what is the effective date of the emergency rule?  
October 1, 1997.

When does the emergency rule expire?

February 1, 1998.

Will this emergency rule be promulgated under the regular provisions of the Administrative Procedure Act? Yes X

No

5. Is this a new rule? Yes \_\_\_\_\_ No X

Does this repeal an existing rule? Yes X No \_\_\_\_\_  
If yes, please provide a copy of the repealed rule.

Is this an amendment to an existing rule? If yes, please  
attach a markup showing the changes in the existing rule  
and a summary of the substantive changes.

6. What state law grants the authority for this proposed rule?  
If codified, please give Arkansas Code citation.  
N/A

7. What is the purpose of this proposed rule? Why is it  
necessary? The purpose of this rule is the increase in the income eligibility  
limit for the Alternatives Waiver to be in compliance with federal requirements.

8. Will a public hearing be held on this proposed rule?  
Yes \_\_\_\_\_ No X If yes, please give the date, time,  
and place of the public hearing?

9. When does the public comment period expire? Emergency APA promulgation was  
on 9/30/97. Regular APA promulgation comment period will end on 1/24/98.

10. What is the proposed effective date of this proposed rule?  
October 1, 1997 - Emergency filing.  
February 3, 1998 - Regular filing.

11. Do you expect this rule to be controversial? Yes \_\_\_\_\_  
No X If yes, please explain.

12. Please give the names of persons, groups, or organizations  
which you expect to comment on these rules? Please provide  
their position (for or against) if known.  
None

PLEASE ANSWER ALL QUESTIONS COMPLETELY

July 28, 1995