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**(Underlined sections indicate additions or changes to the current rule.)**

**Arkansas Division of Behavioral Health Services**

**Rehabilitation Services for Persons with Mental Illness (RSPMI)  
Provider Certification Rules**

**Effective Date: January 1, 2008**

**Purpose:** This rule establishes that Division of Behavioral Health Services (DBHS) certification is a prerequisite for the Division of Medical Services (DMS) to establish a Medicaid provider number for sites where Rehabilitative Services for Persons with Mental Illness (RSPMI) are delivered and establishes the process to obtain such certification. All RSPMI agencies must have DBHS certification for each RSPMI site before providing RSPMI services at that site. In addition to certification of RSPMI sites, this rule requires DBHS specialty certification to provide RSPMI services in a school setting. The following rules supplement, but do not supplant, other laws and rules.

**I. Definitions:**

a. “Accreditation” means accreditation through an accreditation organization’s full survey process. Probationary, partial, conditional, early, interim, or similar conditional or limited accreditations are not acceptable for the initial certification of a new provider.

b. “Accreditation Organization” means the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), the Council on Accreditation of Rehabilitation Facilities (CARF) or the Council on Accreditation (COA).

c. “Adverse action” means an action by DBHS to revoke or suspend certification, to reduce certification to provisional status, or to require a corrective action plan.

d. “Certification” is a written statement from DBHS establishing that each site where RSPMI services are to be delivered meets all the conditions set forth in this rule.

e. “Provisional certification” is a written statement from DBHS establishing that pending accreditation a site has services and facilities that satisfy this rule.

f. "Provider" means an entity that is certified by DBHS and enrolled by DMS to provide a RSPMI services and bill Medicaid.

g. "School-based services" means RSPMI services provided in a public school, during a child's school day, or as any part of a child's public education or individual education plan.

h. "Site" means a structure that is owned or leased by a proposed provider/provider where RSPMI services are to be provided.

i. "Specialty certification" means certification by DBHS to provide school-based services.

II. Entities subject to this rule shall be in compliance within 45 days of its effective date.

III. DBHS certification under this rule is a condition of RSPMI provider enrollment. Separate certification is required for each site that is to deliver RSPMI services. An applicant may submit one application for multiple sites, but DBHS will take separate certification action for each site.

IV. Upon determining that an application for certification complies with this rule, DBHS will provide written certification to qualifying providers and entities. Except as limited by adverse action, each certification period shall be concurrent with the provider's accreditation period. Because the re-accreditation process often occurs after the end-date specified in the accreditation, certifications shall expire one-hundred eighty days after the end-date specified in the provider's accreditation.

V. In order to be certified a site must meet all of the following requirements:

a. Certification applications must include a list of all sites, including each site's address, telephone number, fax number and contact person's e-mail address and a letter signed by the Chief Executive Officer verifying that the application and any related information is complete and correct.

b. Each proposed provider/provider must furnish a copy of its most recent accreditation survey and copies of all correspondence between it and the accreditation organization to DBHS within 30 days of the date the organization sent the survey results or correspondence.

c. DBHS must be authorized to receive information directly from the accreditation organization and to provide information directly to the accreditation organization, as it relates to RSPMI services. Upon request DBHS will furnish a proposed provider/provider with a copy of documents that were received from or

sent to an accreditation organization in connection with accreditation, certification, or both

d. The proposed provider/provider must be fully accredited and in good standing as an outpatient mental health or behavioral health provider by an accreditation organization. Accreditation procedures established by an accreditation organization will be acceptable only if the contents, standards, and conditions of accreditation equal or exceed the organization's full accreditation process. If an accrediting entity subjects a fully accredited provider to an accreditation condition or limitation based upon an occurrence or practice that does not significantly impact direct patient care or is a technical deficiency as defined in Ark. Code Ann. § 20-77-1602(19), that condition or limitation may not result in the removal of certification if the occurrence or practice was neither egregious nor widespread and the provider is complying with all correction and improvement requirements of the accrediting organization.

e. Each site from which RSPMI services are delivered must be included under the accreditation by the JCAHO, CARF or COA. Proof of this accreditation must be submitted with any request for certification of a site.

f. Each new site must have an onsite audit by DBHS or its representative before certification. DBHS will perform an onsite survey within forty-five (45) calendar days of receiving all required certification documentation. For new sites DBHS may issue provisional certification pending the outcome of the next survey by the accrediting organization.

g. Each existing certified site included under a provider's accreditation by an accrediting organization will retain certification as of the effective date of this rule.

h. In order to qualify for Medicaid reimbursement, providers must link each Medicaid-covered service to the site where the Medicaid-covered services is delivered. Providers must therefore obtain a unique Medicaid provider number for each site where the provider delivers Medicaid-covered services.

i. Each proposed provider/provider must submit a written report to DBHS as a condition of certification, and annually thereafter, stating the services that were/will be provided documenting cultural and linguistic competency in the provision of client services, describing staff composition, interagency involvement, quality improvement and outcomes activities specific to each site, including organizational charts and any other information the proposed provider/provider chooses to supply regarding RSPMI services. DBHS reserves the right to ask questions or request additional information regarding such reports.-

j. DBHS retains the right to request information in connection with accreditation, certification, provision or billing of RSPMI services; to perform site

visits at any time; and to conduct scheduled or unannounced visits, to insure that entities are providing RSPMI services in accordance with the information that was submitted to DBHS and the organization. During a site visit, the provider must allow access to all sites, policies and procedures, patient records, financial records, and any other documentation necessary to evaluate quality of services provided through the RSPMI program.

k. Each provider/proposed provider must have a chief executive officer with professional qualifications and experience as established by the proposed provider's/provider's governing body. The provider/proposed provider must secure the services of professionals in the following disciplines:

1. Licensed mental health professional as defined in the RSPMI manual;
2. Medical records librarian as defined in the RSPMI manual;
3. Psychiatrist - The psychiatrist may provide oversight, medical care, or both. If the psychiatrist does not provide all medically necessary RSPMI medical care, then a medical doctor may provide medical care in addition to a psychiatrist; and
4. Psychologist or Licensed Psychological Examiner.

Sufficient professionals must be present to furnish all medically necessary RSPMI services, including all services in each patient's care plan.

l. If an organization requires a corrective action plan DBHS must determine that the corrective action plan provides credible assurance of compliance with this rule. In order to make its determination under this rule DBHS may require additional information, conduct an on-site survey, and require a separate corrective action plan.

m. Each site must be located within the State of Arkansas, and should be within one hour's travel of patients' home or workplace, using available transportation options. RSPMI providers cannot be outreach sites of an accredited provider outside of Arkansas.

n. Not all services have to be provided at the site. However, each site must have the minimum array of services available within a reasonable geographic area, defined as 30 miles or 30 minutes driving distance from the certified agency site. The array of RSPMI services available must include all of the following services:

1. Outpatient services – individual and family therapy at a minimum;
2. Intervention services – on-site and off-site at a minimum;
3. Medication Management;

4. Crisis Services; and
5. Psychological evaluation.

o. Each provider must maintain 24-hour, 7 days a week face-to-face outpatient crises services that are available at each site and off-site within 2 hours of the client (or someone acting on behalf of the client) contacting the provider to make an initial request. The provider's plan to meet this requirement must be documented and submitted to DBHS for approval prior to certification. The plan must include the published 24-hour emergency phone number, which must also be published in the provider's client materials for each site and procedures for informing clients of that number.

p. All providers that furnish services to individuals under the age of eighteen must establish and maintain a policy that addresses family involvement in the treatment process for all clients. Family is defined as parents, foster parents, guardians, or other responsible parties or family members that are significantly involved in the child's life, as identified in the assessment process. The policy shall require the identification and engagement of some or all family members, and a plan to engage such persons in the treatment process. The family engagement plan shall conform to professionally recognized standards of care. This policy must be submitted with all applications for certification of new providers and applications for certification of new sites. For providers and sites that are currently certified, this policy must be available upon request by DBHS. The policy must address the agency's requirement for meaningful involvement of parents and family members in:

1. development and participation in the individualized treatment goals, objectives and interventions, including actions by the provider to address barriers to family involvement in the treatment process.
2. evaluation of client progress in treatment.
3. providing input in ongoing quality improvement activities.

q. Continuing certification is contingent upon evidence of continued compliance with this rule. DBHS will take appropriate action in response to noncompliance, which may include requirement of corrective action or denial, suspension or revocation of certification based on any of the following grounds:

1. Violation of the certification rule;
2. Permitting, aiding or abetting the commission of any illegal act in a certified site;
3. Conduct or practice detrimental to the welfare of the clients of a certified site;

4. The submission of false information; or
5. The use of subterfuge (for instance, filing through a second party after an individual has been denied certification).
6. The loss of accreditation by an accrediting organization.

r. Upon receipt of complete and legible originals of required documents, DBHS shall determine compliance with this rule for certification or provisional certification.

s. DBHS will process all certification requests within ninety calendar days of receiving all information that is necessary to review and process the certification request. DBHS will notify each prospective provider/provider in writing of its determination and furnish a copy to DMS.

t. If DBHS takes adverse action on a proposed provider's/provider's certification request or certification the provider can appeal the adverse action. See Section IX.

## **VI. School-based RSPMI Services Certification Requirements**

Forty-five (45) days from the date this rule is effective, school-based RSPMI services may not be provided without specialty certification by DBHS. In order to obtain specialty certification the proposed provider/provider must meet all the requirements for non-school based RSPMI services except site certification, and comply with the following additional requirements:

a. Proposed providers/providers must be part of the Department of Education School-based Network, or, if not a part of the network, must comply with the DBHS certification requirements set forth in this section (§ VII);

b. School-based service programs must include therapy services (individual, group, family) and intervention Services (on-campus, off-campus); Specific services provided to a client must be based on an individualized treatment plan.

c. The school principal and district superintendent and the proposed provider's/provider's Executive Director or a person in a comparable executive position must execute a written contract or Memorandum of Understanding with the school. The contract or Memorandum of Understanding must include comprehensive and specific terms on all of the following subjects:

(1) General and case-specific communication and confidentiality procedures;

(2) Location and times for RSPMI services;

(3) Description of RSPMI services;

(4) Referral processes;

(5) Interagency staffing processes and communication for those children having an I.E.P.

d. Each provider of school-based RSPMI services must report the following information to DBHS annually:

(1) The units of school-based RSPMI provided by billing code and by recipient;

(2) The approximate percentage of total staff time spent providing non-billable activities such as teacher training and attendance at school staff meetings related to the delivery of RSPMI services;

(3) Results from each recipient's standardized assessment. Standardized assessments must be carried out in accordance with the guidelines and instructions applicable to the approved assessment instrument used. A current list of approved standardized assessment instruments can be found on the Division of Behavioral Health Services website: [www.arkansas.gov/dhs/dmhs/](http://www.arkansas.gov/dhs/dmhs/); A provider may request that DBHS consider the addition of another assessment instrument that is not on the current list. Each request must include a rationale justifying the inclusion of that instrument.

(4) Any quality improvement and outcomes activities specific to school-based RSPMI services and any other information the provider chooses to supply regarding the provider's provision or ability to provide school-based RSPMI services. DBHS reserves the right to ask questions or request additional information regarding such reports.

(e) DBHS may deny, suspend, or revoke the specialty certification to provide school-based mental health services or require an acceptable corrective action plan, upon a determination of noncompliance with this rule. Such determinations may be based on findings or observations made by DBHS, the Department of Education, any licensing or regulatory authority, or by an organization.

## **VII. Procedures for Specialty Certification to Provide School-based RSPMI Services**

Each application to DBHS for specialty certification to provide school-based services shall identify each school where the proposed provider/provider and the school and school district have agreed to provide school-based services. Each certification for school-based services shall specify each school where the provider is certified to provide school-based services.

No later than 21 days after this rule is effective, proposed providers/providers must submit a letter to DBHS furnishing satisfactory evidence of compliance with the requirements for school-based RSPMI services and:

a. A request for DBHS specialty certification to provide school-based mental health services along with evidence of satisfactory compliance with certification requirements, designation of the proposed provider's/provider's certified site from which school-based services will be provided, the number of full-time equivalent positions that will provide school-based RSPMI services, the incumbent's names, and the incumbent's qualifications to provide school-based RSPMI services; or

b. Written evidence that the proposed provider/provider is a part of the Department of Education School-Based Network. The written evidence must specify the school or schools in which school-based RSPMI services will be provided, and include a copy of the signed contract. See § VII. a.

### **VIII. Violations**

If a proposed provider/provider fails to comply with this rule, DBHS may take action in response to such noncompliance. Action may include requirement of corrective action or denial, suspension, or revocation of a certification, a provisional certification, or both. In determining the remedy to impose for noncompliance, including the length of any suspension, DBHS shall consider the severity of the violation, whether the violation affects direct patient care, the number of violations, and whether the violation evidences a systemic problem.

### **IX. Appeal Process**

a. If DBHS denies, suspends, or revokes any RSPMI certification or provisional certification (takes adverse action), the affected proposed provider/provider may appeal the DBHS adverse action. Notice of adverse action shall comply with Ark. Code Ann. §§ 20-77-1701-1705, and §§1708-1713. Appeals must be submitted in writing to the DBHS Director. The provider has 30 calendar days from the date of the notice of adverse action to appeal. An appeal request received within 35 calendar days of the date of the notice will be deemed timely. The appeal must state with particularity the error or errors asserted to have been made by DBHS in denying certification, and cite the legal authority for



each assertion of error. The provider may elect to continue Medicaid billing under the RSPMI program during the appeals process. If the appeal is denied, the provider must return all moneys received for RSPMI services provided during the appeals process.

b. Within thirty (30) calendar days after receiving an appeal the DBHS Director shall: (1) designate a person who did not participate in reviewing the application or in the appealed-from decision to hear the appeal; (2) set a date for the appeal hearing; (3) notify the appellant in writing of the date, time, and place of the hearing. The hearing shall be set within sixty (60) calendar days of the date DBHS receives the request for appeal, unless a party to the appeal requests and receives a continuance for good cause.

c. DBHS shall tape record each hearing.

d. The hearing official shall issue the decision within forty-five days of the date that the hearing record is completed and closed. The hearing official shall issue the decision in a written document that contains findings of fact, conclusions of law, and the decision. The findings, conclusions, and decision shall be mailed to the appellant except that if the appellant is represented by counsel, a copy of the findings, conclusions, and decision shall also be mailed to the appellant's counsel. The decision is the final agency determination under the Administrative Procedure Act.

e. Delays caused by the appealing party shall not count against any deadline. Failure to issue a decision within the time required is not a decision on the merits and shall not alter the rights or status of any party to the appeal, except that any party may pursue legal process to compel the hearing official to render a decision.

f. Except to the extent that they are inconsistent with this rule, the appeal procedures in the Medicaid Provider Manual are incorporated by reference and shall control.