

ARKANSAS REGISTER

Proposed Rule Cover Sheet



Secretary of State
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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 _____

TOC required

202.200

Reserved **Living Choices Assisted Living Facility Cost Report Requirements****4-4-437-1-24**

An assisted living facility participating in, or seeking to participate in, the Arkansas Medicaid Program, including any Medicaid waiver program under 42 U.S.C. § 1396n(c) or 42 U.S.C. §1315, shall file a cost report with the Department of Human Services:

- A. Annually not later than ninety (90) days after the end of the fiscal year of the facility;
- B. Within sixty (60) days of any significant change in the facility's ownership, management, or financial status or solvency; and
- C. At any time within sixty (60) days of a written request from the department or the Office of Medicaid Inspector General.

The department shall post the cost-reporting instructions, forms, and schedules on its website.

- A. The department may revise the cost-reporting instructions, forms, and schedules at any time, following consultation with representatives of the assisted living facility industry and sixty days before written notice to each Medicaid-certified Level II licensed assisted living facility.
- B. In the cost-reporting instructions, the department may require electronic submission of cost reports and accompanying information.
- C. In preparation and filing of cost reports, each assisted living facility shall:
 - 1. Comply with generally accepted accounting principles and cost-reporting instructions of the department;
 - 2. Follow the accrual method of accounting; and
 - 3. Maintain the working trial balance used in completing the cost reports for each reporting period for a minimum of three (3) years.
- D. To be considered complete and timely filed, each cost report shall include all information required by the forms, schedules, certifications, and instructions specified by the department and otherwise comply with generally accepted accounting principles and cost-reporting instructions of the department.
- E. Failure to file a cost-report may result in penalties and sanctions as set forth in Arkansas Code 20-10-2401 et seq.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY.

DEPARTMENT _____
BOARD/COMMISSION _____
PERSON COMPLETING THIS STATEMENT _____
TELEPHONE NO. _____ **EMAIL** _____

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

TITLE OF THIS RULE _____

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 no, please explain:

(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 reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and

(d) whether the reason for adoption of the more costly rule is within the scope of the agency's statutory authority, and if so, how.

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 _____
 Other (Identify) _____

Total _____

Next Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

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

Current Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

Next Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

5. What is the total estimated cost by fiscal year to any private individual, private entity, or private business subject to the proposed, amended, or repealed rule? Please identify those subject to the rule, and explain how they are affected.

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

6. What is the total estimated cost by fiscal year to a state, county, or 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

\$ _____

Next Fiscal Year

\$ _____

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

Assisted Living Facility Cost Reporting pursuant to Act 198

Statement of Necessity

In compliance with Act 198 of 2023, the Division of Aging, Adult and Behavioral Health Services (DAABHS) amends the Living Choices Assisted Living Medical Provider Manual to advise assisted living providers of cost-reporting requirements. Assisted Living Facilities (ALFs) must complete annual cost-reports as a condition for participating in the Arkansas Medicaid Program.

Rule Summary

Living Choices Assisted Living Medical Provider Manual Section 202.202 (formerly “Reserved”) updated to include new mandate that:

- Any ALF participating in, or seeking to participate in, the Arkansas Medicaid Program, including any Medicaid waiver program under 42 U.S.C. § 1396n(c) or 42 U.S.C. §1315, shall file a cost report with the Department of Human Services with the following requirements:
 - Annually not later than ninety (90) days after the end of the fiscal year of the facility;
 - Within sixty (60) days of any significant change in the facility’s ownership, management, or financial status or solvency; and
 - At any time within sixty (60) days of a written request from the department or the Office of Medicaid Inspector General;
- The Department of Human Services (DHS) shall post the cost-reporting instructions, forms, and schedules on its website;
- DHS may revise the cost-reporting instructions, forms, and schedules at any time, following consultation with representatives of the assisted living facility industry and sixty days before written notice to each Medicaid-certified Level II licensed assisted living facility;
- DHS may require electronic submission of cost reports and accompanying information;
- In preparation and filing of cost reports, each ALF shall:
 - Comply with generally accepted accounting principles and cost-reporting instructions of the department;
 - Follow the accrual method of accounting; and
 - Maintain the working trial balance used in completing the cost reports for each reporting period for a minimum of three (3) years; and
- Requirement that to be considered complete and timely filed, each cost report shall include all information required by the forms, schedules, certifications, and instructions specified by the department and otherwise comply with generally accepted accounting principles and cost-reporting instructions of the department.

NOTICE OF RULE MAKING

The Department of Human Services (DHS) 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, and 25-10-129. The proposed effective date is July 1, 2024.

The Director of the Division of Aging, Adult and Behavioral Health Services amends the Living Choices Medicaid Provider Manual in compliance with Act 198 of 2023. The “Assisted Living Facility Cost Reporting pursuant to Act 198” rule establishes the annual cost-reporting requirements for Assisted Living Facilities (ALFs) as a condition for participating in the Arkansas Medicaid Program. The projected annual cost of this change is \$4,167.00 for the current state fiscal year and \$50,000.00 for the next state fiscal year, with both years shared equally between the state and federal governments.

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 ar.gov/dhs-proposed-rules. Public comments must be submitted in writing at the above address or at the following email address: ORP@dhs.arkansas.gov. All public comments must be received by DHS no later than May 13, 2024. 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.

If you need this material in a different format, such as large print, contact the Office of Rules Promulgation at 501-320-6428.

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. 4502201653

Jay Hill, Director
Division of Aging, Adult and Behavioral Health Services