

# 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 \_\_\_\_\_

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

ATTACHMENT 3.1-A  
Page 4a

AMOUNT, DURATION AND SCOPE OF  
SERVICES PROVIDED  
2020

Revised: July 1, 2018January 1,

CATEGORICALLY NEEDY

9. Clinic Services

(1) Adult Developmental Day Treatment (ADDT) Services

Limited to comprehensive day treatment centers offering the following ~~scope of~~core services to beneficiaries age 18 and above:

- a. Assessments, 1 unit per year
- b. Adult ~~Habilitative~~Day Habilitation Services, 5 units per day, 1 hour each
- c. Provision of noon meal

Optional Services available through ADDT in conjunction with core services are as follows:

- a. Physical therapy - Services must be prescribed by a physician and provided by or under the supervision of a qualified physical therapist.
- b. Speech therapy - Services must be referred by a physician and provided by or under the supervision of a qualified speech pathologist.
- c. Occupational therapy - Services must be prescribed by a physician and provided by or under the supervision of a qualified occupational therapist.

~~Effective for dates of services on or after July 1, 2017, individual and group therapy are limited to six (6) units per week. One unit equals 15 minutes. Evaluations are limited to four (4) units per State Fiscal Year (July 1 through June 30). One unit equals 30 minutes. Occupational, Physical, and Speech Therapy Services are provided in accordance with Items 3.1-A.4b(15), 3.1-A.11, 3.1-B.4b(15), and 3.1-B(11).~~

Extensions of the benefit limit for all ADDT services will be provided if medically necessary.

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

ATTACHMENT 3.1-B  
Page 4b

AMOUNT, DURATION AND SCOPE OF  
SERVICES PROVIDED

Revised: July 1, 2018January 1, 2020

MEDICALLY NEEDY

9. Clinic Services

(1) **Adult Developmental Day Treatment (ADDT) Services**

Limited to ~~comprehensive-adult~~ day treatment centers offering the following ~~scope of mandatory core~~ services **to beneficiaries age 18 and above:**

- a. **Assessment, 1 unit per year**
- b. **Adult ~~Habilitative~~-Day Habilitation Services, 5 units per day, 1 hour each day**
- c. **Provision of noon meal**

Optional Services available through Adult Developmental Day Treatment (ADDT) in conjunction with core services are as follows:

- a. **Physical therapy—Services must be prescribed by a physician and provided by or under the supervision of a qualified physical therapist.**
- b. **Speech therapy—Services must be prescribed by a physician and provided by or under the supervision of a qualified Speech Pathologist.**
- c. **Occupational therapy—Services must be prescribed by a physician and provided by or under the supervision of a qualified Occupational therapist.**

~~Effective for dates of services on or after July 1, 2017, individual and group therapy are limited to six (6) units per week. One unit equals 15 minutes. Evaluations are limited to four (4) units per State Fiscal Year (July 1 through June 30). One unit equals 30 minutes. Extensions of the benefit limit for all ADDT services will be provided if medically necessary. Occupational, Physical, and Speech Therapy Services are provided in accordance with Items 3.1-A.4b(15), 3.1-A.11, 3.1-B.4b(15), and 3.1-B(11).~~

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES -  
OTHER TYPES OF CARE

Revised: July 1, 2018, January 1, 2020

4.b. Early and Periodic Screening and Diagnosis of Individuals Under 21 Years of Age and Treatment of Conditions Found.  
(Continued)

(3) Early Intervention Day Treatment (EIDT)

Reimbursement for comprehensive evaluation is based on the lesser of the amount billed or the Title XIX (Medicaid) charge allowed. The Title XIX maximum was established based on a 1980 survey conducted by Developmental Disabilities Services (DDS) of 85 Arkansas Developmental Day Treatment providers of their operational costs excluding their therapy services. An average operational cost and average number of units was were derived for each service. ~~Then an average number of units was derived for each service.~~ The average operational cost for each service was divided by the average units for that particular service to arrive at a maximum rate.

The Title XIX (Medicaid) maximum rates were established based on the following:

1. Auditory, developmental and neuropsychological testing services listed in the 1990 Blue Cross/Blue Shield Fee Schedule that are not subject to the other specifically identified reimbursement criteria are reimbursed based on 80% of the October 1, 1990 Blue Cross/Blue Shield Fee Schedule amounts. For those services that were not included on the October 1, 1990 Blue Cross/Blue Shield Fee Schedule, rates are established per the most current Blue Cross/Blue Shield Fee Schedule amount less than 2.5% and then multiplied by 66%.
2. Psychological diagnosis/evaluation services provided by Early Intervention Day Treatment (EIDT) providers certified as Academic Medical Centers (AMCs) are reimbursed from the Rehabilitative Services for Persons with Mental Illness (RSPMI) Outpatient Behavioral Health Fee Schedule as described in Attachment 4.19-B, Item 13.d.1.
3. Medical professional services reimbursement is based on the physician's fee schedule. Refer to the physician's reimbursement methodology as described in Attachment 4.19-B, Item 5.
4. ~~The maximum rates for nutritional services are based on the entry-level salary for a Dietician (Grade 19). Department of Human Services position. The cost categories include Salary (\$22,795), overhead and administration (\$2,276...using salary as the allocation base) and benefits (\$4,559...using salary as the allocation base). These costs were allocated at 10% for overhead/administration and 20% for benefits. A 30 minute visit will equal one unit of services. As such, the unit of services rate is \$7.12 as calculated by  $[\$22,795 + \$2,276 + \$4,559 = \$29,630 / 2080 \text{ (52 weeks} \times 40 \text{ hours per week)} = \$14.24 \text{ per hour.}]$~~
5. The maximum rate for one hour of habilitative day habilitation services is ~~\$16.46~~ \$18.27. This rate was calculated based on analysis of current 2005-2019-2020 costs to provide quality services in compliance with governing regulations. The rates have been demonstrated to be consistent with the Clinic Upper Payment Limit at 42 CFR 447.321. ~~One unit of service equals 1 hour of service with a~~ The maximum services without an extension of benefits are of 5 hours per day. State developed fee schedule rates are the same for both public and private providers of EIDT services.
6. The maximum rate for five minutes of registered nursing services is ~~\$14.30~~ \$4.77. The maximum rate for five (5) minutes of licensed practical nursing services is \$3.17. Reimbursement for registered nurses and licensed practical nurses is based on the Private Duty Nursing Fee Schedule as described in Attachment 4.19B, Item 8.
7. The Title XIX maximum for occupational, physical and speech therapy diagnosis and evaluation is equal to the Title XIX (Medicaid) maximum established for the stand-alone therapy program. Refer to the stand-alone therapy reimbursement methodology as described in Attachment 4.19-B, Item 4b. (19).

Extensions of benefits will be provided for all EIDT services, if medically necessary.

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES -  
OTHER TYPES OF CARE  
2020

Revised: July 1, 2018January 1,

8. Private Duty Nursing Services (Continued)

Refer to Attachment 4.19-B, Item 4.b.(5) for reimbursement information for private duty nursing services for high technology non-ventilator recipients in the Early and Periodic Screening Diagnosis and Treatment (EPSDT) Program.

9. Clinic Services

(1) Adult Developmental Day Treatment (ADDT) and Early Intervention Day Treatment (EIDT)

Reimbursement for comprehensive evaluation services is based on the lesser of the amount billed or the maximum Title XIX (Medicaid) charge allowed. The Title XIX maximum was established based on a 1980 survey conducted by Developmental Disabilities Services (DDS) of 85 Arkansas Developmental Day Treatment providers of their operational costs excluding their therapy services. An average operational cost and average number of units were was derived for each service. ~~Then an average number of units was derived for each service.~~ The average operational cost for each service was divided by the average units for that particular service to arrive at a maximum rate.

For dates of service occurring on or after ~~February~~ January 1, ~~2021~~ 2020, the maximum per unit rate for Adult ~~Habilitative~~ day habilitation ~~services~~ services is increased to ~~\$10.60~~ \$11.77. These new rates were calculated based on analysis of the current ~~2005-2019-2020~~ costs to provide quality services in compliance with governing regulations. The rates have been demonstrated to be consistent with the Clinic Upper Payment Limit at 42 CFR 447.321. For ~~EIDT and~~ ADDT day habilitation services, ~~1 unit of service equals 1 hour of service with a maximum~~ there is a maximum of 5 units hours of services per day.

For EIDT, auditory, developmental and neuropsychological testing services listed in the 1990 Blue Cross/Blue Shield Fee Schedule that are not subject to the other specifically identified reimbursement criteria are reimbursed based on 80% of the October, 1990 Blue Cross/Blue Shield Fee Schedule amounts. For those services that were not included on the October 1990 Blue Cross/Blue Shield Fee Schedule, rates are established per the most current Blue Cross/Blue Shield Fee Schedule amount less than 2.5% and then multiplied by 66%.

For EIDT, Psychological diagnosis/evaluation services provided by EIDTs certified as Academic Medical Centers (AMCs) are reimbursed from the ~~Rehabilitative Services for Persons with Mental Illness (RSPMI)~~ Outpatient Behavioral Health Services (OBHS) Fee Schedule as described in Attachment 4.19-B, Item 13.d.1.

For EIDT, Medical professional services reimbursement is based on the physician's fee schedule. Refer to the physician's reimbursement methodology as described in Attachment 4.19-B, Item 5.

~~For EIDT, the maximum rates for nutritional services are based on the entry level salary for a Dietician (Grade 19). Department of Human Services position. The cost categories include Salary (\$22,795), overhead and administration (\$2,276...using salary as the allocation base) and benefits (\$4,559...using salary as the allocation base). These costs were allocated at 10% for overhead/administration and 20% for benefits. A 30 minute visit will equal one unit of services. As such, the unit of services rate is \$7.12 as calculated by [(\$22,795 + \$2,276 + \$4,559 = \$29,630/2080 (52 weeks x 40 hours per week) = \$14.24 per hour.]~~

The maximum rate for five minutes of registered nursing services is ~~\$14.30~~ \$4.77. The maximum rate for five minutes of licensed practical nursing services is \$3.17. Reimbursement for registered nurses and licensed practical nurses is based on the Private Duty Nursing Fee Schedule as described in Attachment 4.19B, Item 8.

State developed fee schedule rates are the same for both public and private providers of EIDT and ADDT services. Occupational, physical and speech therapy services under the EIDT and ADDT Program are reimbursed as is described in Item 4.b.(19).

Extensions of benefits will be provided for all EIDT and ADDT services, if medically necessary.

WADSWORTH

## FINANCIAL IMPACT STATEMENT

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT** Department of Human Services

**DIVISION** Division of Medical Services

**PERSON COMPLETING THIS STATEMENT** Lynn Burton

**TELEPHONE** (501) 682-1857 **FAX** (501) 682-8155 **EMAIL:** Lynn.burton@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** SPA #2020-0003 EIDT/ADDT Rate Increase

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	_____
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	<u>\$2,714,730</u>
Federal Funds	<u>\$6,708,143</u>
Cash Funds	<u></u>
Special Revenue	<u></u>
Other (Identify)	<u></u>
Total	<u>\$9,422,873</u>

**Next Fiscal Year**

General Revenue	<u>\$5,357,845</u>
Federal Funds	<u>\$13,487,900</u>
Cash Funds	<u></u>
Special Revenue	<u></u>
Other (Identify)	<u></u>
Total	<u>\$18,845,745</u>

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**

\$ 2,714,730

**Next Fiscal Year**

\$ 5,357,845

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; **As required by Executive Order 19-02, the rate review process for Day Habilitation was completed in July 2019. The review resulted in a recommended increase of 11% for day habilitation services provided in EIDT and ADDT programs.**
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute; **As required by Executive Order 19-02, the rate review process for Day Habilitation was completed in July 2019. The review resulted in a recommended increase of 11% for day habilitation services provided in EIDT and ADDT programs.**
- (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; **As required by Executive Order 19-02, the rate review process for Day Habilitation was completed in July 2019. The review resulted in a recommended increase of 11% for day habilitation services provided in EIDT and ADDT programs.**
- (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; **There are no less costly alternatives.**
- (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; **None at this time.**
- (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 **None**
- (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. **Executive Order 19-02 requires provider rates to be reviewed no less frequently than every four years.**

## **Statement of Necessity and Rule Summary**

### **SPA #2020-0003 EIDT/ADDT Rate Increase**

#### **Statement of Necessity**

A revision to the Arkansas Medicaid State Plan is necessary to increase rates for day habilitation services in the Adult Developmental Day Treatment (ADDT) and Early Intervention Day Treatment (EIDT) Medicaid programs based upon a rate review recommendation and Arkansas minimum wage increases.

#### **Rule Summary**

Day habilitation service rates in Adult Developmental Day Treatment (ADDT) and Early Intervention Day Treatment (EIDT) will increase by eleven percent (11%) based upon a rate review of the service. The previous rate had not been increased since 2008. The State Plan Amendment to support this change will be retroactive to January 1, 2020 upon Centers for Medicare and Medicaid Services (CMS) approval. As a result of the increase, the following state plan pages are being revised.

- Attachment 3.1 A, page 4a: Categorically Needy
- Attachment 3.1-B, page 4b: Medically Needy
- Attachment 4.19-B, page 1f: Methods and Standards For Establishing Payment Rates
- Attachment 4.19 -B, page 3a: Methods and Standards For Establishing Payment Rates