

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 Division of Medical Services

Contact Mac E. Golden E-mail Mac.E.Golden@dhs.arkansas.gov Phone (501)320.6383

Statutory Authority for Promulgating Rules Arkansas Code Annotated 20-76-201

Rule Title: Pharmacy 2-21 and Medicaid State Plan Amendment (SPA) 2021-0009, based on Act 758

Intended Effective Date

(Check One)

<input type="checkbox"/> Emergency (ACA 25-15-204)	Legal Notice Published	<u>October 10, 2021</u>
<input type="checkbox"/> 10 Days After Filing (ACA 25-15-204)	Final Date for Public Comment	<u>November 8, 2021</u>
<input checked="" type="checkbox"/> Other <u>01-01-2022</u> (Must be more than 10 days after filing date.)	Reviewed by Legislative Council	<u>December 17, 2021</u>
	Adopted by State Agency	<u>January 01, 2022</u>

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

Lisa Teague

lisa.teague@dhs.arkansas.gov

12-21-2021

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

501-244-3944

Phone Number

elizabeth.pitman@dhs.arkansas.gov

E-mail Address

Director, Division of Medical Services

Title

December 17, 2021

Date

TOC not required**213.100 Monthly Prescription Limits****1-1-22**

- A. Each prescription for all Medicaid-eligible clients may be filled for up to a maximum thirty-one-day supply. Maintenance medications for chronic illnesses must be prescribed and dispensed in quantities sufficient (not to exceed the maximum thirty-one-day supply per prescription) to effect optimum economy in dispensing. For drugs that are specially packaged for therapy exceeding thirty-one (31) days, the days' supply limit (other than thirty-one (31)), as approved by the agency, will be allowed for claims processing. Contact the Pharmacy Help Desk to inquire about specific days' supply limits on specially packaged dosage units.

[View or print the contact information for the DHS contracted Pharmacy vendor.](#)

- B. Each Medicaid-eligible client twenty-one (21) years of age and older is limited to six (6) Medicaid-paid prescriptions per calendar month.

Each prescription filled counts toward the monthly prescription limit except for the following:

1. Family planning items. Including without limitation, birth control pills, contraceptive foams, contraceptive sponges, suppositories, jellies, prophylactics, and diaphragms;
 2. Prescriptions for Medicaid-eligible long-term care facility residents(must be for Medicaid-covered drugs);
 3. Prescriptions for Medicaid-eligible clients under twenty-one (21) years of age in the Child Health Services/Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program. (must be for Medicaid-covered drugs);
 4. Prescriptions for opioid use disorder treatment when used according to SAMHSA guidelines;
 5. Prescriptions for tobacco cessation products;
 6. Prescriptions for the treatment of high blood pressure;
 7. Prescriptions for the treatment of hypercholesterolemia;
 8. Blood modifier medications;
 9. Prescriptions for the treatment of diabetes; and
 10. Inhalers to treat respiratory illness.
- C. Living Choices Assisted Living Program clients are eligible for up to nine (9) medically necessary prescriptions per month.
- D. After the client has received the maximum monthly benefit or the maximum monthly extended benefit, they will be responsible for paying for their own medications for the remainder of the month.

213.200 Prescription Refill Limit**1-1-22**

Refills are reimbursable under the Arkansas Medicaid Pharmacy Program only if they are specifically authorized on the original prescription or if authorized by the prescribing provider at a later date and recorded by the pharmacist on the original prescription when refilled. Refills shall be in accordance with federal and state laws.

Pharmacies will have a maximum of fourteen (14) days to reverse original prescriptions and refills that were not provided to the client.

215.000 **Child Health Services/Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program** **1-1-22**

Medicaid provides a Child Health Services (EPSDT) Program to detect, diagnose, and treat medical problems in Medicaid clients under twenty-one (21) years of age. Prescriptions for Medicaid clients under twenty-one (21) years of age in the Child Health Services (EPSDT) Program are not subject to a monthly prescription limit.

As with all other Medicaid prescriptions, Medicaid clients under twenty-one (21) years of age in the Child Health Services (EPSDT) Program may have each prescription filled for a maximum thirty-one-day supply.

216.201 **Prescription Benefits for Hospice Patients in Long-Term Care Facilities** **1-1-22**

Medicaid clients who have elected to receive hospice services in LTC facilities may only use their prescription drug benefits to treat conditions not directly related to their terminal illness. Please refer to section 213.100 for monthly prescription limits. *Drugs related to the terminal illness must be furnished by the hospice.*

216.202 **Regulations Governing Cycle-Fill and Pharmacy Notification for Long-Term Care Facilities** **1-1-22**

Only oral solid medications may be cycle-filled. However, if an oral solid medication meets one (1) of the categories below, then that oral solid medication **may not** be cycle-filled.

- A. PRN or “as needed” medications;
- B. Controlled drugs (CII – CV);
- C. Refrigerated medications;
- D. Antibiotics; or
- E. Anti-infectives.

When a facility notifies a pharmacy in writing of any change of condition that affects the medication status of a resident, the pharmacy shall immediately amend the filling of the prescription to conform to the changed medication requirement of the resident.

For purposes of this section, *change of condition* includes death, discharge, or transfer of a resident as well as medical changes of condition that necessitate a change to the medication prescribed or the dosage given.

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

ATTACHMENT 3.1-A
Page 5a

AMOUNT, DURATION, AND SCOPE OF
SERVICES PROVIDED

Revised: January 1, 2022

CATEGORICALLY NEEDY

12. Prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist
- a. Prescribed Drugs
- (1) Each recipient age twenty-one (21) or older may have up to six (6) prescriptions each month under the program. Family Planning, tobacco cessation, oral prescription drugs for opioid use disorder prescribed by an X-DEA waived provider as part of a Medication Assisted Treatment plan, EPSDT, **high blood pressure, hypercholesterolemia, blood modifiers, diabetes and respiratory illness inhaler** prescriptions do not count against the prescription limit.
 - (2) Effective January 1, 2006, the Medicaid agency will not cover any Part D drug for full-benefit dual eligible individuals who are entitled to receive Medicare benefits under Part A or Part B.
 - (3) The Medicaid agency provides coverage, to the same extent that it provides coverage for all Medicaid recipients, for the following excluded or otherwise restricted drugs or classes of drugs, or their medical uses – with the exception of those covered by Part D plans as supplemental benefits through enhanced alternative coverage as provided in 42 C.F.R. §423.104 (f) (1) (ii) (A) – to full benefit dual eligible beneficiaries under the Medicare Prescription Drug Benefit – Part D.

The following excluded drugs, set forth on the [Arkansas Medicaid Pharmacy Vendor's Website](#), are covered:
 - a. select agents when used for weight gain:
Androgenic Agents;
 - b. select agents when used for the symptomatic relief of cough and colds:
Antitussives; Antitussive-Decongestants; and Antitussive-Expectorants;
 - c. select prescription vitamins and mineral products, except prenatal vitamins and fluoride:
B 12; Folic Acid; and Vitamin K;
 - d. select nonprescription drugs:
Antiarthritics; Antibacterials and Antiseptics; Antitussives; Antitussives-Expectorants; Analgesics; Antipyretics; Antacids; Antihistamines; Antihistamine-Decongestants; Antiemetic/Vertigo Agents; Gastrointestinal Agents; Hematinics; Laxatives; Ophthalmic Agents; Sympathomimetics; Topical Antibiotics; Topical Antifungals; Topical Antiparasitics; and Vaginal Antifungals; and
 - e. non-prescription products for smoking cessation.
 - (4) The State will reimburse only for the drugs of pharmaceutical manufacturers who have entered into and have in effect a rebate agreement in compliance with Section 1927 of the Social Security Act, unless the exceptions in Section 1902(a)(54), 1927(a)(3), or 1927(d) apply. The State permits coverage of participating manufacturers' drugs, even though it may be using a formulary or other restrictions. Utilization controls will include prior authorization and may include drug utilization reviews. Any prior authorization program instituted after July 1, 1991 will provide for a 24-hour turnaround from receipt of the request for prior authorization. The prior authorization program also provides for at least a seventy-two (72) hour supply of drugs in emergency situations.

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

ATTACHMENT 3.1-B
Page 4g

AMOUNT, DURATION, AND SCOPE OF
SERVICES PROVIDED

Revised: January 1, 2022

MEDICALLY NEEDY

12. Prescribed drugs, dentures and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist

a. Prescribed Drugs

- (1) Each recipient age twenty-one (21) or older may have up to six (6) prescriptions each month under the program. Family Planning, tobacco cessation, oral prescription drugs for opioid use disorder when prescribed by an X-DEA waived provider as part of a Medication Assisted Treatment plan, EPSDT, **high blood pressure, hypercholesterolemia, blood modifiers, diabetes and respiratory illness inhaler** prescriptions do not count against the prescription limit.
- (2) Effective January 1, 2006, the Medicaid agency will not cover any Part D drug for full-benefit dual eligible individuals who are entitled to receive Medicare benefits under Part A or Part B.
- (3) The Medicaid agency provides coverage, to the same extent that it provides coverage for all Medicaid recipients, for the following excluded or otherwise restricted drugs or classes of drugs, or their medical uses – with the exception of those covered by Part D plans as supplemental benefits through enhanced alternative coverage as provided in 42 C.F.R. §423.104 (f) (1) (ii) (A) – to full benefit dual eligible beneficiaries under the Medicare Prescription Drug Benefit – Part D.

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