

ARKANSAS REGISTER

Proposed Rule Cover Sheet



Secretary of State
John Thurston
500 Woodlane Street, Suite 026
Little Rock, Arkansas 72201-1094
(501) 682-5070
www.sos.arkansas.gov



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 _____

MEDICAL SERVICES POLICY MANUAL, SECTION O

O-400 Medically Needy Eligibility Determination

O-422 Deprivation Due to Unemployment of the Principal Wage Earner

MS Manual ~~01/01/14~~01/01/23

Deprivation due to unemployment must be based on the parent who has been the principal wage earner (PWE) for the past two (2) years.

The PWE is the parent who earned the greater amount of income during the twenty-four (24) month period which immediately precedes the month in which application for assistance is made. The earnings of each parent are considered in determining the principal wage earner regardless of when their relationship began. Only one (1) parent can be the PWE.

Unemployed means:

1. The principal wage earner is not employed or is employed less than one hundred (100) hours a month; or
2. If one hundred (100) hours or more were worked in a particular month because the work was intermittent and the excess was temporary, the PWE must have been under the one hundred (100) hour standard for the two (2) prior months and is expected to be under the standard for the following month.

The PWE must meet each of the following criteria at initial application, or during the month of application, in order for Medicaid-Health Care coverage to begin in the month of application (see note below):

1. Must have been unemployed for at least thirty (30) consecutive days or is employed less than one hundred (100) hours a month;
2. Must have had six (6) quarters of work within any thirteen (13) calendar quarter period ending within one (1) year prior to application or received unemployment compensation within one (1) year prior to application. For the six (6) quarters of work, education may be substituted for up to four (4) of the six (6) quarters;
3. Must not, without good cause, have refused a bona fide offer of employment or training for employment within the last thirty (30) days; and
4. Must not have refused to apply for or accept unemployment compensation if qualified.



NOTE: If an applicant does not meet the above criteria at application, or during the month of application, eligibility cannot begin until the first day of the month in which the criteria are met.

EXAMPLE: An individual loses his job on May 15th, and applies for UP-MN on May 16th. He worked one hundred ten (110) hours in May before losing his job. He will not have been

MEDICAL SERVICES POLICY MANUAL, SECTION O

O-400 Medically Needy Eligibility Determination

unemployed for 30 consecutive days by the end of May; therefore, his family will not be eligible for Medicaid Health Care during May. He will have been unemployed for thirty (30) days on June 14th, however. Assuming all other eligibility criteria are met, Medicaid Health Care benefits could begin June 1st.

O-430 Medically Needy Pregnant Women Categories

MS Manual 01/01/1401/01/23

Pregnant Women (Re. MS B-230) may be considered for Medically Needy-EC or SD, if they do not meet the need requirements for PW No-Grant. If a pregnant woman's income, and/or resources, or both exceed the limits for PW No-Grant, the PW's income and resources will be compared to the Medically Needy MNIL and MNRL to determine eligibility in PW-EC or SD.

If a pregnant woman has income above the MNIL but below two hundred percent (200%) of Poverty Level, then SOBRA PW eligibility will be determined prior to determining eligibility for Spend Down.

NOTE: -The unborn child will always be counted in the need standard for the pregnant woman.

O-451 Medically Needy - Foster Care

MS Manual 01/01/1401/01/23

Foster Children (Re. MS B-400) who do not meet the income, and/or or resource need requirements, or both, of State FC (U-18 criteria – Re. MS O-143) or of Title IV-E-FC may be considered for Medically Needy FC - EC or SD by comparing income and resources to the Medically Needy MNIL and MNRL. The Division of Children and Family Services (DCFS) will determine IV-E and Medicaid Health Care eligibility for Foster Children.

Each child will be evaluated as a one-person household unit against the appropriate criteria. Consideration of parental income and resources will cease effective the month a child enters Foster Care by the Court awarding custody to the Agency. A child taken into foster care on the basis of

an emergency order only may be determined Medicaid Health Care eligible. If custody is later established by a judicial determination, the DCFS Worker will be required to include a copy of the order in the foster care Medicaid Health Care record.

If a Foster Child reenters his parent's home, the child's Medicaid Health Care eligibility redetermination will include parental income and resources, even if the reentry is a trial placement and the Agency retains custody.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Department of Human Services

DIVISION County Operations

PERSON COMPLETING THIS STATEMENT Jason Callan

TELEPHONE 501-320-6540 **FAX** _____ **EMAIL:** Jason.Callan@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 Adding Unborn Child to Pregnant Woman Need Standard

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	_____

Next Fiscal Year

General Revenue	\$ _____
Federal Funds	\$ _____
Cash Funds	_____
Special Revenue	_____

Other (Identify) _____

Total \$ _____

Other (Identify) _____

Total \$ _____

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

Current Fiscal Year

General Revenue	\$0
Federal Funds	\$0
Cash Funds	
Special Revenue	
Other (Identify)	
Total	\$ 0

Next Fiscal Year

General Revenue	\$0
Federal Funds	\$0
Cash Funds	
Special Revenue	
Other (Identify)	
Total	\$ 0

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

\$ 0

Next Fiscal Year

\$ 0

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

\$ 0

Next Fiscal Year

\$ 0

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.

Medical Services Policy Section O-400

Why is this change necessary? Please provide the circumstances that necessitate the change.

When the rule was converted to a new format, the clarification regarding the unborn child being counted in the need standard for the pregnant woman was not included in the text of the rule. It is necessary that this clarification be added to the current rule. In addition, universal changes should be updated for conciseness throughout the rule.

What is the change?

The following are changes to Section O of the Medical Services Policy Manual:

1. Global Change- changing *Medicaid* to *Health Care* in sections -422, -430, and -451;
2. O-422 Deprivation Due to Unemployment of the Principal Wage Earner:
 - a. Corrected grammar and formatting;
 - b. Removal of “pin” graphic at Note;
3. O-430 Medically Needy Pregnant Women Categories:
 - a. Added clarification that the unborn child is counted in the need standard for the pregnant woman;
 - b. Corrected grammar and formatting;
4. O-451 Medically Needy-Foster Care:
 - a. Corrected grammar and formatting.

NOTICE OF RULE MAKING

The Director of the Division of County Operations of the Department of Human Services 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.


Effective January 1, 2023:

The Director of the Division of County Operations amends Sections O-422, -430, and -451 of the Medical Services Policy Manual. The rule clarifies that the unborn child is counted in the need standard for the pregnant woman. The rule replaces the term "Medicaid" with "Health Care" throughout each section, and updates grammar and formatting in them as well.

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 <https://humanservices.arkansas.gov/do-business-with-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 November 12, 2022. 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 501-534-4138.

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. 4502100209



Mary Franklin, Director
Division of County Operations