ARKANSAS REGISTER

Proposed Rule Cover Sheet

Secretary of State
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Name of Department Department of Human Services

Agency or Division Name Division of Medical Services

Other Subdivision or Department, If Applicable N/A

Previous Agency Name, If Applicable N/A

Contact Person Mac Golden

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Name of Rule Long Acting Reversible Contraceptive Rate Increase

Newspaper Name Arkansas Democrat Gazette

Date of Publishing October 7th, 8th, and 9th, 2022

Final Date for Public Comment November 5, 2022

Location and Time of Public Meeting October 19th, 2022@ 10:00 a.m. by Zoom meeting: https://us02web.zoom.us/j/84696455502; Webinar ID: 84696455502

4.c. Family Planning Services

Reimbursement is based on the lesser of the amount billed or the maximum Title XIX (Medicaid) charge allowed. State developed fee schedule rates are the same for both public and private providers.

1. The Title XIX (Medicaid) maximum for Family Planning services is one hundred percent (100%) of the current physician Medicaid maximum.

At the beginning of each calendar year, the State Agency will negotiate with the affected provider group representatives to arrive at a mutually acceptable increase or decrease from the maximum rate. Market forces, such as private insurance rates, medical and general inflation figures, changes in practice costs and changes in program requirements, will be considered during the negotiation process. Any agreed upon increase or decrease will be implemented at the beginning of the following State Fiscal Year, July 1, with any appropriate State Plan changes.

2. Long-Acting Reversible Contraceptives (LARCs)

Effective for claims with dates of service January 1, 2014 and after, the intrauterine device (IUD) is reimbursed based on one hundred percent (100%) of the manufacturer's list price as of April 15, 2011. Effective for claims with dates of service October 1, 2014 and after, the fifty-two milligrams (52) mg Levonorgestrel-Releasing Intrauterine Contraceptive System is reimbursed based on one hundred percent (100%) of the manufacturer's list price as of November 18, 2013. Effective for claims with dates of service October 1, 2014 and after, the 13.5 mg Levonorgestrel-Releasing Intrauterine Contraceptive System is reimbursed based on one hundred percent (100%) of the manufacturer's list price as of January 1, 2013.

Effective for claims with dates of service **January 1, 2023**~~**December 1, 2021**~~, and after, the reimbursement of Food and Drug Administration approved Long-Acting Reversible Contraceptives (LARCs) to include the IUD and contraceptive implants, will be based on Wholesale Acquisition Cost **plus six percent (6%)** ~~**as of December 1, 2021**~~. Reimbursement will also apply to replacement of LARCs per manufacturer recommendations, or sooner if medically necessary. Reimbursement information can be found at the following Physician Fee Schedule.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Human Services

DIVISION Medical Services

PERSON COMPLETING THIS STATEMENT Jason Callan

TELEPHONE 501-320-6540 **FAX** 501-682-8155 **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 Long Acting Reversible Contraceptives 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		**Next Fiscal Year**	
General Revenue	$	General Revenue	$
Federal Funds	$	Federal Funds	$
Cash Funds		Cash Funds	
Special Revenue		Special Revenue	
Other (Identify)		Other (Identify)	

Total	$	Total	$

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

Current Fiscal Year		**Next Fiscal Year**	
General Revenue	$12,948	General Revenue	$25,895
Federal Funds	$116,529	Federal Funds	233,058
Cash Funds		Cash Funds	
Special Revenue		Special Revenue	
Other (Identify)		Other (Identify)	
Total	$129,476	Total	$ 258,953

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**
$	$

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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	**Next Fiscal Year**
$ 12,948	$ 25,895

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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
State Plan Amendment 22-0021, Long-Acting Reversible Contraceptives

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

The Division of Medical Services revises the Medicaid State Plan to update the rate methodology for long acting reversible contraceptives for family planning.

What is the change? Please provide a summary of the change.

The updated methodology for long acting reversible contraceptives will be based on the Wholesale Acquisition Cost plus 6%.

NOTICE OF RULE MAKING

The Director of the Division of Medical Services 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 Medical Services revises the Medicaid State Plan to update the rate methodology for long acting reversible contraceptives. Claims with a date of service on and after January 1, 2023, will be based on Wholesale Acquisition Cost plus 6%. The projected annual cost of this change for state fiscal year (SFY) 2023 is $129,476 (federal share of $116,529) and for SFY 2024 is $258,953 (federal share of $233,058).

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 5, 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.

A public hearing by remote access only through a Zoom webinar will be held on October 19, at 10:00 a.m. and public comments may be submitted at the hearing. Individuals can access this public hearing at https://us02web.zoom.us/j/84696455502. The webinar ID is 84696455502. If you would like the electronic link, "one-tap" mobile information, listening only dial-in phone numbers, or international phone numbers, please contact ORP at ORP@dhs.arkansas.gov.

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

Elizabeth Pitman, Director
Division of Medical Services