

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 §§ 20-76-201, 20-77-107, and 25-10-129

Rule Title: Adult Immunization Mandatory Coverage

Intended Effective Date

(Check One)

☐ Emergency (ACA 25-15-204)

☐ 10 Days After Filing (ACA 25-15-204)

☒ Other 02/05/2024
(Must be more than 10 days after filing date.)

Legal Notice Published

Final Date for Public Comment

Reviewed by Legislative Council

Adopted by State Agency

Date

10/6/23-10/8/23

11/04/2023

01/26/2024

01/26/2024

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

Chloe Crater

chloe.crater@dhs.arkansas.gov

01/26/2024

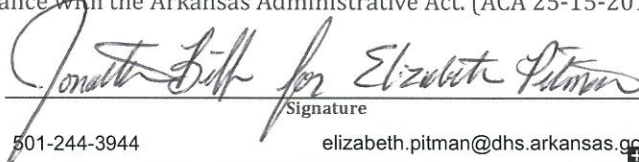
Contact Person

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

01/26/2024

Date

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

ATTACHMENT 3.1-A
Page 1eee

AMOUNT, DURATION AND SCOPE OF
SERVICES PROVIDED

October 1, 2023

Revised:

CATEGORICALLY NEEDY

- 2.c. Federally Qualified Health Center (FQHC) services and other ambulatory services that are covered under the plan and furnished by a FQHC in accordance with Section 4231 of the State Medicaid Manual (HCFA - Pub. 45-4). (Continued)

Covered FQHC core services are defined as follows:

- physician services;
- services and supplies incident to physician's services (including drugs and biologicals that cannot be self-administered);
- Immunizations provided based on recommendations of the Advisory Committee on Immunization Practices (ACIP) and their administration;
- physician assistant services;
- nurse practitioner services;
- clinical psychologist services;
- clinical social worker services;
- **licensed certified social worker services;**
- **licensed professional counselor services;**
- **licensed mental health counselor services;**
- **licensed marriage and family therapist services;**
- services and supplies incident to clinical psychologist, clinical social worker, **licensed certified social worker, licensed professional counselor, licensed mental health counselor, and licensed marriage and family therapist** services as would otherwise be covered if furnished by or incident to physician services; and
- part-time or intermittent nursing care and related medical supplies (home health) which meets the definition found at 42 CFR 440.70.

FQHC ambulatory services are defined as any other ambulatory service included in the Medicaid State Plan if the FQHC offers such a service, (e.g. dental, etc.). The "other ambulatory services" that are provided by the FQHC will count against the limit established in the plan for that service.

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

ATTACHMENT 3.1-A
Page 1h

AMOUNT, DURATION AND SCOPE OF
SERVICES PROVIDED

Revised: October 1, 2023

CATEGORICALLY NEEDY

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

- (1) No limitations on services within the scope of the program (except for consultations, home health services and personal care services) if services are EPSDT related. Extension of the benefit limit for consultations (2 per State Fiscal Year), home health services (50 visits per State Fiscal Year), personal care services (64 hours per calendar month), personal care transportation (50 units per date of service per recipient), physical therapy evaluations (2 per State Fiscal Year), occupational therapy evaluations (2 per State Fiscal Year), speech-language therapy evaluations (4 units per State Fiscal Year), and chiropractor X-ray services (2 per State Fiscal Year) will be provided if medically necessary for recipients in the Child Health Services (EPSDT) Program.

Medical Screens are provided based on the recommendations of the American Academy of Pediatrics. Immunizations are provided based on recommendations of the Advisory Committee on Immunization Practices (ACIP).

The State will provide other health care described in Section 1905(a) of the Social Security Act that is found to be medically necessary to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services, even when such health care is not otherwise covered under the State Plan.

AMOUNT, DURATION AND SCOPE OF
SERVICES PROVIDED

Revised: October 1, 2023

CATEGORICALLY NEEDED

13. Other diagnostic, screening, preventive and rehabilitative services, i.e., other than those provided elsewhere in this plan.
(Continued)

- a. Diagnostic services – Not Provided.
- b. Screening services - Not Provided.
- c. Preventive services - Provided, with limitation.

Arkansas covers vaccines and vaccine administration which includes approved vaccines recommended by the Advisory Committee on Immunization Practices (an advisory committee established by the Secretary, acting through the Director of the Centers for Disease Control and Prevention).

- d. Rehabilitative Services

- 1. Rehabilitative Services for Persons with Mental Illness (RSPMI)

A comprehensive system of care for behavioral health services has been developed for use by RSPMI providers. The changes to the program were developed in coordination with providers, representatives of the Arkansas System of Care and other key stakeholders.

DMS is seeking first to revise service definitions and methods within this program to meet the needs of persons whose illnesses meet the definitions outlined in the American Psychiatric Association Diagnostic and Statistical Manual.

Covered mental health services do not include services provided to individuals aged 21 to 65 who reside in facilities that meet the Federal definition of an institution for mental disease. Coverage of RSPMI services within the rehabilitation section of Arkansas' state plan that are provided in IMD's will be discontinued as of September 1, 2011.

A. Scope

A range of mental health rehabilitative or palliative services is provided by a duly certified RSPMI provider to Medicaid-eligible beneficiaries suffering from mental illness, as described in the American Psychiatric Association Diagnostic and Statistical Manual (DSM-IV and subsequent revisions).

DMS has set forth in policy the settings in which each individual service may be provided. Each service shown below includes the place of service allowable for that procedure.

Services:

- **SERVICE: Mental Health Evaluation/Diagnosis**
DEFINITION: The cultural, developmental, age and disability -relevant clinical evaluation and determination of a beneficiary's mental status; functioning in various life domains; and an axis five DSM diagnostic

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: **ARKANSAS**

1905(a)(13)(B) - Attestation for Vaccines and Vaccine Administration

Arkansas covers vaccines and vaccine administration which includes approved vaccines recommended by the Advisory Committee on Immunization Practices (an advisory committee established by the Secretary, acting through the Director of the Centers for Disease Control and Prevention) and their administration.

Arkansas maintains a method of monitoring ACIP notifications of changes to recommendations to ensure that coverage and billing codes are updated to comply with those revisions.

TN: AR-23-0019
Supersedes TN: NEW

Effective: 10/01/2023
Approved: 12/08/2023

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

ATTACHMENT 3.1-B
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AMOUNT, DURATION AND SCOPE OF
SERVICES PROVIDED

Revised: October 1, 2023

MEDICALLY NEEDY

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

- (1) No limitation on services within the scope of the program, except for consultations, home health services if services are EPSDT related. Extension of the benefit limit for consultations (2 per State Fiscal Year), home health services (50 visits per State Fiscal Year), physical therapy evaluations (2 per State Fiscal Year), occupational therapy evaluations (2 per State Fiscal Year), speech-language therapy evaluations (4 units per State Fiscal Year), and chiropractor X-ray services (2 per State Fiscal Year) will be provided if medically necessary for recipients in the Child Health Services (EPSDT) Program.

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

ATTACHMENT 3.1-B
Page 5d1

AMOUNT, DURATION AND SCOPE OF
SERVICES PROVIDED

Revised: October 1, 2023

MEDICALLY NEEDY

13. Other diagnostic, screening, preventive and rehabilitative services, i.e., other than those provided elsewhere in this plan. (Continued)

- a. Diagnostic services – Not Provided.
- b. Screening services - Not Provided.
- c. Preventive services - **Provided, with limitation**

Arkansas covers vaccines and vaccine administration which includes approved vaccines recommended by the Advisory Committee on Immunization Practices (an advisory committee established by the Secretary, acting through the Director of the Centers for Disease Control and Prevention).

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1. Rehabilitative Services for Persons with Mental Illness (RSPMI)

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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

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Arkansas maintains a method of monitoring ACIP notifications of changes to recommendations to ensure that coverage and billing codes are updated to comply with those revisions.

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

October 1, -2023

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

d. Eyeglasses

Negotiated statewide contract bid.

13. Other diagnostic, screening, preventive and rehabilitative services, i.e., other than those provided elsewhere in this plan

a. Diagnostic Services - Not provided.

b. Screening Services - Not provided.

c. Preventive Services - **Provided with limitations.**

Arkansas covers vaccines and vaccine administration which includes approved vaccines recommended by the Advisory Committee on Immunization Practices (an advisory committee established by the Secretary, acting through the Director of the Centers for Disease Control and Prevention).

d. Rehabilitative Services

1. Rehabilitative Services for Persons with Mental Illness (RSPMI)

Reimbursement is based on the lower of the amount billed or the Title XIX (Medicaid) maximum allowable. Except as otherwise noted in the state plan, state developed fee schedule rates are the same for both governmental and private providers of RSPMI services. The agency's fee schedule rates were set as of April 1, 1988 and are effective for services provided on or after that date. All rates are published on the agency's website at www.medicaid.state.ar.us.

Effective for dates of service on or after April 1, 2004, reimbursement rates (payments) for inpatient visits in acute care hospitals by board certified psychiatrists shall be as ordered by the United States District Court for the Eastern District of Arkansas in the case of Arkansas Medical Society v. Reynolds. Refer to Attachment 4.19-B, Item 5, for physician reimbursement.

The State shall not claim FFP for any non institutional service provided to individuals who are residents of facilities that meet the Federal definition of an institution for mental diseases or a psychiatric residential treatment facility as described in Federal regulations at 42 CFR 1440 and 14460 and 42 CFR 441 Subparts C and D. Reimbursement of RSPMI services that are provided in IMD's will be discontinued for services provided on or after September 1, 2011.

For RSPMI services provided in clinics operated by State operated teaching hospitals.

Effective for claims with dates of service on or after March 1, 2002, Arkansas State Operated Teaching Hospital psychiatric clinics that are not part of a hospital outpatient department shall be reimbursed based on reasonable costs with interim payments at the RSPMI fee schedule rates and a year-end cost settlement. The provider will be paid the lesser of actual costs identified using a CMS approved cost report or customary charges. Each Arkansas State Operated Teaching Hospital with qualifying psychiatric clinics shall submit an annual cost report. Said cost report shall be submitted within five (5) months after the close of the hospital's fiscal year. Failure to file the cost report within the prescribed period, except as expressly extended by the State Medicaid Agency, may result in suspension of reimbursement until the cost report is filed. The State Medicaid Agency will review the submitted cost report and make a tentative settlement within 60 days of the receipt of the cost report and will make final settlement in the following year after all Medicaid charges and payments have been processed. The final settlement will be calculated and made at the same time as the next year's tentative settlement is calculated and made.

Medical professionals affiliated with Arkansas State Operated Teaching Hospitals are not eligible for additional reimbursement for services provided in these clinics.

RULES SUBMITTED FOR REPEAL

Rule #1: DDS Policy 2005 – Incidental Funds Account

Rule #2: DDS Policy 3003 – Research Involving Individuals Served

~~ARKANSAS DEPARTMENT OF HUMAN SERVICES
DIVISION OF DEVELOPMENTAL DISABILITIES SERVICES
DDS DIRECTOR'S OFFICE POLICY MANUAL~~

Policy Type	Subject of Policy	Policy No.
Fiscal	Incidental Funds Account	2005

- ~~1. Purpose. This policy has been prepared to establish DDS procedures regarding Incidental Account Funds relative to residential programs (HDCs).~~
- ~~2. Scope. This policy is directed to all applicable DDS employees.~~
- ~~3. Definition. Those funds not in the State Treasury, in which the State has a vested interest.~~
- ~~4. Funds Source. The basic source of incidental funds are those revenues derived from canteen sales and reimbursement type charges assessed to the responsible party of the individual's account.~~
- ~~5. Use of Incidental Account Funds. Incidental funds shall be expended for supplemental purposes unless approved by the Director. Supplemental being defined as:~~
 - ~~A. Items and/or services not ICF/MR reimbursable, except those services of a confidential nature.~~
 - ~~B. Items and/or services for special events and holidays designed for the benefit of the individuals residing at the HDCs, including Christmas presents for those individuals not going home.~~
 - ~~C. Non-consumable items purchased to directly benefit individuals when no other funds are available, excluding any item that is normally purchased from Maintenance and Operations.~~

~~Replacement Notation: This Policy replaces DDS Director's Office Policy #2005 dated April 1, 1989.~~

~~Effective Date: December 1, 1993~~

~~Sheet 1 of 3~~

~~References: Act 876 of 1983, as amended, The General Accounting and Budgetary Procedures Law; State Accounting Procedures Manual; Act 482 of 1979, as amended, Arkansas Purchasing Law.~~

~~Administrative Rules & Regulations Sub Committee of the Arkansas Legislative Council: November 4, 1993.~~

~~ARKANSAS DEPARTMENT OF HUMAN SERVICES
DIVISION OF DEVELOPMENTAL DISABILITIES SERVICES
DDS DIRECTOR'S OFFICE POLICY MANUAL~~

Policy Type	Subject of Policy	Policy No.
Fiscal	Incidental Funds Account	2005

~~6. Procedures for Incidental Funds Expenditures.~~

- ~~A. Incidental funds will be placed in interest bearing account(s) or other mechanisms.~~
- ~~B. Deposits made at the facility will be keyed and a copy of the deposit slips will be sent to the Division of Finance, Funds Management Section.~~
- ~~C. All funds generated to include interest by each HDC to the Incidental Account shall remain with that HDC. A local bank account shall be established by each HDC for deposit of generated funds. It is each HDC's responsibility to maintain appropriate accounting mechanisms to insure accountability.~~
- ~~D. Division of Finance Funds Management Section will provide monthly reports showing receipts, disbursements and balances.~~
- ~~E. Requisitions for purchases and checks by the Superintendent in the amount up to \$5,000.00 will need no further Agency approval. Expenditures over \$5,000.00 must be approved by the DDS Director.~~

~~7. The procurement party assumes responsibility for following the state purchasing law and accounting procedures manual and, policy and procedures relating to Incidental Funds when making obligations against that fund. In addition, he/she is responsible for ensuring that there are adequate sums in the subsidiary account to cover the purchase. The Division of Management Services, Purchasing Section, and the Division of Finance, Funds Management Section, will be available to provide advice upon request.~~

~~8. A request and explanation for cash will be routed to Central Office for approval. Supporting documentation for the expenditures will be maintained at the HDC.~~

~~9. Procedures for Incidental Account and Monitoring.~~

~~Incidental funds by their nature encompass several unique activities. General criteria shall be established, with the unique characteristics for each discussed separately. As state funds, incidentals are tied to regulations governing purchases. Requisitions, purchase orders, and receiving reports must be prepared for the majority of transactions. There are, however, exceptions to preparations of these documents as follows:~~

~~ARKANSAS DEPARTMENT OF HUMAN SERVICES
DIVISION OF DEVELOPMENTAL DISABILITIES SERVICES
DDS DIRECTOR'S OFFICE POLICY MANUAL~~

Policy Type	Subject of Policy	Policy No.
Fiscal	Incidental Funds Account	2005

- a) ~~Medical Services - Medical authorization form, signed by the doctor, nurse supervisor, or director of medical services, as may be appropriate for the particular HDC, then approved by the Superintendent or his/her designee will suffice.~~
- b) ~~Field Trip Request - Authorized and signed by the Superintendent or his/her designee and submitted in advance.~~
- c) ~~Birth Certificate Request - Signed by the party requesting.~~
- d) ~~Total Economy, Token Economy, and Workshop Payrolls - Submitted in memo for, signed by the requesting responsible party, countersigned by the Superintendent or his/her designee.~~
- e) ~~Canteen Purchases - Purchasing items such as candy, potato chips, or "round type" purchases requires a sales slip and receiving person's signature.~~
- f) ~~Clothing for an individual - In order to insure stylish, individualized clothing is purchased for individuals, the Office of State Purchasing has issued a Delegation Order outlining procedures to be followed. This procedure will be used as a guideline in this type purchase. The current delegation order will be maintained in the Division of Management Services, Purchasing Section.~~
- g) ~~Vending Machine Operations - Exempt from justification. One individual should be responsible for checking product count, and another individual should be responsible for counting and depositing funds.~~

~~ARKANSAS DEPARTMENT OF HUMAN SERVICES
DIVISION OF DEVELOPMENTAL DISABILITIES SERVICES
DDS DIRECTOR'S OFFICE POLICY MANUAL~~

Policy Type	Subject of Policy	Policy No.
Service	Research Involving Individuals Served	3003-I

- ~~1. Purpose. This policy establishes Developmental Disabilities Services' (DDS) responsibility to protect the human rights of individuals receiving services with respect to research proposals/projects. Projects will be in compliance with Department of Health and Human Services (DHHS) Policy for Protection of Human Research Subjects.~~
- ~~2. Scope. This policy affects all programs operated and/or licensed by Developmental Disabilities Services, all individuals served by those programs, and all parties interested in conducting research involving those programs and individuals.~~
- ~~3. Research Review. Research proposals involving individuals or programs operated and/or licensed by DDS will be reviewed by a Research Review Board as outlined in DHHS Policy - 46.104 through 46.108 constituted for that purpose and convened as needed.~~
 - ~~A. Community Programs - Each licensed program shall develop and have on file procedures for protection of individuals being served. The procedures shall be in compliance with the U.S. Department of Health and Human Services Policy for Protection of Human Research Subjects.~~
 - ~~B. Human Development Centers - (1) The HDC Superintendent will approve/disapprove proposals regarding psychological, medical, and/or education research upon the recommendation of the Institutional Research Review Board. All Superintendent approved proposals will be forwarded to the DDS Director for review. (2) Upon approval of the DDS Director, proposals will be reviewed by the Agency Research Review Board.~~

~~NOTE: The HDC Superintendent retains the authority to refer proposals to a Research Review Board when research criteria do not apply; however, individual interest is best served by the review.~~

~~Replacement Notation: This policy replaces 3003-I previously issued, effective November 21, 1979; June 17, 1980, September 9, 1983, January 8, 1987, and March 15, 1993.~~

~~Effective Date: December 1, 1993~~

~~Page 1 of 3~~

~~References: "Regulations for the Protection of Human Research Subjects," Code of Federal Regulations 45 CFR 46, Revised as of March 8, 1983; Intermediate Care Facilities for the Mentally Retarded, Code of Federal Regulations 45 CFR 442.416.~~

~~Administrative Rules & Regulations Sub Committee of the Arkansas Legislative Council: November 4, 1993.~~

~~ARKANSAS DEPARTMENT OF HUMAN SERVICES~~
~~DIVISION OF DEVELOPMENTAL DISABILITIES SERVICES~~
~~DDS DIRECTOR'S OFFICE POLICY MANUAL~~

Policy Type	Subject of Policy	Policy No.
Service	Research Involving Individuals Served	3003-I

4. ~~Research Review Boards Composition.~~ The Agency and Institutional Research Review Boards (ARRB, IRRB) will have at least five (5) members with varying ethnic and cultural backgrounds to include at a minimum, one member not affiliated with DDS or its individuals; one member who is receiving or has received services from DDS; and one member who is primarily an advocate for people with developmental disabilities. The Board may invite persons with particular expertise to assist in reviewing complex issues. The DDS Director may serve in an ex officio capacity.
5. ~~Board Functions.~~ The Research Review Boards convened to consider a research proposal shall:
- A. ~~review and have authority to approve, require modifications in (to secure approval) or disapprove the proposal.~~
 - B. ~~conduct continuing review of the research at intervals depending on degree of risk, but not less than once per year.~~
 - C. ~~report to the Director of Developmental Disabilities Services any serious or continuing non-compliance by investigators.~~
 - D. ~~recommend suspension or termination of research not being conducted in accordance with the determination of the Board or in which there is unexpected serious harm to individuals.~~
6. ~~Children as Research Subjects.~~ DHHS will conduct or fund research in which the ARRB or the IRRB finds that more than minimal risk to children is presented by an intervention or procedure that holds out the prospect of direct benefit for the individual, or by a monitoring procedure that is likely to contribute to the individuals well-being only if the ARRB or the IRRB finds that:
- A. ~~the risk is justified by the anticipated benefit to the individual;~~
 - B. ~~the relation of the anticipated benefit to the risk is at least as favorable to the individuals as that presented by available alternative approaches; and~~
 - C. ~~adequate provisions are made for soliciting the assent (a child's consent or affirmative agreement to participate in research) of the children and permission of their parents or guardians, as set forth in DHHS Regulations.~~

~~In determining whether children are capable of assenting, the ARRB or the IRRB shall take into account the ages, maturity, and psychological state of the children involved.~~

~~Effective Date: December 1, 1993~~

~~Sheet 2 of 3~~

~~DIVISION OF DEVELOPMENTAL DISABILITIES SERVICES~~
~~DDS DIRECTOR'S OFFICE POLICY MANUAL~~

Policy Type	Subject of Policy	Policy No.
Service	Research Involving Individuals Served	3003-I

7. ~~Wards.~~ Children who are wards of the state or any other residential program, or entity can participate in research only if such research is:
 - A. related to their status as wards; or
 - B. conducted in schools, camps, hospitals, institutions, or similar settings in which the majority of children involved as participants are not wards.
8. ~~Maintenance of Records.~~ DDS will maintain records of Board members; identities by name and qualifications; minutes of Board meetings, research progress reports; reports of injuries to the participants; and records continuing review activities for at least five (5) years after completion of the research.
9. ~~Procedural Additions.~~ The Research Review Boards will file procedural additions with the Office of the DDS Director, in accordance with DHHS Regulations for the Protection of Human Research Subjects, 45 CFR 46.

REPEAL