

# 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

State: ARKANSAS

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

For adults age 19 and over, Arkansas covers vaccines and vaccine administration under the state plan which includes ~~, with respect to an adult individual,~~ 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.

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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

Revised: October 1, 2023  
~~January 1, 2022~~

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 pneumococcal vaccine and its administration and influenza vaccine and its 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 to a homebound individual, in the case of those FQHCs that are located in an area in which the Secretary has determined there is a shortage of home health agencies.

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

October 1, 2023  
Revised: ~~January 1, 2021~~

CATEGORICALLY NEEDY

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

- (1) No ~~limitation~~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. ~~Childhood~~i 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.

TN:~~20-002123-0019~~

Supersedes TN:20-002109-0015

Approval:~~11-9-2020~~

Effective Date:10-1-  
2023~~1-1-2021~~

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

ATTACHMENT 3.1-A  
Page 6a1

AMOUNT, DURATION AND SCOPE OF  
SERVICES PROVIDED

Revised:

October 1, 2023  
September 1, 2010

CATEGORICALLY 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 - ~~Not Provided~~Provided, with limitation.

For ~~a~~-adults age 19 and over, Arkansas covers vaccines and vaccine administration under the state plan 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: Speech Evaluation**

**DEFINITION:** Evaluation for Speech Therapy defined by applicable state and federal rules and regulations.

*This service must be performed by a professional as described in the Physical, Occupational, and Speech Therapy Program provider manual.*

- **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  
MEDICAL ASSISTANCE PROGRAM  
STATE ARKANSAS

ATTACHMENT 3.1-B  
Page 2g

AMOUNT, DURATION AND SCOPE OF  
SERVICES PROVIDED

Revised: October 1, 2023  
~~January 1, 2021~~

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

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October 1, 2023

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d. Rehabilitative Services

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

October 1, ~~2012~~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 - ~~Not provided~~Provided with limitations.

For adults age 19 and over, \_\_\_\_\_ Arkansas covers vaccines and vaccine administration under the state plan 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).

e.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](http://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.

**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY.**

**DEPARTMENT** \_\_\_\_\_  
**BOARD/COMMISSION** \_\_\_\_\_  
**PERSON COMPLETING THIS STATEMENT** \_\_\_\_\_  
**TELEPHONE NO.** \_\_\_\_\_ **EMAIL** \_\_\_\_\_

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

**TITLE OF THIS RULE** \_\_\_\_\_

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 no, please explain:

(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 reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and

(d) whether the reason for adoption of the more costly rule is within the scope of the agency's statutory authority, and if so, how.

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 \_\_\_\_\_  
 Federal Funds \_\_\_\_\_  
 Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_

Total \_\_\_\_\_

**Next Fiscal Year**

General Revenue \_\_\_\_\_  
 Federal Funds \_\_\_\_\_  
 Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_

Total \_\_\_\_\_

5. What is the total estimated cost by fiscal year to any private individual, private entity, or private business subject to the proposed, amended, or repealed rule? Please identify those subject to the rule, and explain how they are affected.

**Current Fiscal Year**

\$ \_\_\_\_\_

**Next Fiscal Year**

\$ \_\_\_\_\_

6. What is the total estimated cost by fiscal year to a state, county, or 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**

\$ \_\_\_\_\_

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 [Adult Immunization Mandatory Coverage]**

### **Statement of Necessity**

To comply with section 11405 of the Inflation Reduction Act (IRA) and according to the recommendations of the Advisory Committee on Immunization Practices (ACIP), the Division of Medical Services (DMS) amends the Medicaid state plan to ensure coverage of and reimbursement for all ACIP recommended adult (age 19 and over) immunizations, along with their administration, without any cost sharing required of the recipient. The mandatory coverage begins October 1, 2023. DMS shall submit the state plan amendment to the Centers for Medicare and Medicaid requesting retroactive implementation.

### **Rule Summary**

To implement the required coverage, DMS revises the relevant state plan pages regarding preventative services to cover vaccines and vaccine administration for adults age 19 and over, which includes approved vaccines recommended by ACIP. Implementing coverage also requires DMS to update the state plan regarding services provided by a Federally Qualified Health Center (FQHC), Early and Periodic Screening and Diagnosis and Treatment of individuals under 21 years of age, and Attestation for Vaccines and Vaccine Administration.

Repeals pursuant to the Governor's Executive Order 23-02:

1. DDS Policy 2005 – Incidental Funds Account
2. DDS Policy 3003 – Research Involving Individuals Served

## **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 contractual 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 bank balances.
- E. Requests for purchases and/or checks by HDC Superintendents 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:

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

Policy Type	Subject of Policy	Policy No.
<u>Fiscal</u>	<u>Incidental Funds Account</u>	<u>2005</u>

- 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 - Revolving items, i.e., candy, potato chips, or "route 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.

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- 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.
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- E. Requests for purchases and/or checks by HDC Superintendents 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.

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- 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 - Revolving items, i.e., candy, potato chips, or "route 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.