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

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Contact Person Mac Golden

Contact E-mail Mac.E.Golden@dhs.arkansas.gov

Contact Phone (501) 320.6383

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TOC required

201.000 Arkansas Independent Assessment (ARIA) System Overview 1-1-2419

The Arkansas Independent Assessment (ARIA) system is comprised of several parts that are administered through separate steps for each eligible Medicaid individual served through one of the state's waiver programs, or state plan pPersonal cCare services. The purpose of the ARIA system is to perform a functional-needs assessment to assist in the development of an individual's Person-Centered Service Plan (PCSP), pPersonal cCare services plan and for certain populations to establish the per member per month payment to a managed care entity. As such, it assesses an individual's capabilities and limitations in performing activities of daily living, such asincluding bathing, toileting, and dressing. It is not a medical diagnosis, although the medical history of an individual is an important component of the assessment as a functional deficiency may be caused by an underlying medical condition. In the case of an individual in need of behavioral health services, or waiver services administered by the Division of Developmental Services (DDS), the independent assessment does not determine whether an individual is Medicaid eligible. as tThat determination is made prior to and separately from the assessment of an individual.

Federal statutes and regulations require states to use an independent assessment for determining eligibility for certain services offered though Home and Community-Based Services (HCBS) waivers. It also is also important to Medicaid beneficiaries and their families that any type of assessment is based on tested and validated instruments that are objective and fair to everyone. In 2017, Arkansas selected the ARIA system. which is beingIt has been phased in over time amongfor different population groups. When implemented for a population, the ARIA system replaces and voids any previous IA systems.

The ARIA system is administered by a vendor under contract with the Arkansas Department of Human Services (DHS). The basic foundation of the ARIA system is MnCHOICES, a comprehensive functional assessment tool originally developed by state and local officials in Minnesota for use in assessing the long-term services and supports (LTSS) needs of elderly individuals. Many individuals with developmental disabilities (DD)/intellectual disabilities (ID) and individuals with severe behavioral health needs also have LTSS needs. Therefore, the basic MnCHOICES tool has common elements across the different population groups. DHS and its vendor further customized MnCHOICES to reflect the Arkansas populations.

ARIA The assessment is administered by professional assessors who have successfully completed the vendor's training curriculum. The assessor training is an important component of ensuring the consistency and validity of the tool. The assessment tool is a series of more than 300 questions that might be asked during an in-person interview. conducted in person. The interview may include family members and friends as well as the Medicaid beneficiary. How a question is answered may trigger another question. Responses are weighted based on the service needs being assessed. The MnChoices instrument assessment is computerized and uses computer program language based on logic (an algorithm) to generate a tier assignment for each individual. An algorithm is simply a sequence of instructions that will produce the exact same result in order to ensure consistency and eliminate any interviewer bias.

The results of the assessment are provided to the individual and program staff at DHS. The results packet includes the individual's tier result, scores, and answers to all questions asked during the IAassessment. **Click here to see an example results packet**. Individuals have the opportunity to can review those results and may contact the appropriate division for more information on their individual results, including any explanations for how their scores were determined. Depending upon which program the individual participates in, the results also may also be given to service providers. The results will assign an individual into a tier which subsequently is used to develop the individual's PCSP. The tiers and tiering logic are defined by DHS and are specific to the population served. (personal care, DD/ID, BH). DHS and the vendor

WORKING DRAFT

provide internal quality review of the ~~IA~~assessment results as part of the overall process. The tier definitions for each population group/waiver group are available in the respective section of this Manual. In the case of an individual whose services are delivered through the Provider-led Arkansas Shared Savings Entity (PASSE)~~,~~; the tier is used in the determination of the actuarially sound global payment made to the PASSE. Beginning January 1, 2019, each PASSE is responsible for its network of providers and payments to providers are based on the negotiated payment arrangements.

For beneficiaries receiving state plan personal care, the ~~IA~~ assessment results determine~~s~~ initial eligibility for services, then ~~is~~are used to inform the amount of services the beneficiary is to receive.

For ~~clients~~ beneficiaries who receive HCBS services, the ~~IA~~ assessment results are used to develop the PCSP with the individual Medicaid beneficiary and establishes the per member per month payment to a managed care entity. The Medicaid beneficiary (or a parent or guardian on the individual's behalf) will sign the PCSP. Depending upon which program the individual participates in, department staff or a provider is responsible for ensuring the PCSP is implemented. The DHS ARIA vendor does not participate in the development of the PCSP, nor in the provision of services under the approved plan.

There are four key features of every ~~Medicaid home and community based services (~~HCBS~~)~~ waiver:

A. It is an alternative to care in an institutional setting (hospital, nursing home, intermediate care facility for individuals with developmental disabilities), therefore the individual must require a level of services and supports that would otherwise require that the individual be admitted to an institutional setting;

B. The state must assure that the individual's health and safety can be met in a non-institutional setting;

C. The cost of services and supports is cost effective in comparison to the cost of care in an institutional setting; and,

D. The PCSP should reflect the preferences of the individual and must be signed by the individual or the ~~i~~individual's designee.

The PCSP, as agreed to by the Medicaid beneficiary, therefore represents the final decision for setting the amount, duration, and scope of HCBSs for that individual.

201.100 Developmental Screen Overview 1-1-~~19~~24

Additionally, the vendor will perform developmental screens for children seeking admission into an Early Intervention Day Treatment (EIDT) program, the successor program to Developmental Day Treatment Clinic Services (DDTCS) and Child Health Management Services (CHMS) described in Act 1017 of 2013. Ark. Code Ann. § 20-48-1102. ~~The implementation of the screening process supports Arkansas Medicaid's goal of using a tested and validated assessment tool that objectively evaluates an individual's need for services.~~

The developmental screen is the Battelle Developmental Inventory screening tool, which is a norm-referenced tool commonly used in the field to screen children for possible developmental delays. The state has established a broad baseline and will use this tool to screen children to determine if further evaluation for services is warranted. The screening results can also be used by the EIDT provider to further determine what evaluations for services a child should receive.

The developmental disabilities screening process will sunset April 1, 2024.

202.000 Assessor Qualifications Overview 1-1-~~19~~24

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All Aassessors who perform ~~IA~~sassessments ~~or developmental screens~~ on behalf of the vendor must meet the following qualifications:

A. At least one-year experience working directly with the population with whom they will administer the assessment

B. ~~Have t~~The ability to request and verify information from individuals being assessed

C. Culturally sensitive to individuals assessed

D. ~~Have t~~The necessary knowledge, skills and abilities to successfully perform and manage ~~Independent A~~assessments including organization, time management, ability to address difficult questions and problematic individuals, effective communication, and knowledge of adult learning strategies

E. Linguistically competent in the language of the individual being assessed or in American Sign Language or with the assistance of non-verbal forms of communication, including assistive technology and other auxiliary aids, as appropriate to the individual assessed or use the services of a telephonic interpreter service or other equivalent means to conduct assessments

F. Ability to ~~V~~verify the information received from the individual and the individual's family members, caregivers, and/or guardians by cross-referencing all available information

~~G.~~ The assessor SHALL NOT be related by blood or marriage to the individual being assessed or to any paid caregiver of the individual, financially responsible for the individual, empowered to make financial or health-related decision on behalf of the individual, ~~and~~ or ~~would not~~ benefit financially from the provision of assessed needs.

203.000 Appeals 1-1-~~19~~24

Appeal requests for the ARIA system must adhere to the policy set forth in the Medicaid Provider Manual Section 160.000 Administrative Reconsideration and Appeals which can be accessed at **~~https://medicaid.mmis.arkansas.gov/Provider/Docs/all.aspx.~~ https://humanservices.arkansas.gov/divisions-shared-services/medical-services/helpful-information-for-providers/manuals/**

204.000 Severability 1-1-~~19~~24

Each section of this manual is severable from all others. If any section of this manual is held to be invalid, illegal, or unenforceable, such determination shall not affect the validity of other sections in this manual and all such other sections shall remain in full force and effect. In such an event, all other sections shall be construed and enforced as if this section has not been included therein.

210.100 Referral Process 1-1-~~19~~24

Independent Aassessment ~~(IA)~~ referrals are initiated by Behavioral Health (BH) Sservice providers identifying a beneficiary who may require services in addition to behavioral health counseling services and medication management. Requests for functional assessment shall be transmitted to ~~the Department of Human Services (~~DHS~~)~~ or its designee. Supporting documentation related to treatment services necessary to address functional deficits may be provided.

DHS or its designee will review the request and make a determination to either:

A. Finalize a referral and send~~t~~ it to the vendor for a BH ~~IA~~independent assessment

B. Provide notification to the requesting BH service provider that more information is needed

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C. Provide notification to the requesting entity

Reassessments will occur annually~~,~~ unless a change in circumstances requires a new assessment. A reassessment will be completed by staff employed by the independent assessment contractor utilizing the current approved assessment instrument (ARIA), which was approved prior to April 1, 2021, to assess functional need. An interview will be conducted in person for initial assessments, with the option of using telemedicine to complete Behavioral Health reassessments. The telemedicine tool must meet the 1915(i) requirement for the use of telemedicine under 42 CFR 441.720 (a)(1)(i)(A) through (C).

210.200 Assessor Qualifications 1-1-2419

In addition to the qualifications listed in Section ~~1~~202.000, BH assessors must have a four (4) year ~~B~~bachelor's degree or be a Registered Nurse with at least one year of mental health experience.

210.300 Tiering 1-1-2419

A. Tier ~~d~~Definitions:

1. Tier 1 means the score reflected that the individual can continue Counseling and Medication Management services but is not eligible for the additional array of services available in Tier 2 or Tier 3
2. Tier 2 means the score reflected difficulties with certain behaviors allowing eligibility for a full array of non-residential services to help the beneficiary function in home and community settings and move towards recovery.
3. Tier 3 means ~~in~~ the score reflected difficulties with certain behaviors allowing eligibility for a full array of services including 24 hours a day/7 days a week residential services, to help the beneficiary move towards reintegrating back into the community.

B. Tier Logic

1. Beneficiaries aged 18 and over

	Tier 1 – Counseling and Medication Management Services	**Tier 2 – Counseling, Medication Management, and Support Services**	**Tier 3 – Counseling, Medication Management, Support, and Residential Services**
Criteria that will Trigger Tiers			
Behavior	Does not meet criteria of Tier 2 or Tier 3	Mental Health Diagnosis Score of 4 **AND** Intervention Score of 1 or 2 in any ONE of the following Psychosocial Subdomains: Injurious to Self Aggressive Toward Others, Physical Aggressive Toward Others, Verbal/Gestural Socially Unacceptable Behavior Property Destruction	Mental Health Diagnosis Score of 4 **AND** Intervention Score of 3 or 4 in any ONE of the following Psychosocial Subdomains: Injurious to Self Aggressive Toward Others, Physical Aggressive Toward Others, Verbal/Gestural Socially Unacceptable Behavior Property Destruction

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		Wandering/Elopement PICA	Wandering/Elopement PICA
		OR	
		Mental Health Diagnosis Score of 4 **AND** Intervention Score of 3 or 4 **AND** Frequency Score of 4 or 5 in any ONE of the following Psychosocial Subdomains: Difficulties Regulating Emotions Susceptibility to Victimization Withdrawal Agitation Impulsivity Intrusiveness	
		OR	
		Mental Health Diagnosis Score of 4 **AND** Intervention Score of 1, 2, 3 or 4 **AND** Frequency Score of 1, 2, 3, 4 or 5 in the following Psychosocial Subdomain: Psychotic Behaviors	
		OR	
		Mental Health Diagnosis Score of 4 **AND** Intervention Score of 4 **AND** Frequency Score of 4 or 5 in the following Psychosocial Subdomain: Manic Behaviors	
		OR	
		Mental Health Diagnosis Score of 4	

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		AND PHQ-9 Score of 3 or 4 (Moderately Severe or Severe Depression) **OR** Geriatric Depression Score of 3 (>=10)	
		OR	
		Mental Health Diagnosis Score of 4 **AND** Substance Abuse or Alcohol Use Score of 3	

When you see "**AND"**, this means you must have a score in this area **AND** a score in another area. When you see "**OR**", this means you must have a score in this area **OR** a score in another area.

2. Beneficiaries Under Age 18

	Tier 1 – Counseling and Medication Management Services	**Tier 2 – Counseling, Medication Management, and Support Services**	**Tier 3 – Counseling, Medication Management, Support, and Residential Services**
Criteria that will Trigger Tiers			
Behavior	Does not meet criteria of Tier 2 or Tier 3	Mental Health Diagnosis Score >= 2 **AND** Injurious to Self: Intervention Score of 1, 2 or 3 **AND** Frequency Score of 1, 2, 3, 4 or 5	Mental Health Diagnosis Score >=2 **AND** Injurious to Self: Intervention Score of 4 **AND** Frequency Score of 1, 2, 3, 4 or 5
		OR	
		Mental Health Diagnosis Score >=2 **AND** Aggressive Toward Others, Physical: Intervention Score of 1, 2 or 3 **AND** Frequency Score of 1, 2, 3, 4 or 5	Mental Health Diagnosis Score >=2 **AND** Aggressive Toward Others, Physical: Intervention Score of 4 **AND** Frequency Score of 2, 3, 4 or 5
		OR	

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		Mental Health Diagnosis Score >=2 **AND** Intervention Score of 3 or 4 **AND** Frequency Score of 2, 3, 4, or 5 in any ONE of the following Psychosocial Subdomains: Aggressive Toward Others, Verbal/Gestural Wandering/Elopement	Mental Health Diagnosis Score >=2 **AND** Psychotic Behaviors: Intervention Score of 3 or 4 **AND** Frequency Score of 3, 4 or 5
		OR	
		Mental Health Diagnosis Score >=2 **AND** Intervention Score of 2, 3 or 4 **AND** Frequency Score of 2, 3, 4, or 5 in any ONE of the following Psychosocial Subdomains: Socially Unacceptable Behavior Property Destruction	
		OR	
		Mental Health Diagnosis Score >=2 **AND** Intervention Score of 3 or 4 **AND** Frequency Score of 3, 4, or 5 in any ONE of the following Psychosocial Subdomains: Agitation Anxiety Difficulties Regulating Emotions Impulsivity Injury to Others, Unintentional Manic Behaviors Susceptibility to Victimization	

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		Withdrawal	
		OR	
		Mental Health Diagnosis Score >=2 **AND** **PICA**: Intervention Score of 4	
		OR	
		Mental Health Diagnosis Score >=2 **AND** **Intrusiveness**: Intervention Score of 3 or 4 **AND** Frequency Score of 4 or 5	
		OR	
		Mental Health Diagnosis Score > = 2 **AND** **Psychotic Behaviors**: Intervention Score of 1 or 2 **AND** Frequency Score of 1 or 2	
		OR	
		Mental Health Diagnosis Score >=2 **AND** Psychosocial Subdomain Score >=5 and <=7 **AND** Pediatric Symptom Checklist Score >15	

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210.400 Possible Outcomes

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A. For a beneficiary receiving a Tier 1 determination:

1. Eligible for Counseling and Medication Management services and may continue Tier 1 services with a certified behavioral health service provider.
2. Not eligible for Tier 2 or Tier 3 services.
3. Not eligible for auto-assignment to a Provider-led Arkansas Shared Savings Entity (PASSE) or to continue participation with a PASSE.

B. For a beneficiary receiving a Tier 2 determination:

1. Eligible for services contained in Tier 1 and Tier 2.
2. Not eligible for Tier 3 services.
3. Eligible for auto-assignment to a PASSE or to continue participation with a PASSE.
   a. On January 1, 2019, the PASSE ~~will~~ began receiving~~e~~ a PMPM that corresponds to the determined rate for the assigned tier.
   b. The PASSE ~~will be~~is responsible for providing care coordination and assisting the beneficiary in accessing all needed services and, after January 1, 2019, for providing those services.

C. For a beneficiary receiving a Tier 3 determination:

1. Eligible for services contained in Tier 1, Tier 2 and Tier 3.
2. Eligible for auto-assignment to a PASSE or to continue participation with a PASSE.
   a. On January 1, 2019, the PASSE ~~will~~began receiving~~e~~ a PMPM that corresponds to the determined rate for the assigned tier.
   b. The PASSE ~~will be~~is responsible for providing care coordination and assisting the beneficiary in accessing all needed services and, after January 1, 2019, for ensuring those services are provided.

220.100 Independent Assessment Referral Process 1-1-~~19~~24

A. Independent ~~A~~assessment ~~(IA)~~ referrals are initiated by the DHS Division of Developmental Disabilities (DDS) when a beneficiary has been determined, at one time, to meet the institutional level of care. DDS will send the referral for a Developmental Disabilities (DD) ~~A~~assessment to the current ~~I~~ARIA ~~V~~vendor. DDS will make ~~IA~~ referrals for the following populations:

1. ~~Clients~~ Beneficiaries receiving services under the Community and Employment Supports (CES) 1915(c) Home and Community~~-~~Based Services Waiver.
2. ~~Clients~~ Beneficiaries on the CES Waiver ~~W~~waitlist.
3. ~~Clients~~ Beneficiaries applying for or currently living in a private Intermediate Care Facility (ICF) for individuals with intellectual or developmental disabilities.
4. ~~Clients~~ Beneficiaries who are applying for placement at a state-run Human Development Center (HDC).

To continue to receive services within these populations, all individuals referred ~~will have to~~must undergo ~~the~~an ~~i~~independent ~~A~~assessment annually. A reassessment will be completed by staff employed by the independent assessment contractor utilizing the current approved assessment instrument (ARIA), which was approved prior to April 1, 2021, to assess functional need. An interview will be conducted in person for initial assessments, with the option of using telemedicine to complete reassessments for members with intellectual or developmental disabilities. The telemedicine tool must meet the 1915(i) requirement for the use of telemedicine under 42 CFR 441.720 (a)(1)(i)(A) through (C).

B. All populations, except for those served at an HDC, will be reassessed every three (3) years.

1. An individual can be reassessed at any time if there is a change of circumstances that requires a new assessment.
2. Individuals in an HDC only will ~~only~~ be assessed or reassessed if they are seeking transition into the community.

220.200 Assessor Qualifications 1-1-~~19~~24

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In addition to the qualifications listed in Section 202.000, DD assessors must have at least two-years' experience with the ID/DD population and meet the qualifications of a Qualified Developmental Disability Professional (QDDP).

220.300 Tiering 1-1-~~19~~24

A. Tier Definitions:

1. Tier 2 means that the beneficiary scored high enough in certain areas to be eligible for paid services and supports.
2. Tier 3 means that the beneficiary scored high enough in certain areas to be eligible for the most intensive level of services, **including 24 hours a day/7 days a week** paid supports and services.

B. Tiering Logic:

1. DDS ~~T~~tier ~~L~~logic is organized by categories of need, as follows:
   a. Safety: Your ability to remain safe and out of harm's way
   b. Behavior: ~~b~~Behaviors that could place you or others in harm's way
   c. Self-Care: Your ability to take care of yourself, ~~like~~such as bathing yourself, getting dressed, preparing your meals, shopping, or going to the bathroom

Tier 2: Institutional Level of Care	**Tier 3: Institutional Level of Care and may need 24 hours a day-/7 days a week paid supports and services to maintain current placement**
Safety Level High A. ~~[~~Self-Preservation Score > = 4 **AND** B. Caregiving Capacity/Risk Score > = 6 **AND** C. Caregiving/Natural Supports Score > = 6 **AND** D. Mental Status Evaluation Score (in the home) = 3 or 4 **AND** E. Mental Status Evaluation Score (in the community) = 2~~]~~	A. ~~[~~Self-Preservation Score > = 16 **AND** B. Caregiving Capacity/Risk Score = 11 **AND** C. Caregiving/Natural Supports Score of = 7 **AND** D. Mental Status Evaluation Score (in the home) Score = 5 **AND** E. Mental Status Evaluation Score (in the community) Score = 3~~]~~
Safety Level Medium A. ~~[~~Self-Preservation Score > = 4 **AND** B. Caregiving Capacity/Risk Score > = 6 **AND** C. Caregiving/Natural Supports Score > = 6 **AND** D. Mental Status Evaluation Score (in the home) = 2	

AND E. Mental Status Evaluation Score (in the community) = 2]	
Safety Level Low A. [Self-Preservation Score > = 4 **AND** B. Caregiving Capacity/Risk Score > = 6 **AND** C. Caregiving/Natural Supports Score > = 6 **AND** D. Mental Status Evaluation Score (in the home) = 1 **AND** E. Mental Status Evaluation Score (in the community) Score = 1]	
Behavior Level High A. [Neurodevelopmental Score of 2 **AND** B. Psychosocial Subdomain Score of > = 5 - < = 7 in at least ONE of the following Subdomains: Aggressive Toward Others, Physical; Injurious to Self; Manic Behaviors; PICA; Property Destruction; Psychotic Behaviors; Susceptibility to Victimization; Wandering/Elopement; **AND** C. Caregiving Capacity/Risk Score of > = 6 **AND** D. Caregiving/Natural Supports Score of > = 5] **OR** A. [Neurodevelopmental Score of 2 **AND** B. Psychosocial Subdomain Score of > = 5 - < = 7 in at least THREE of the following Subdomains: Aggressive Toward Others,	**Behavior Level High** A. [Neurodevelopmental Score of 2 **AND** B. Psychosocial Subdomain Score of > = 8 - < = 9 in at least TWO of the following Subdomains: Aggressive Toward Others, Physical; Injurious to Self; Manic Behaviors; PICA; Property Destruction; Psychotic Behaviors; Susceptibility to Victimization; Wandering/Elopement **OR** A. [Neurodevelopmental Score of 2 **AND** B. Psychosocial Subdomain Score of > = 8 - < = 9 in at least THREE of the following Subdomains: Aggressive Toward Others Verbal/Gestural; Agitation; Anxiety; Difficulties Regulating Emotions; Impulsivity;

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Verbal/Gestural; Agitation; Anxiety Difficulties Regulating Emotions; Impulsivity; Injury to Others (Unintentional); Intrusiveness; Legal Involvement; Socially Unacceptable Behavior; Withdrawal C. **AND** at least one of the following scores: Caregiving Capacity/Risk Score of > = 9 Caregiving/Natural Supports Score of > = 5]	Injury to Others (Unintentional); Intrusiveness; Legal Involvement; Socially Unacceptable Behavior; Verbal/Gestural; Withdrawal
Behavior Level Low A. [Neurodevelopmental Score of 2 **AND** B. Psychosocial Subdomain Score of > = 3 - < = 4 in at least ONE of the following Subdomains: Aggressive Toward Others, Physical; Injurious to Self; Manic Behaviors PICA; Property Destruction; Psychotic Behaviors; Susceptibility to Victimization; Wandering/Elopement C. **AND** at least one of the following scores: Caregiving Capacity/Risk Score of < = 8 Caregiving/Natural Supports Score of < = 3] **OR** A. [Neurodevelopmental Score of 2 **AND** B. Psychosocial Subdomain Score of >=5-<=7 in at least one of the following Subdomains: Aggressive Toward Others, Verbal/Gestural; Agitation;	**Behavior Level Low** A. [Neurodevelopmental Score of 2 **AND** B. Psychosocial Subdomain Score of > = 8 - < = 9 in at least ONE of the following Subdomains: Aggressive Toward Others, Physical; Injurious to Self; Manic Behaviors; PICA; Property Destruction; Psychotic Behaviors; Susceptibility to Victimization; Wandering/Elopement] **OR** A. [Neurodevelopmental Score of 2 **AND** B. Psychosocial Subdomain Score of > = 8 - < = 9 in at least TWO of the following Subdomains: Aggressive Toward Others, Verbal/Gestural; Agitation; Anxiety; Difficulties Regulating Emotions; Impulsivity;

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Anxiety Difficulties Regulating Emotions; Impulsivity; Injury to Others (Unintentional); Intrusiveness; Legal Involvement; Socially Unacceptable Behavior; Withdrawal C. **AND** at least one of the following scores: Caregiving Capacity/Risk Score of < = 8 Caregiving/Natural Supports Score of < = 3	Injury to Others (Unintentional); Intrusiveness; Legal Involvement; Socially Unacceptable Behavior; Withdrawal
Self-Care Level High A. Neurodevelopmental Score of 2 **AND** B. Scores within stated range in at least THREE of any of the following: 1. *ADL's:* Score of at least 4 in Eating Score of at least 5 in Bathing Score of at least 4 in Dressing Score of at least 3 in Toileting Score of at least 4 in Mobility Score of at least 4 in Transfers 2. *Functional Communication:* Score of 2 or 3 in Functional Communication 3. *IADLs:* Score of 3 in any of the following IADLs (Meal Preparation, Housekeeping, Finances, Shopping) 4. *Safety:* Self-Preservation Score of >=4 **AND** a score in at least one of the following areas: Caregiving Capacity/Risk Score of > = 9 Caregiving/Natural Supports Score of > = 4 Treatment/Monitoring Score of at	**Self-Care Level High** A. Neurodevelopmental Score of 2 **AND** B. Treatments/Monitoring Score of at least 2 C. **AND** at least one of the following scores: Caregiving Capacity/Risk Score > = 10 Caregiving/Natural Supports Score of = 7

least 2]	
Self-Care Level Medium A. [Neurodevelopmental Score of 2 **AND** B. Scores within stated range in at least THREE of any of the following: *1. ADLs:* Score of 1-11 in Eating Score of 1-11 in Bathing Score of 1-10 in Dressing Score of 1-11 in Toileting Score of 1-10 in Mobility Score of 1-10 in Transfers *2. Functional Communication:* Score of 1 in Functional Communication *3. IADLs* Score of 3 in any of the following IADLs: (Meal Preparation, Housekeeping, Finances, Shopping) *4. Safety:* Self-Preservation Score of > = 2 **AND** a score in at least one of the following areas: Caregiving Capacity/Risk Score of > = 9 Caregiving/Natural Supports Score of > = 4]	
Self-Care Level Low A. [Neurodevelopmental Score of 2 **AND** B. Scores within stated range in at least THREE of any of the following combinations: Score of 1-11 in Eating Score of 1-11 in Bathing Score of 1-10 in Dressing Score of 1-11 in Toileting Score of 1-10 in Mobility Score of 1-10 in Transfers]	**Self-Care Level Low** A. [Neurodevelopmental Score of 2 **AND** B. Scores within stated range in at least THREE of any of the following combinations: Score of at least 4 in Eating Score of at least 5 in Bathing Score of at least 4 in Dressing Score of at least 3 in Toileting Score of at least 4 in Mobility Score of at least 4 in Transfers C. **AND** at least one of the following

OR {Neurodevelopmental Score of 2 **AND** Score of >=1 in any of the following: IADLs (Meal Preparation, Housekeeping, Finances, Shopping)}	scores: Caregiving Capacity/Risk Score of >= 10 Caregiving/Natural Supports Score of 7}

When you see "**AND"**, this means you must have a score in this area **AND** a score in another area. When you see "**OR**", this means you must have a score in this area **OR** a score in another area.

220.310~~300~~ Possible Outcomes 1-1-~~19~~24

A. For beneficiaries on the CES Waiver, Waiver ~~W~~waitlist, or in an ICF:

Both Tier 2 and Tier 3 determinations will result in the beneficiary being eligible for auto-assignment to a PASSE or to continue participation with a PASSE.

1. On January 1, 2019, the PASSE ~~will~~ began receiving~~e~~ a PMPM that corresponds to the determined rate for the assigned tier.
2. The PASSE ~~will be~~is responsible for providing care coordination and assisting the beneficiary in accessing all eligible services and, after January 1, 2019, for ensuring those services are delivered.

B. For beneficiaries seeking admission to an HDC:

1. Tier 2 Determination:
   a. Not eligible for admission into an HDC, will be conditionally admitted to begin transitioning to community settings.
   b. Eligible for auto-assignment to a PASSE or to continue participation with a PASSE.
      i. After January 1, 2019, the PASSE ~~will~~ began receiving~~e~~ a PMPM that corresponds to the determined rate for the assigned tier.
      ii. The PASSE ~~will be~~is responsible for providing care coordination and assisting the beneficiary in accessing all eligible services and, after January 1, 2019, for ensuring those services are provided.
2. Tier 3 Determination:
   a. Eligible for HDC admission, if deemed appropriate and an appropriate bed is available.
   b. Not eligible for auto-assignment to a PASSE or to continue participation with a PASSE, if the client chooses admission to the HDC.

C. If the beneficiary does not receive a tier on the assessment, the vendor will refer him or her back to DDS for re-evaluation of institutional level of care.

220.410 Battelle Developmental Inventory Screen ~~1-1-19~~1/1/24

A. The screening tool that will be used by the vendor is the most recent edition of the Battelle Developmental Inventory (BDI) Screening Tool. The BDI screens children in the following five domains: adaptive, personal/social, communication, motor, and cognitive.

B. Definitions used for the screening process:

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1. Cut Score - The lowest score a beneficiary could have for that age range and standard deviation ~~in order to~~to pass a particular domain.
2. Pass - The child's raw score is higher than the cut score, and the child is not referred for further evaluation
3. Refer – The child's raw score is lower than the cut score, and the child is referred for further evaluation of service need
4. Age Equivalent Score - The age at which the raw score for a subdomain is typical
5. Raw Score – Is the score the child ~~actually received~~received on that domain. It is compared to the cut score to determine if the child receives a pass or refer.
6. Standard Deviation - A measurement used to quantify the amount of variation; the standard deviation will be applied to the child's raw score so that their score can be compared to the score of a child with typical development.

C. The standard deviation of -1.5 will be applied to all raw scores. Any score that is more than 1.5 standard deviations below that of a child with typical development will be referred for further evaluation for EIDT services.

D. Assessors who administer the Battelle Developmental Inventory screen must meet the qualifications of a DD assessor, listed in Section 2~~X~~20.200 and undergo training specific to administering the tool.

1-1-24

220.500 Complex Care

220.600 Referral Process **1-1-24**

Once a member is attributed to a PASSE, DHS may initiate a referral for a member to get a complex care assessment that will determine whether the member is eligible for Complex Care services. A PASSE member may be consider for the Complex Care if the member has been assessed or re-assessed as Tier 3 and if:

A. A member has an intellectual/developmental disability AND a behavioral health need OR

B. A member requires a higher level of care coordination and services due to court involvement OR

C. A member's behavioral health needs are complex.

To continue to receive Complex Care services, members must receive a complex care assessment annually and be assessed as needing Complex Care services. A reassessment will be completed by appropriate DHS-approved staff using the appropriate Complex Care assessment tool. If a member does not meet the need for Complex Care services, the member will be placed back in Tier 3. An in-person interview will be conducted for initial assessments, with the option of using telemedicine to complete reassessments for members who meet the criteria for Complex Care. The telemedicine tool must meet the 1915(i) requirement for the use of telemedicine under 42 CFR 441.720 (a)(1)(i)(A) through (C).

220.700 Assessor Qualifications **1-1-24**

In addition to the qualifications listed in Section 202.000, Complex Care assessors must have a four (4) year bachelor's degree or be a Registered Nurse with at least one year of mental health experience.

MARKUP

230.000 PERSONAL CARE SERVICES

230.100 Referral Process 1-1-2419

Independent Aassessment (IA) referrals are initiated by Personal Care (PC) service providers identifying a beneficiary who may require PC services. After January 1, 2019, individuals who are enrolled in a PASSE will notdo not require a personal care assessment to continue services. Requests for functional assessment shall be transmitted to the Department of Human Services (DHS) or its designee, and will require supporting documentation. Supporting documentation that must be provided include:

A. A provider completed form that has been provided by DHS; and

B. A referral form, if it is an initial referral.

DHS or its designee will review the request and make a determination to either:

A. Finalize a referral and send it to the vendor for a PC IAindependent assessment, or,

B. Provide notification to the requesting entity that more information is needed, and that the PC provider may resubmit the request with the additional information, , or

C. Provide notification to the requesting entity that the request is denied, for example, if a functional assessment has been performed within the previous ten (10) months and there is no change of circumstances to justify reassessment.

PC IA Reassessments must be conducted in person and occur annually, but may occur more frequently if a change of circumstances necessitates such.

230.200 Assessor Qualifications 1-1-2419

In addition to the qualifications listed in Section 202.000, PC assessors must be a Registered Nurse licensed in the State of Arkansas.

230.300 Tiering 1-1-2419

A. Tiering Definitions:

1. Tier 0 means you did not score high enough in any of the Aactivities of Ddaily Lliving (ADLs) such as Eeating, Bbathing, or Ttoileting, to meet the state's eligibility criteria for pPersonal cCare sServices. A Tier 0 means that you did not need any "hands on assistance" in being able to bathe yourself, feed yourself and dress yourself as examples.
2. Tier 1 means you scored high enough in at least one of the Activities of Daily Living (ADLs) such as Eeating, Bbathing, Ttoileting, to be eligible for the state's Personal Care Sservices. A Tier 1 means that you needed "hands on assistance" to be able to bathe yourself, dress yourself, or feed yourself, as examples.

B. Tiering Logic

	Tier 0	Tier 1
Functional Status (ADLs)	Score < 3 in all of the following ADLs: Eating, Bathing, Dressing, Personal Hygiene/Grooming, Mobility, Transferring, Toilet Use/Continence Support, Positioning	Score of > = 3 in at least ONE of the following ADLs: Eating, Bathing, Dressing, Personal Hygiene/Grooming, Mobility, Transferring, Toilet Use/Continence Support, Positioning

MARKUP

~~230.300~~ 230.400 Possible Outcomes 1-1-~~19~~24

Upon successful completion of an ~~I~~Aassessment, the tier determination will determine eligibility of service levels. Possible outcomes include:

A. Tier 0 Determination

1. Not currently eligible for Personal Care services.
2. May be reassessed when a change in circumstances necessitates a re-assessment.

B. Tier 1 Determination

1. Currently eligible for up to 256 units (64 hours) per month of ~~p~~Personal ~~c~~Care services.
2. The PC ~~I~~Aassessment is submitted to DHS or its designee who reviews it, along with any information submitted by the provider to authorize the set amount of service time per month.

The PC ~~I~~Aassessment is not used to assign clients to a PASSE.

MARKUP

TOC not required

222.800 Schedule for Preventive Health Screens

~~2-1-22~~1-1-24

The ARKids First – B periodic screening schedule follows the guidelines for the EPSDT screening schedule and is updated in accordance with the recommendations of the American Academy of Pediatrics.

From birth to 15 months of age, children may receive six (6) periodic screens in addition to the newborn screen performed in the hospital.

Children age 15 months to 24 months of age may receive two (2) periodic screens. Children age 24 months to 30 months may receive one (1) periodic screen, and children 30 months to 3 years old may receive one (1) periodic screen.

When a child has turned 3 years old, the following schedule will apply. ~~There must be at least 365 days between each screen listed below for children age 3 years through 18 years~~One visit per birth year for children ages 3 years through 18 years.

Age			
3 years	7 years	11 years	15 years
4 years	8 years	12 years	16 years
5 years	9 years	13 years	17 years
6 years	10 years	14 years	18 years

Medical screens for children are required to be performed by the beneficiary's PCP or receive a PCP referral to an authorized Medicaid screening provider. Routine newborn care, vision screens, dental screens and immunizations for childhood diseases do not require PCP referral. **See Section 262.130** for procedure codes.

222.820 Infancy (Ages 1–9 Months)

~~1-1-20~~1-1-24

A. History (Initial/Interval) to be performed at ages 1, 2, 4, 6, and 9 months.

B. Measurements to be performed

1. Height and Weight at ages 1, 2, 4, 6, and 9 months.
2. Head Circumference at ages 1, 2, 4, 6, and 9 months.

C. Sensory Screening, subjective, by history

1. Vision at ages 1, 2, 4, 6, and 9 months.
2. Hearing at ages 1, 2, 4, 6, and 9 months.

D. Developmental/Surveillance and Psychosocial/Behavioral Assessment to be performed at ages 1, 2, 4, 6, and 9 months; to be performed by history and appropriate physical examination and, if suspicious, by specific objective developmental testing. Parenting skills should be fostered at every visit.

E. Physical Examination to be performed at ages 1, 2, 4, 6, and 9 months. At each visit, a complete physical examination is essential with the infant totally unclothed.

MARKUP

F. Procedures - General

These may be modified depending upon the entry point into the schedule and the individual need.

1. Hereditary/Metabolic Screening to be performed at age 1 month, if not performed either during the newborn evaluation or at the preferred age of 3-5 days. Metabolic screening (e.g., thyroid, hemoglobinopathies, PKU, galactosemia) should be done according to state law.
2. Immunization(s) to be performed at ages 1, 2, 4, 6, and 9 months. Every visit should be an opportunity to update and complete a child's immunizations.
3. Hematocrit or Hemoglobin risk assessment at 4 months with appropriate testing of high risk factors.

G. Other Procedures

1. Lead screening risk assessment to be performed at ages 6 and 9 months. Additionally, screening should be done in accordance with state law where applicable.
2. Tuberculin surveillance to be performed at ages 1 and 6 months per recommendations of the American Academy of Pediatrics (AAP) Committee on Infectious Diseases, published in the current edition of *AAP Red Book: Report of the Committee on Infectious Diseases*. Testing should be performed on recognition of high risk factors.

H. Anticipatory Guidance to be performed at ages 1, 2, 4, 6, and 9 months. Age-appropriate discussion and counseling should be an integral part of each visit for care.

1. Injury prevention at ages 1, 2, 4, 6, and 9 months.
2. Violence prevention at ages 1, 2, 4, 6, and 9 months.
3. Sleep positioning counseling at ages 1, 2, 4, and 6 months. Parents and caregivers should be advised to place healthy infants on their backs when putting them to sleep. Side positioning is a reasonable alternative but carries a slightly higher risk of SIDS.
4. Nutrition counseling at ages 1, 2, 4, 6, and 9 months. Age-appropriate nutrition counseling should be an integral part of each visit.

I. Oral Health risk assessment: The Bright Futures/AAP "Recommendation for Preventative Pediatric Health Care," (i.e. Periodicity Schedule) recommends all children receive a risk assessment at the 6- and 9-month visits. For the 12-, 18-, 24-, 30-month, and the 3- and 6-year visits, risk assessment should continue if a dental home has not been established. **View the Bright/AAP Periodicity Schedule.**

Subsequent examinations should be completed as prescribed by the child's dentist and recommended by the Child Health Services (EPSDT) dental schedule.

J. One (1) Developmental Screen to be performed before age 12~~at age 9~~ months using a ~~standardized~~ validated tool ~~such as the Ages and Stages Questionnaire (ASQ) or Brigance Screens II. Any additional test must be approved by the Division of Medical Services (DMS) prior to use~~ recommended by the American Academy of Pediatrics in alignment with the Bright Futures Periodicity Schedule. **View the Bright/AAP Periodicity Schedule**. Children may not receive more than one screen without an extension of benefits.

222.830 Early Childhood (Ages 12 Months–4 Years) ~~1-1-20~~1-1-24

A. History (Initial/Interval) to be performed at ages 12, 15, 18, 24, and 30 months and ages 3 and 4 years.

MARKUP

B. Measurements to be performed

1. Height and Weight at ages 12, 15, 18, 24, and 30 months and ages 3 and 4 years.
2. Head Circumference at ages 12, 15, 18, and 24 months.
3. Blood Pressure at ages 30 months*, 3 and 4 years.

   *Note: For infants and children with specific risk conditions.
4. BMI (Body Mass Index) at ages 24 and 30 months, 3 and 4 years.

C. Sensory Screening, subjective, by history

1. Vision at ages 12, 15, 18, 24, and 30 months
2. Hearing at ages 12, 15, 18, 24, and 30 months and age 3 years.

D. Sensory Screening, objective, by a standard testing method

1. Vision at ages 3 and 4 years. Note: If the 3-year-old patient is uncooperative, re-screen within 6 months.
2. Hearing at age 4 years.

E. Developmental/Surveillance and Psychosocial/Behavioral Assessment to be performed at ages 12, 15, 18, 24, and 30 months and ages 3 and 4 years. To be performed by history and appropriate physical examination and, if suspicious, by specific objective developmental testing. Parenting skills should be fostered at every visit.

F. Physical Examination to be performed at ages 12, 15, 18, 24, and 30 months and ages 3 and 4 years. At each visit, a complete physical examination is essential, with the infant totally unclothed or with the older child undressed and suitably draped.

G. Procedures – General

These may be modified depending upon the entry point into the schedule and the individual need.

1. Immunization(s) to be performed at ages 12, 15, 18, 24, and 30 months and ages 3 and 4 years. Every visit should be an opportunity to update and complete a child's immunizations.
2. Hematocrit or Hemoglobin risk assessment at 4 months with appropriate testing and follow up action if high risk to be performed at ages 12, 15, 18, 24, and 30 months and ages 3 and 4 years.

H. Other Procedures

Testing should be done upon recognition of high-risk factors.

1. Lead screening risk assessment to be performed at ages 12 and 24 months. Additionally, screening should be done in accordance with state law where applicable, with appropriate action to follow if high risk positive.
2. Tuberculin test to be performed at ages 12 and 24 months and ages 3 and 4 years. Testing should be done upon recognition of high-risk factors per recommendations of the Committee on Infectious Diseases, published in the current edition of *AAP Red Book: Report of the Committee on Infectious Diseases*. Testing should be performed on recognition of high-risk factors.
3. Risk Assessment for Hyperlipidemia to be performed at ages 24 months and 4 years with fasting screen, if family history cannot be ascertained, and other risk factors are present, screening should be at the discretion of the physician.

MARKUP

I. Anticipatory Guidance to be performed at ages 12, 15, 18, 24, and 30 months and at ages 3 and 4 years. Age-appropriate discussion and counseling should be an integral part of each visit for care.

1. Injury prevention to be performed at ages 12, 15, 18, 24, and 30 months and at ages 3 and 4 years.
2. Violence prevention to be performed at ages 12, 15, 18, 24, and 30 months and at ages 3 and 4 years.
3. Nutrition counseling to be performed at ages 12, 15, 18, 24, and 30 months and ages 3 and 4 years. Age-appropriate nutrition counseling should be an integral part of each visit.

J. Oral Health Risk assessment: The Bright Futures/AAP "Recommendation for Preventative Pediatric Health Care," (i.e, Periodicity Schedule) recommends all children receive a risk assessment at the 6- and 9-month visits. For the 12-, 18-, 24-, 30-month, and the 3- and 6-year visits, risk assessment should continue if a dental home has not been established. **View the Bright/AAP Periodicity Schedule.**

Subsequent examinations should be as prescribed by the dentist and recommended by the Child Health Services (EPSDT) dental schedule.

K. Two (2) Developmental Screens to be performed no more than once per year between the ages of ~~at age 18 and 30~~13 to 48 months using ~~standardized~~ validated tools ~~such as the Ages and Stages Questionnaire (ASQ) or Brigance Screens-II. Any additional tests must be approved by DMS prior to use~~ recommended by the American Academy of Pediatrics in alignment with the Bright Futures Periodicity Schedule. **View the Bright/AAP Periodicity Schedule**. Children may not receive more than one screen per twelve month period and no more than two screens without an extension of benefits.

L. Autism Screen to be performed at age 18 and 24 months (or 30 months if screen was not completed at 24 months) using a standardized tool such as the Modified Checklist for Autism in Toddlers (M-CHAT) or the Pervasive Developmental Disorders Screening Tests-II (PDDSDT-II) Stage1. Any additional test must be approved by DMS prior to use.

MARKUP

TOC not required

215.100 Schedule for Child Health Services (EPSDT) Medical/Periodicity Screening

~~2-1-22~~1-1-24

The periodic EPSDT screening schedule has been changed in accordance with the most recent recommendations of the American Academy of Pediatrics.

From birth to 15 months of age, children may receive six (6) periodic screens in addition to the newborn screen performed in the hospital.

Children age 15 months to 24 months of age may receive two (2) periodic screens. Children age 24 months to 30 months may receive one (1) periodic screen, and children 30 months to 3 years old may receive one (1) periodic screen.

When a child has turned 3 years old, the following schedule will apply. ~~There must be at least 365 days between each screen listed below for children age 3 years through 20 years.~~One visit per birth year for children ages 3 years through 20 years.

Age			
3 years	8 years	13 years	18 years
4 years	9 years	14 years	19 years
5 years	10 years	15 years	20 years
6 years	11 years	16 years	
7 years	12 years	17 years	

Most medical and hearing screens for children require a PCP referral before the screens may occur. Routine newborn care, vision screens, dental screens and immunizations for childhood diseases do not require PCP referral. See **Section 242.100** for procedure codes.

215.310 Infancy (Ages 1–9 months)

~~1-1-20~~1-1-24

A. History (Initial/Interval) to be performed at ages 1, 2, 4, 6, and 9 months.

B. Measurements to be performed

1. Height and Weight at ages 1, 2, 4, 6, and 9 months.
2. Head Circumference at ages 1, 2, 4, 6, and 9 months.

C. Sensory Screening, subjective, by history

1. Vision at ages 1, 2, 4, 6, and 9 months.
2. Hearing at ages 1, 2, 4, 6, and 9 months.

D. Developmental/Surveillance and Psychosocial/Behavioral Assessment to be performed at ages 1, 2, 4, 6, and 9 months. To be performed by history and appropriate physical examination and, if suspicious, by specific objective developmental testing. Parenting skills should be fostered at every visit.

E. Physical Examination to be performed at ages 1, 2, 4, 6, and 9 months. At each visit, a complete physical examination is essential with the infant totally unclothed.

MARKUP

F. Procedures - General

These may be modified depending upon the entry point into the schedule and the individual need.

1. Hereditary/Metabolic Screening to be performed at age 1 month, if not performed either during the newborn evaluation or at the preferred age of 3-5 days. Metabolic screening (e.g., thyroid, hemoglobinopathies, PKU, galactosemia) should be done according to state law.
2. Immunization(s) to be performed at ages 1, 2, 4, 6, and 9 months. Every visit should be an opportunity to update and complete a child's immunizations.
3. Hematocrit or Hemoglobin risk assessment at age 4 months with appropriate testing of high risk factors.

G. Other Procedures

1. Lead screening risk assessment to be performed at ages 6 and 9 months. Additionally, screening should be done in accordance with state law where applicable.
2. Tuberculin surveillance to be performed at ages 1 and 6 months per recommendations of the American Academy of Pediatrics (AAP) Committee on Infectious Diseases, published in the current edition of *AAP Red Book: Report of the Committee on Infectious Diseases*. Testing should be performed on recognition of high risk factors.

H. Anticipatory Guidance to be performed at ages 1, 2, 4, 6, and 9 months. Age-appropriate discussion and counseling should be an integral part of each visit for care.

1. Injury prevention at ages 1, 2, 4, 6, and 9 months.
2. Violence prevention at ages 1, 2, 4, 6, and 9 months.
3. Sleep positioning counseling at ages 1, 2, 4, and 6 months. Parents and caregivers should be advised to place healthy infants on their backs when putting them to sleep. Side positioning is a reasonable alternative but carries a slightly higher risk of SIDS.
4. Nutrition counseling at ages 1, 2, 4, 6, and 9, months. Age-appropriate nutrition counseling should be an integral part of each visit.

I. Oral Health Risk Assessment:

The Bright Futures/AAP "Recommendation for Preventative Pediatric Health Care," (i.e., Periodicity Schedule) recommends all children receive a risk assessment at the 6- and 9-month visits. For the 12-, 18-, 24-, 30-month, and the 3- and 6-year visits, risk assessment should continue if a dental home has not been established. **View the Bright/AAP Periodicity Schedule.**

Subsequent examinations should be completed as prescribed by the child's dentist and recommended by the Child Health Services (EPSDT) dental schedule.

J. One (1) Developmental Screen to be performed before age 12 ~~at age 9~~ months using a ~~standardized~~ validated tool recommended by the American Academy of Pediatrics in alignment with the Bright Futures Periodicity Schedule. **View the Bright/AAP Periodicity Schedule**~~such as the Ages and Stages Questionnaire (ASQ) or Brigance Screens-II. Any additional test must be approved by DMS prior to use~~.

215.320 Early Childhood (Ages 12 months–4 years) 1-1-2~~0~~4

A. History (Initial/Interval) to be performed at ages 12, 15, 18, 24, and 30* months and ages 3 and 4 years.

MARKUP

B. Measurements to be performed

1. Height and Weight at ages 12, 15, 18, 24, and 30 months and ages 3 and 4 years.
2. Head Circumference at ages 12, 15, 18, and 24 months.
3. Blood Pressure at 30 months* and ages 3 and 4 years

   * Note for infants and children with specific risk conditions.
4. BMI (Body Mass Index) at ages 24 and 30 months, and ages 3 and 4 years.

C. Sensory Screening, subjective, by history

1. Vision at ages 12, 15, 18, 24, and 30 months
2. Hearing at ages 12, 15, 18, 24, and 30 months and age 3 years.

D. Sensory Screening, objective, by a standard testing method

1. Vision at ages 3 and 4 years. Note: If the 3-year-old patient is uncooperative, re-screen within 6 months.
2. Hearing at age 4 years.

E. Developmental/Surveillance and Psychosocial Behavioral Assessment to be performed at ages 12, 15, 18, 24, and 30 months and ages 3 and 4 years. To be performed by history and appropriate physical examination and, if suspicious, by specific objective developmental testing. Parenting skills should be fostered at every visit.

F. Physical Examination to be performed at ages 12, 15, 18, 24, and 30 months and 3 and 4 years. At each visit, a complete physical examination is essential, with the infant totally unclothed or with the older child undressed and suitably draped.

G. Procedures – General

These may be modified depending upon the entry point into the schedule and the individual need.

1. Immunization(s) to be performed at ages 12, 15, 18, 24, and 30 months and 3 and 4 years. Every visit should be an opportunity to update and complete a child's immunizations.
2. Hematocrit or Hemoglobin risk assessment at 4 months with appropriate testing and follow up action if high risk to be performed at ages 12, 15, 18, 24, and 30 months and ages 3 and 4 years.

H. Other Procedures

Testing should be done upon recognition of high-risk factors.

1. Lead screening risk assessment to be performed at ages 12 and 24 months. Additionally, screening should be done in accordance with state law where applicable, with appropriate action to follow if high risk positive.
2. Tuberculin test to be performed at ages 12 and 24 months and ages 3 and 4 years. Testing should be done upon recognition of high-risk factors per recommendations of the Committee on Infectious Diseases, published in the current edition of *AAP Red Book: Report of the Committee on Infectious Diseases*. Testing should be performed on recognition of high-risk factors.
3. Risk Assessment for Hyperlipidemia to be performed at ages 24 months and 4 years with fasting screen. If family history cannot be ascertained and other risk factors are present, screening should be at the discretion of the physician.

MARKUP

I. Anticipatory Guidance to be performed at ages 12, 15, 18, 24, and 30 months and at ages 3 and 4 years. Age-appropriate discussion and counseling should be an integral part of each visit for care.

1. Injury prevention to be performed at ages 12, 15, 18, 24, and 30 months and at 3 and 4 years.
2. Violence prevention to be performed at ages 12, 15, 18, 24, and 30 months and at 3 and 4 years.
3. Nutrition counseling to be performed at ages 12 15, 18, 24, and 30 months and 3 and 4 years. Age-appropriate nutrition counseling should be an integral part of each visit.

J. Oral Health Risk Assessment:

The Bright Futures/AAP "Recommendation for Preventative Pediatric Health Care," (i.e., Periodicity Schedule) recommends all children receive a risk assessment at the 6- and 9-month visits. For the 12-, 18-, 24-, 30-month, and the 3- and 6-year visits, risk assessment should continue if a dental home has not been established. **View the Bright/AAP Periodicity Schedule.**

Subsequent examinations should be as prescribed by the dentist and recommended by the Child Health Services (EPSDT) dental schedule.

K. Two (2) Developmental Screen to be performed no more than once per year between the ~~at~~ ages 1~~3~~8 months and ~~30~~48 months using ~~standardized~~ validated tools ~~such as the Ages and Stages Questionnaire (ASQ) or Brigance Screens-II. Any additional tests must be approved by DMS prior to use~~ recommended by the American Academy of Pediatrics in alignment with the Bright Futures Periodicity Schedule **View the Bright/AAP Periodicity Schedule**.

L. Autism Screen to be performed at ages 18 and 24 months (or 30 months if screen was not completed at 24 months) using a standardized tool such as the Modified Checklist for Autism in Toddlers (M-CHAT) or the Pervasive Developmental Disorders Screening Tests-II (PDDSDT-II) Stage1. Any additional test must be approved by DMS prior to use.

MARKUP

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY.

DEPARTMENT Human Services
BOARD/COMMISSION Division of Medical Services
PERSON COMPLETING THIS STATEMENT Jason Callan
TELEPHONE NO. (501) 320-6540 **EMAIL** Jason.Callan@dhs.arkansas.gov

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 Developmental Screens for Children

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		**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	$60,836	General Revenue	$121,672
Federal Funds	$156,436	Federal Funds	$312,872
Cash Funds		Cash Funds	
Special Revenue		Special Revenue	
Other (Identify)		Other (Identify)	
Total	$ 217,272.00	Total	$ 434,544.00

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**
$ 60,836.00	$ 121,672.00

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; The Division of Medical Services (DMS) is adding a requirement to EPSDT for primary care providers (PCPs) to perform a developmental screening for children based upon the American Academy of Pediatrics (AAP) guidelines in alignment with the Bright Futures Periodicity Schedule; updating the ARKids First-B manual to indicate the use of the Bright Futures Periodicity Schedules and American Academy of Pediatrics guidelines; and updating the Arkansas Independent Assessment (ARIA) manual to capture current assessment and referral requirements..

(2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute; Adding the developmental screen will enhance early identification of developmental needs for children and increase the quality of referrals for specialized services.

(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; N/A

(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; N/A

(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; N/A

(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 N/A

(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. The Agency monitors State and Federal rules and policies for opportunities to reduce and control cost.

FINANCIAL IMPACT STATEMENT ADDENDUM

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;
The Division of Medical Services (DMS) is adding a requirement to EPSDT for primary care providers (PCPs) to perform a developmental screening for children based upon the American Academy of Pediatrics (AAP) guidelines in alignment with the Bright Futures Periodicity Schedule; updating the ARKids First-B manual to indicate the use of the Bright Futures Periodicity Schedules and American Academy of Pediatrics guidelines; and updating the Arkansas Independent Assessment (ARIA) manual to capture current assessment and referral requirements.

(2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute; **Adding the developmental screen will enhance early identification of developmental needs for children and increase the quality of referrals for specialized services.**

(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;
N/A

(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; **N/A**

(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;

N/A

(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

N/A

(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. **The Agency monitors State and Federal rules and policies for opportunities to reduce and control cost.**

Statement of Necessity and Rule Summary
Developmental Screens for Children

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

The Division of Medical Services (DMS) is adding a requirement to the Early and Periodic Screening, Diagnosis, and Treatment manual for primary care providers (PCPs) to perform a developmental screening for children based upon the American Academy of Pediatrics (AAP) guidelines in alignment with the Bright Futures Periodicity Schedule. Optum will no longer perform the developmental screens required for EIDT admission after April 1, 2024. The new screening will be incorporated into the Patient Centered Medical Home (PCMH) quality metrics. Adding the developmental screen will enhance early identification of developmental needs for children and increase the quality of referrals for specialized services.

In addition, the Arkansas Independent Assessment (ARIA) manual is updated to capture current assessment and referral requirements. The ARKids First-B manual is updated to capture the use of the Bright Futures Periodicity Schedules discussed above.

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

<u>Child Health Services/Early and Periodic Screening, Diagnosis, and Treatment Manual</u>

- Section 215.100 - Deleted the sentence that read, "There must be at least 365 days between each screen listed below for children age 3 years through 20 years."
- Section 215.100 – added, "One visit per birth year for children ages 3 years through 20 years."
- Section 215.310 – J., updated the periodicity tool.
- Section 215.320 – K., updated the periodicity tool.

<u>Arkansas Independent Assessment (ARIA) Manual</u>

Changed client to beneficiary throughout manual. Made technical and grammatical changes throughout the manual.

Table of Contents – need to update to include new section 220.500 (Complex Care).

201.000 –Arkansas Independent Assessment (ARIA) System Overview

- added "…and for certain populations to establish the per member per month payment to a managed care entity."
- Added "…and establishes the per member per month payment to a managed care entity…"

201.100 – Developmental Screen Overview

- Deleted the sentence that read, "The implementation of the screening process supports Arkansas Medicaid's goal of using a tested and validated assessment tool that objectively evaluates an individual's need for services."
- Added, "The developmental disabilities screening process will sunset April 1, 2024."

202.000 Assessor Qualifications Overview

Deleted the letter "G" only. No change made to the sentence.

210.100 - Referral Process

- Added, "A reassessment will be completed by staff employed by the independent assessment contractor utilizing the current approved assessment instrument (ARIA), which was approved prior to April 1, 2021, to assess functional need. An interview will be conducted in person for initial assessments, with the option of using telemedicine to complete Behavioral Health reassessments. The telemedicine tool must meet the 1915(i) requirement for the use of telemedicine under 42 CFR 441.720 (a)(1)(i)(A) through (C)."

220.100 – Independent Assessment Referral Process

- Added, "A reassessment will be completed by staff employed by the independent assessment contractor utilizing the current approved assessment instrument (ARIA), which was approved

prior to April 1, 2021, to assess functional need. An interview will be conducted in person for initial assessments, with the option of using telemedicine to complete reassessments for members with intellectual or developmental disabilities. The telemedicine tool must meet the 1915(i) requirement for the use of telemedicine under 42 CFR 441.720 (a)(1)(i)(A) through (C)."

220.310 - Possible Outcomes

Section B.2.a., added, "if deemed appropriate and an appropriate bed is available."

220.500 – Complex Care – added a new section to the manual explaining complex care requirements.

220.600 - Referral Process

- Added a new section to explain the referral process for complex care.

220.700 – Assessor Qualifications

- Added a new section to explain the qualifications of an assessor.

230.000 to 230.400 – Personal Care Services – section relocated and renumbered.

- Tiering – added section number 230.300.
- Possible Outcomes – changed section number from 230.300 to 230.400.

<u>ARKids First-B Manual</u>

Section 222.800 - Deleted the sentence that read, "There must be at least 365 days between each screen listed below for children age 3 years through 18 years."

Section 222.800 - added, "One visit per birth year for children ages 3 years through 18 years."

Section 222.820 – J., updated the periodicity tool.

Section 222.830 – K., updated the periodicity tool.

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

- Standards for Conducting Criminal Record Checks for Employees of Developmental Disabilities Service Providers; and
- Policy V-D: Intensive Family Services.

NOTICE OF RULE MAKING

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

The Director of the Division of Medical Services (DMS) proposes a rule for Early Periodic Screening, Diagnostic, and Treatment (EPSDT) requiring primary care providers (PCPs) to perform a developmental screening for children based upon the American Academy of Pediatrics (AAP) guidelines in alignment with the Bright Futures Periodicity Schedule. Adding the developmental screen enhances early identification of developmental needs for children and increases the quality of referrals for specialized services.

To implement the screens, DMS amends the Child Health Services EPSDT Manual, Arkansas Independent Assessment (ARIA) Manual, and ARKids First-B Manual, effective January 1, 2024. Substantive revisions to the EPSDT and ARKids First-B manuals include changing the screening period to reflect one screening per birth year and updating the periodicity tool details. The ARIA manual is updated by adding a new section implementing the rule and language establishing the per member per month payment to a managed care entity; sunsetting the developmental disability screens effective April 1, 2024; updating the reassessment, outcomes, and referral processes; and adding assessor qualifications.

There are no other changes to Early Periodic Screening, Diagnosis, and Treatment services (EPSDT). DHS assures continued access to EPSDT services in compliance with 42 C.F.R. §440.345.

The projected annual cost of this change for state fiscal year (SFY) 2024 is $217,272.00 (of which $156,436.00 is federal funds) and for SFY 2025 is $434,544.00 (of which $312,872.00 is federal funds).

Pursuant to the Governor's Executive Order 23-02, DHS repeals the following two rules as part of this promulgation: (1) Standards for Conducting Criminal Record Checks for Employees of Developmental Disabilities Service Providers, and (2) Policy V-D: Intensive Family Services.

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 ar.gov/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 12th. 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 November 8th at 10:30am and public comments may be submitted at the hearing. Individuals can access this public hearing at https://us02web.zoom.us/j/81898619293. The webinar ID is 818 9861 9293. 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) 320-6428. 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. 4502172997

Elizabeth Pitman, Director
Division of Medical Services

RULES SUBMITTED FOR REPEAL

Rule #1: Standards for Conducting Criminal Record Checks for Employees of Developmental Disabilities Service Providers

Rule #2: Policy V-D: Intensive Family Services

POLICY V-D: INTENSIVE FAMILY SERVICES

10/2010

Intensive Family Services (IFS) are time-limited intensive counseling, skill building, support services, and referrals to resources that target the needs of the family. The service is primarily intended for families whose children are at imminent risk of an out-of-home placement, but may include under certain circumstances, families who have already experienced an out-of-home placement and reunification is planned. Services are aimed at ensuring the safety of all family members while helping the family learn how to stay together successfully. The goal is to safely keep children with their families, when possible, by providing services aimed at restoring families in crisis to an acceptable level of functioning. IFS may be provided by Division staff or by contractors. Efforts are made to consistently maintain an IFS provider for each county in the state.

PROCEDURE V-D1: IFS Screening

10/2010

Prior to referral, the Family Service Worker will, for new cases:

A. Complete the FAST in CHRIS. Indicate whether IFS is considered to be an appropriate service.
B. Complete a case staffing and the CFS-6010: Case Plan in CHRIS. Indicate whether IFS is considered to be an appropriate service.
C. Refer the family to the County Supervisor for a final determination of referral need.

Prior to referral, the Family Service Worker will for existing cases:

A. Update the FAST and the CFS-6010: Case Plan. Indicate whether IFS is considered to be an appropriate service.
B. Refer the family to the County Supervisor for a final determination of referral need.

The County Supervisor will:

A. Determine if the family's children are at imminent risk of out-of-home placement or the family's children have recently experienced an out-of-home placement and reunification is planned.
B. Decide if the family is appropriate for a referral for IFS.

PROCEDURE V-D2: IFS Referral

10/2010

The Family Service Worker will:

A. Refer families to the IFS Practitioner on the CFS-345: Intensive Family Services Referral Form.
B. Accompany the IFS Practitioner to a joint introductory session with the family.
C. Provide the IFS Practitioner with a copy of the completed FAST and other pertinent information about the family as appropriate.

REPEALED

The IFS Practitioner will:

A. Within 24 hours of receipt of the referral, hold a joint introductory session with the family and the Family Service Worker.
B. Within 72 hours of receipt of the referral, complete an assessment of the family to determine if IFS is appropriate and the short-term crisis intervention services can be of benefit to the family. Outcomes will be measured through the North Carolina Family Assessment Scale, which is a validated, evidence-based assessment tool with performance indicators. This baseline assessment will guide the family's treatment plan.
C. Within 72 hours of receipt of the referral, recommend to the County Supervisor if the family is appropriate for IFS on the CFS-345: Intensive Family Services Referral Form.
D. Assessment for IFS will focus on:
    1) The potential that the health and safety of the child and other family members can be assured by frequent home visits, counseling, and other support services.
    2) The potential that meeting the critical needs of the child will increase to an acceptable level.
    3) The potential that the parents or caregivers can recognize the needs of the child and their ability to nurture and protect the child.
    4) The parents or caregivers are present and are willing to accept help.

PROCEDURE V-D3: IFS Service Provision

10/2010

If IFS is appropriate, the County Supervisor will:

A. Add IFS to the Service Log.
B. Delete IFS from the Service Log after termination of IFS.

The IFS Practitioner will:

A. Provide services based on the results of the assessment tool.
B. Provide services on a frequent, often daily, basis within the family's home.
C. Be available to the family 24 hours a day, seven days a week by telephone.
D. Provide services at times convenient to the family.
E. Provide services to no more than four families at a time.
F. Provide a mixture of counseling and support services, as appropriate to the family's needs.
G. Devote 75% of work time to direct contact with the family.
H. Document the services provided to the family. Documentation includes:
    1) A completed CFS-345: Intensive Family Services Referral Form and assessment of the family within 72 hours of receipt of the referral from the County Supervisor
    2) A completed individualized Family Action Plan within two (2) weeks of initiation of IFS
    3) Dated narratives on the types of services provided and the family's progress
    4) Completed CFS-347: IFS Family Counselor's Time Record
    5) A Transition Plan describing the family's continued needs after IFS and the linkages established to meet those needs two (2) weeks prior to the termination of IFS

REPEALED

6) A final report on the family's progress and continued needs within one week of termination of IFS
7) Any additional reports requested by the Division

I. Provide follow-up services once a month for three months after termination of IFS, and again at six (6) months after termination of IFS.

J. Provide brief reports to the County Supervisor on the status of the family. Maintain confidentiality. See POLICY I-F: CONFIDENTIALITY.

REPEALED

STANDARDS

FOR CONDUCTING

CRIMINAL RECORD CHECKS

FOR EMPLOYEES

OF

DEVELOPMENTAL DISABILITIES

SERVICE PROVIDERS

REPEALED

Arkansas Department of Human Services

Division of Developmental Disabilities Services

Date June 30, 2014

Post Office Box 1437, Slot N501

Little Rock, Arkansas 72203-1437

(501) 682-8677

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REPEALED

AUTHORITY

The following rules and regulations for the requirement of criminal record checks for applicants and employees of service providers of developmental disabilities services in the State of Arkansas are duly adopted and promulgated by the Arkansas Department of Human Services, Division of Developmental Disabilities Services (DDS), pursuant to the authority expressly conferred by Arkansas Code Ann. §20-38-101 et seq. (Act 1548 of 2001, Act 762 of 2009, and Act 516 of 2011, and Act 990 of 2013).

Effective September 1, 2009, pursuant to Act 762 of 2009, Arkansas Code Title 20 was amended to add Chapter 38 which consolidated processes for conducting criminal record checks for diverse service providers within three Divisions of the Arkansas Department of Human Services. Thereafter, the authority expressed within these regulations are conferred by Arkansas Code Ann. §20-38-101 et seq. in addition to other authority conferred on the Division of Developmental Disabilities Services by Arkansas law or federal regulation.

If any provisions of these rules and regulations, or the application thereof to any person or circumstances are held invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end the provisions hereof are declared severable.

Individuals and service providers are immune from suit or liability for damages for acts or omissions, other than malicious acts or omissions, occurring in the performance of duties imposed by ACA §20-38-101 et seq.

REPEALED

"The Arkansas Department of Human Services is in compliance with Titles VI and VII of the Civil Rights Act and operates, manages and delivers services without regard to age, religion, disability, political affiliation, veteran status, sex, race, color or national origin."

If you need this material in a different format, such as large print, contact our Americans with Disabilities Act Coordinator at (501) 682-8677 (voice) or 682-1332 (TDD).

100 DEFINITIONS

The following definitions shall apply unless clearly stated otherwise:

Acknowledgement – Written notice from the Division of Developmental Disabilities Services acknowledging that a Service Provider:

1. Has determined at its discretion that a person disqualified from employment by DDS due to a criminal record meets the criteria for a waiver, and
2. Intends to offer the person employment or to continue the person's employment with the Service Provider.

Bureau - The Identification Bureau of the Department of the Arkansas State Police

Care - The treatment, services, assistance, education, training, instruction or supervision of individuals with disabilities for which the service provider is compensated either directly or indirectly.

Conviction – A conviction or plea of guilty or nolo contendere, whether or not the record of the offense is expunged, pardoned, or otherwise sealed,

Determination - The determination made by the licensing or certifying agency that a person making application to be licensed or certified as a service provider, an employee of a service provider, or an applicant for employment with a service provider is or is not disqualified from employment, licensure, or certification based on the criminal history of the employee or applicant.

Employee - REPEALED

1. A person who:

(i) (a) Is employed by a service provider to provide care to individuals with disabilities served by the service provider; or

(b) Provides care to individuals with disabilities served by a service provider on behalf of, under supervision of, or by arrangement with the service provider; or

(c) Submits an application to a service provider for the purposes of employment; or

(d) Is a temporary employee placed by an employment agency with a service provider to provide care to individuals with disabilities served by the service provider

(e) Submits an application to the Licensing or Certification Agency for the purpose of being licensed or certified as a service provider; or

(f) Resides in an alternative living home in which services are provided to individuals with developmental disabilities; and

(ii) Has or may have unsupervised access to individuals with disabilities served by a service provider, except as provided in subsection 2 below.

2. Employee does not include a person who:

(i) Is a family member of an individual with a disability served by a service provider, unless the family member is paid by the service provider to provide care to the individual;

(ii) Is a volunteer for the service provider without unsupervised access to individuals with disabilities; or

(iii) Works in an administrative capacity for the service provider and does not and will not have unsupervised access to individuals with disabilities served by a service provider or access to the property or funds of those individuals.

Group home – A residential dwelling that is owned and operated by a provider licensed or certified by the Division of Developmental Disabilities which was recognized by DDS prior to July 1, 1995 and which has space to provide private sleeping areas for more than four but no more than fourteen unrelated individuals who have a developmental disability.

Individual with Disabilities – A person with an intellectual, developmental, or physical impairment who has deficits in these areas of need: self-care, understanding and use of language, learning, mobility, self-direction, and capacity for independent living.

Licensing or Certification Agency - The state agency (Department of Human Services, Division of Developmental Disabilities Services) charged with licensing or certifying a service provider.

National Criminal History Check - A review of national criminal records based on fingerprint identification or other positive identification methods.

Report - A statement of the criminal history of a service provider, applicant, applicant for employment with, or employee of a service provider issued by the Bureau.

Registry Records Check – The review of one or more database systems maintained by a state agency that contains information regarding a finding of abuse, neglect, or exploitation of a child or adult.

REPEALED

Service Provider - (A) An Alternative Community Services (ACS) Waiver Program service provider certified by the Department of Human Services, Division of Developmental Disabilities Services.
(B) A First Connections Part C Early Intervention Program service provider certified by the Department of Human Services, Division of Developmental Disabilities Services;
(C) A nonprofit community program licensed by the Department of Human Services, Division of Developmental Disabilities Services to provide Developmental Day Treatment Clinic Services (DDTCS); and
(D) Any other person or entity licensed or certified by the Department of Human Services, Division of Developmental Disabilities Services to provide services, including but not limited to applied behavior analysts; First Connections service coordinators; First Connections developmental therapists, and occupational, physical, or speech language pathologists certified to provide First Connections services;

State Criminal History Check - A review of state criminal records conducted by the Identification Bureau of the Arkansas State Police.

Supported living arrangement - A residential dwelling that is owned and operated by a provider licensed or certified by the Division of Developmental Disabilities which has space to provide private sleeping areas for no more than four individuals who have a developmental disability.

Waiver – The process by which a Service Provider employs or continues the employment of a person who has been determined by DDS to be disqualified for employment due to a criminal record after the service provider determines at its discretion that the person satisfies the criteria for a waiver and receives acknowledgement from DDS

200 IMPLEMENTATION REQUIREMENTS

201 Before making an offer of employment, the service provider shall inform an applicant that employment is contingent upon the satisfactory results of criminal history record checks. The employer must inform the applicant that the Service provider shall not knowingly hire or continue to employ a person who has been found guilty or has pled guilty or nolo contendere to any of the offenses listed below by any court in the State of Arkansas or any similar offense by a court in another state or of any similar offense by a federal court, whether or not the record of the offense is expunged, pardoned, or otherwise sealed.

1. Criminal attempt, § 5-3-201, criminal complicity, § 5-3-202, criminal solicitation, § 5-3-301, and criminal conspiracy, § 5-3-401, to commit any of the offenses listed in this subsection.
2. Capital murder, § 5-10-101;
3. Murder, §§ 5-10-102 and 5-10-103;
4. Manslaughter, § 5-10-104;
5. Negligent homicide, § 5-10-105;
6. Kidnapping, § 5-11-102;
7. False imprisonment, §§ 5-11-103 and 5-11-104;
8. Permanent detention or restraint, § 5-11-106;
9. Robbery, §§ 5-12-102 and 5-12-103;
10. Battery in the first, second and third degree, §§ 5-13-201 - 5-13-203;
11. Assault, §§ 5-13-204 - 5-13-207;
12. Coercion. § 5-13-208;
13. Introduction of controlled substance into body of another person, § 5-13-210;
14. Terroristic threatening, § 5-13-301;
15. Terroristic act, § 5-13-310;
16. Any sexual offense, § 5-14-101 et seq.;
17. Voyeurism, § 5-16-102;
18. Death threats concerning a school employee or student, § 5-17-101;
19. Incest, § 5-26-202;
20. Domestic Battery, §§ 5-26-303 - 5-26-306;
21. Interference with visitation, § 5-26-501;
22. Interference with court-ordered custody, § 5-26-502;
23. Endangering the welfare of incompetent person, §§ 5-27-201 and 5-27-202;
24. Endangering the welfare of a minor, §§ 5-27-205 and 5-27-206;
25. Contributing to the delinquency of a minor, § 5-27-209;
26. Contributing to the delinquency of a juvenile, § 5-27-220;
27. Permitting abuse of a minor, 5-27-221;
28. Soliciting money or property from incompetents, § 5-27-229;
29. Engaging children in sexually explicit conduct for use in visual or print media, § 5-27-303;
30. Pandering or possessing visual or print medium depicting sexually explicit conduct involving a child, § 5-27-304;
31. Transportation of minors for prohibited sexual conduct, § 5-27-305;
32. Employing or consenting to the use of a child in a sexual performance, § 5-27-402;
33. Producing, directing, or promoting a sexual performance by a child, § 5-27-403;
34. Computer crimes against minors, 5-27-601;
35. Felony abuse of an endangered or impaired person, § 5-28-103;
36. Theft of property, § 5-36-103;
37. Theft of services, § 5-36-104;

REPEALED

38. Theft by receiving, § 5-36-106;
39. Forgery, § 5-37-201;
40. Criminal impersonation, § 5-37-208;
41. Financial identity fraud, 5-37-227;
42. Arson, 5-38-301;
43. Burglary, § 5-39-201 and 204;
44. Breaking or entering, § 5-39-202;
45. Resisting arrest, §5-54-103;
46. Felony interference with a law enforcement officer, §5-54-104;
47. Cruelty to animals, §§ 5-62-103 and 5-62-104;
48. Felony violation of the Uniform Controlled Substances Act, §§ 5-64-101 – 5-64-508;
49. Public display of obscenity, §5-68-205;
50. Promoting obscene materials, §5-68-303;
51. Promoting obscene performance, §5-68-304;
52. Obscene performance at a live public show, §5-68-305;
53. Prostitution, §5-70-102;
54. Patronizing a prostitute, §5-70-103;
55. Promotion of prostitution, §§ 5-70-104 – 5-70-106;
56. Stalking, § 5-71-229;
57. Criminal use of a prohibited weapon, §5-73-104;
58. Simultaneous possession of drugs and firearms, §5-74-106; and
59. Unlawful discharge of a firearm from a vehicle, §5-74-107.

202 1. Except as provided in Section 201.2 below, DDS will not disqualify an individual if their conviction or plea of guilty or nolo contendere was:

a. A misdemeanor offense and the date of conviction of the offense is at least five years from the date of the application for the criminal record check, and the person has no criminal convictions or pleas of guilty or nolo contendere of any type or nature during the five year period preceding the record check;

REPEALED

b. A felony offense and the date of the conviction of the offense is at least ten years from the date of the application for the criminal record check, and the person has no criminal convictions or pleas of guilty or nolo contendere of any type or nature during the ten year period preceding the record check;

2. The provisions in 202.1(a) and 201.1(b) shall be applied by the service provider at the time that the initial criminal record check is requested by a service provider. DDS will not disqualify a person for whom the time for disqualification has passed (five years for misdemeanors or ten years for felonies). The service provider may request a new criminal record check for such persons.

3. DDS will not disqualify a person who would otherwise be disqualified under Section 201 if the person:

a. Was not disqualified on August 31, 2009; and
b. Has been continuously employed by the service provider who initiated the criminal record check or continues to be the operator of a service provider; and,
c. Has not been found guilty of or pleaded guilty or nolo contendere to any offense listed in Section 201, a similar offense in another state, or a similar federal offense since August 31, 2009; and
d. Submits proof of prior non-disqualification through the service provider

When the person next undergoes a periodic criminal record check, the person's continued employment or operator status with the service provider is contingent on the results of the new criminal record check.

202 Because of the serious nature of the offense and close relationship to the type of work that is to be performed, the following offenses by any court in the State of Arkansas or any similar offense by a court of another state or federal court, whether or not the record of the offense is expunged, pardoned, or otherwise sealed, shall result in permanent disqualification of employment:

1. Capital murder, § 5-10-101;
2. Murder in the first degree, § 5-10-102;
3. Murder in the second degree, § 5-10-103;
4. Kidnapping, § 5-11-102;
5. Rape, § 5-14-103;
6. Sexual assault in the first degree, § 5-14-124;
7. Sexual assault in the second degree, § 5-14-125;
8. Endangering the welfare of an incompetent person in the first degree, § 5-27-201;
9. Felony abuse of an endangered or impaired person, § 5-28-103; and
10. Arson, § 5-38-301.

203 Service providers shall request criminal record checks on current employee at least every five years

204 If a service provider determines the need to utilize temporary employees as provided by a private placement agency, contract staffing agency, or through a contract for care provided by an outside vendor, the private placement agency, contract staffing agency or outside vendor shall initiate the criminal record check as provided by these standards prior to the placement of the person with the DDS service provider. The process to implement this provision is as follows:

REPEALED

1. When a service provider determines the need to utilize a private placement agency, contract staffing agency or contract for care provided by an outside vendor, the service provider shall notify such agency/vendor to contact DDS for inclusion in the process to conduct criminal record checks as specified in these standards.
2. Upon contact by a private placement agency or contract agency/vendor as defined above, DDS shall direct the requestor to the standards and forms needed to conduct criminal record checks in accordance with these standards.
3. The private placement agency or contract agency/vendor shall initiate criminal record checks on applicable employees as prescribed in Section 300 of these standards. Upon receipt of the criminal record report, DDS shall issue a determination in writing to the agency/vendor.
4. Prior to placement of a person to work for a service provider, the service provider must obtain from the private placement agency or contract agency/vendor a copy of the person's determination letter from DDS to verify compliance with this provision.
5. Criminal record checks on persons assigned from private placement agencies or contract agencies/vendors must comply with the twelve month time limit provision specified in Section 501 of these standards. These persons are not eligible for the periodic record check provisions in Section 202 (1) and shall be subject to yearly criminal record checks. Each

service provider must establish a procedure for reviewing at least annually documentation of a current determination from DDS.

205 Criminal record checks as required in these standards shall include both a state and national record check. A service provider may request a "state only" criminal record check if the service provider can verify the applicant has lived continuously in the State of Arkansas for the past five years and the applicant does not report any disqualifying convictions on their employment application.

Note: Examples of evidence that can be used to verify the above may include, but are not limited to, employment records, payroll check stubs, tax records, rent/house payment records, utility bills, school records, etc. Service providers shall maintain copies of such verification evidence in cases where a state-only criminal record check was conducted, for review by DDS.

206 The service provider shall furnish to the employee or applicant a copy of the report issued by the Identification Bureau and a copy of the determination letter issued by DDS.

207 The service provider must conduct a review of both the Child and Adult Maltreatment Registries for each applicant for employment and each employee. Service providers may obtain forms for registry checks from the agencies that maintain the registries. Service providers shall not employ a person who has a finding of abuse, neglect or maltreatment on a registry.

Service providers must repeat registry checks every two years for the Child Abuse Registry and every five years for the Adult Abuse Registry. The service provider must maintain results of all registry record checks and service provider actions related to the results of such checks in the employee's personnel file for review by DDS.

REPEALED

208 A person may challenge the completeness or accuracy of criminal history information issued by the Bureau in accordance with ACA §12-12-1013. DDS shall make determinations of disqualification based on the information obtained from the Bureau and shall not be responsible for allegations regarding the disposition, expungement or accuracy of the information. Any challenges to the accuracy of the report should be directed to the Arkansas State Police/Identification Bureau (501) 618-8500, #1 State Police Plaza Drive, Little Rock, Arkansas 72209.

209 All reports obtained by DDS under these standards are confidential and are restricted to the exclusive use of the Arkansas Crime Information Center, the Bureau, the licensing or certifying agency (DDS) and the person who is the subject of the report. The information contained in reports shall not be released or otherwise disclosed to any other person or agency except by court order and are specifically exempt from disclosure under the Arkansas Freedom of Information Act (A.C.A. 25-19-101, et seq.), except that the Department of Human Services/DDS is authorized and directed to furnish "determinations" to service providers. Service providers utilizing the Arkansas State Police on-line process for criminal record checks will have access to the state reports that result from that process.

Note: Ark. Code Ann. § 12-12-1013 states that criminal history information may be provided to the subject, the subject's attorney, or other designee authorized in writing by the subject.

210 Each service provider shall maintain on file, subject to inspection by the Arkansas Crime Information Center, the Bureau, or the licensing or certifying agency (DDS), evidence that

criminal record checks have been initiated on employment applicants, employees, and applicants for licensure or certification and shall maintain a copy of the determinations received from DDS. When a service provider grants a waiver under Section 504, the Service Provider must maintain documentation to verify that the person met the criteria for the waiver, including acknowledgement from DDS.

211 The provider shall monitor all pending criminal record check applications to ensure results are received within 30 calendar days for a state record check and 120 calendar days for a national (FBI) record check. The service provider shall make all efforts to resolve pending applications that exceed these timeframes and shall document those efforts. For persons assigned from a private placement agency or contracted agency/vendor, the service provider shall maintain on file copies of the determination letter issued by DDS.

300 PROCESS FOR EMPLOYMENT APPLICANTS AND EMPLOYEES

301 A criminal record check must be conducted when a person applies for a position as an employee, as defined by these standards, and the service provider intends to make an offer of employment to the applicant. The same process as described in this section shall also be used when an incumbent employee's name is submitted for periodic criminal record checks as required by Section 202 (1) of these standards.

302 The service provider, upon making an offer of employment to an applicant, shall have the applicant complete a criminal record check form (DDS-5088). Within five working days of completion of the form, the service provider shall forward the form (or, if the check is to be conducted online, maintain the completed form at the requesting service provider) and appropriate fee(s) to the Arkansas State Police/Identification Bureau requesting a state record check and, if applicable, a national FBI records check. The service provider must maintain a copy of the DDS-5088 for verification of compliance (see Section 210). If a national record check is required, the applicant must also submit the appropriate fingerprint card. Fingerprint cards shall be available from DDS and must contain both the enabling statute number under "reason fingerprinted" and the identifier number (ORI) code that has been assigned.

REPEALED

303 If an applicant has not listed any of the convictions found in Section 201 on the DDS-5088 form or other employment application forms, a service provider may make an offer of conditional employment to an applicant or may continue the employment of an incumbent employee while waiting for the official criminal record check results. Service providers may choose to deny the applicant or employee unsupervised access to an individual to whom the service provider delivers services until the criminal record check and determination of employment status have been completed.

304 Upon completion of a criminal record check on an applicant or employee, the Bureau shall issue a report to DDS and to the requesting service provider. DDS shall determine whether the applicant or employee is disqualified from employment and issue its Letter of Determination to the service provider or requesting entity. If the criminal record report issued by the Bureau lists any conviction, of any type or nature, the service provider shall be required to remove from unsupervised direct care duties any person who was offered conditional or continued employment until DDS' Letter of Determination has been received. If the applicant or employee is disqualified from employment, the service provider shall terminate the employment of the employee or deny further employment to the applicant.

When a service provider intends to grant a waiver under Section 504, the service provider may not allow the person who is the subject of the waiver to perform unsupervised direct care duties until the waiver is complete, including acknowledgement by DDS.

305 The service provider, upon making an offer of employment to an applicant, shall also submit forms to request a review of both the Child and Adult Maltreatment Registries. Results of the registry checks shall be maintained by the service provider. A service provider may not employ a person with a true finding of child or adult maltreatment on a central registry.

400 PROCESS FOR APPLICANTS FOR LICENSURE OR CERTIFICATION

401 Immediately prior to submitting an initial application to DDS for a license or certification as a service provider, the person, herein referred to as the applicant, shall complete a criminal record check form (DDS-5088) and FBI fingerprint card obtained from DDS. The applicant shall submit the forms and appropriate fees to the Bureau. Upon receipt of the criminal record report from the Bureau, DDS shall make a determination as to whether the applicant is disqualified. DDS will send the determination letter to the applicant seeking licensure or certification for inclusion in the application packet.

402 The applicant shall request a review of any records related to the applicant on both the Child and Adult Maltreatment Registries prior to submitting an application for licensure or certification to DDS. Forms for registry checks may be obtained from the agencies that maintain the registries. The applicant shall include original results of all registry record checks in the application packet.

403 Upon receipt of a complete application packet, including the determination of disqualification by DDS and results of both registry checks, DDS will review the packet. DDS shall issue a temporary license or certification to an applicant whose application meets all requirements. DDS shall deny licensure or certification to an applicant if the applicant has been determined to be disqualified based on criminal records check provisions, if the application packet does not include a determination from DDS, if the application packet does not include results of registry checks, or if the results of registry checks include a finding of abuse, neglect or maltreatment on the applicant.

REPEALED

404 The requirement for a criminal record check and registry checks initiated by the applicant shall apply to the initial application for licensure or certification only. Thereafter, the service provider shall ensure that every person who meets the definition of employee undergoes periodic criminal record checks no less than once every five years and registry checks as noted in Section 206.

500 EXCEPTIONS, EXCLUSIONS, and WAIVERS

501 Any person who submits evidence of having maintained employment in the State of Arkansas for the past twelve months and of successfully completing a criminal record check within the last twelve months under these requirements shall not be required to apply for a new criminal record check. Service providers must maintain copies of the previous criminal record check, the determination letter issued by DDS, and evidence of continual employment for verification of this provision. Persons who satisfy these requirements shall be subject to the same periodic checks as other employees as described in Section 202. A waiver under Section 504 is valid only for employment with the service provider that granted the waiver and may not be transferred for employment with another service provider.

Note: Service providers that accept a previously conducted criminal record check must verify that it is compliant with provisions set forth in these standards. All provisions, such as the requirement for a national FBI record check, if applicable, must have been completed. The criminal record check must have been processed by DDS and a determination of disqualification status made by DDS.

502 As described below, a disqualification determination made by other divisions of the Arkansas Department of Human Services and the criminal history report used to make the determination for an applicant or employee of a service provider are valid and transferrable for purposes of meeting the requirements of these standards for application or employment by DDS service provider. In these circumstances, the DDS service provider is not required to conduct any further criminal records check other than the periodic checks as described in Section 202. A valid and transferrable employment determination must meet the following conditions:

1. The determination must be made by:

a. The Division of Child Care and Early Childhood Education (DCCECE) for an applicant or employee of a child care facility or church-exempt child care facility; or,

b. The Division of Medical Services, Office of Long Term Care, for an applicant or employee of an Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID)

2. The DDS service provider employee or applicant has not have a break in continuous employment with the service provider in the child care facility or ICF/IID; and,

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3. The child care facility or ICF/IID in which the employee or applicant works is operated and administered by the same service provider operating the DDS program; and,

4. The licensed or certified DDS service provider maintains evidence acceptable to DDS that the child care facility or ICF/IID is operated and administered by the same service provider; and,

5. The DDS service provider, the child care facility, and the ICF/IID in which the employee or applicant is employed maintains a copy of the determination letter by the Divisions listed in 1(a) or (b), above.

503 The requirement for a criminal record check under these standards shall not apply to persons who render care subject to professional licenses obtained for the following occupations:

1. Licensed professional counselors;
2. Dentists;
3. Registered or licensed practical nurses;
4. Occupational therapists;
5. Pharmacists;
6. Physical therapists;
7. Physicians and surgeons;
8. Podiatrists;
9. Psychologists and psychological examiners;

10. Speech-language pathologists and audiologists; and
11. Social workers.

A service provider may require that a criminal record check be conducted for any employee or contracted staff, regardless of professional license exemption, in accordance with the provider's policies.

504 A service provider may grant a waiver and employ a person who has been disqualified under Section 201 if:
a. The conviction or plea of guilty or nolo contendere was for any of the non-violent offenses listed below:

1. Interference with court-ordered visitation, § 5-26-501;
2. Interference with court-ordered custody, § 5-26-502;
3. Theft by receiving, § 5-36-106;
4. Forgery, § 5-37-201;
5. Criminal impersonation, in the second degree § 5-37-208(b);
6. Financial identity fraud, 5-37-227;
7. Resisting arrest, §5-54-103;
8. Prostitution, §5-70-102;
9. Patronizing a prostitute, §5-70-103;

b. the service provider wants to hire the person;
c. the person remains in the employment of the service provider granting the waiver;
d. the service provider maintains documentation to verify that the person has:
i. completed probation or parole supervision,
ii. paid all court-ordered fees or fines, including restitution, and
iii. fully complied with all court orders pertaining to the conviction or plea of guilty or nolo contendere;

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e. The person will be employed by:
   i. A long-term care facility licensed by the Office of Long Term Care;
   ii. An Intermediate Care Facility for Persons with Intellectual Disabilities licensed by the Office of Long Term Care;
   iii. A Developmental Day Treatment Clinic Services provider (DDTCS) licensed by the Division of Developmental Disabilities Services (DDS);
   iv. A group home operated by a service provider certified by DDS to provide Home and Community Based Services under the ACS Waiver Program

f. After employment by the service provider granting the waiver, the person is not convicted of or does not plead guilty or nolo contendere to any offense listed in Section 201; and
g. The person does not have a true or founded report of child or adult maltreatment on a central registry.

505 Service providers shall not grant a waiver to a person working in an individual's home, the home of an individual's family member, the home of a staff member in which an individual lives, or a supported living arrangement.

600 SANCTIONS and PENALTIES

601 A service provider that violates or fails to comply with requirements to obtain and maintain on file documentation of criminal record checks as specified in these standards shall be subject to licensure or certification enforcement remedies as found in DDS policy.

602 In determining licensure or certification enforcement remedies, DDS shall consider:

1. The gravity of the violation, including the probability that death or serious harm to an individual with disabilities will result or has resulted;
2. The severity and scope of the actual or potential harm;
3. The extent to which the provisions of applicable statutes or standards were violated;
4. The "good faith" exercised by the service provider. Indications of good faith include, but are not limited to:
    a. Awareness of the requirements and reasonable diligence to comply;
    b. Prior history in complying with the requirements;
    c. Efforts to correct noncompliance; and
    d. Any other mitigating factors in favor of the service provider.

700 APPEALS

701 An administrative hearing is available to a person who disagrees with a determination of disqualification for employment, licensure, or certification made by DDS as described in these standards. These provisions do not apply to a person's challenge to the accuracy of the record obtained from the Bureau (see Section 208 of these standards).

702 The decision by a service provider not to grant a waiver to a person under Section 504 is subject to the discretion of the service provider and may not be appealed.

REPEALED

703 When a petitioner wishes to appeal, they may do so by mailing a written notice of appeal to Office of Appeals and Hearings, Office of Policy and Legal Services, Arkansas Department of Human Services, P.O. Box 1437, Slot N1001, Little Rock, Arkansas 72203. The person shall mailed the notice by certified mail, return receipt requested. The appeal procedure is described in DHS Policy 1098.