

# ARKANSAS REGISTER

## Proposed Rule Cover Sheet



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Name of Department \_\_\_\_\_

Agency or Division Name \_\_\_\_\_

Other Subdivision or Department, If Applicable \_\_\_\_\_

Previous Agency Name, If Applicable \_\_\_\_\_

Contact Person \_\_\_\_\_

Contact E-mail \_\_\_\_\_

Contact Phone \_\_\_\_\_

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Name of Rule \_\_\_\_\_

Newspaper Name \_\_\_\_\_

Date of Publishing \_\_\_\_\_

Final Date for Public Comment \_\_\_\_\_

Location and Time of Public Meeting \_\_\_\_\_

## TOC required

## 142.600 Conditions Related to Provider Refunds to DMS

12-1-034-1-  
24

Within thirty (30) days, a provider must refund any money the state is obligated to repay the federal government as a result of disallowance, recoupment or other adverse action in connection with Medicaid payments to the provider.

Any outstanding balances over thirty (30) days will be recouped against future payments. Providers unable to refund their outstanding balance within thirty (30) days must contact Gainwell Technologies Provider Assistance Center (PAC) to discuss repayment options. **Note:** All outstanding balances must be paid back within one (1) year. **View or print the Provider Assistance Center contact information.**

## 171.100 PCP-Qualified Physicians, and Advanced Practice Nurse Practitioners, and Single-Entity Providers

7-1-224-1-  
24

- A. Primary Care Provider (PCP)-qualified physicians are those whose sole or primary specialty is
  - 1. Family practice
  - 2. General practice
  - 3. Internal medicine
  - 4. Pediatrics and adolescent medicine
  - 5. Obstetrics and gynecology
- B. Obstetricians and gynecologists may choose whether to be PCPs.
- C. Physicians with multiple specialties may elect to enroll as PCPs if a secondary or tertiary specialty in their Medicaid provider file is listed in part A above.
- D. All other PCP-qualified physicians and clinics must enroll as PCPs, except for those who certify in writing that they are employed exclusively by a University of Arkansas Medical School (UAMS) Regional Program, a federally qualified health center (FQHC), a Medical College Physicians Group, or a hospital (i.e., they are "hospitalists", and they practice exclusively in a hospital).
- E. Advanced practice registered nurses (APRN) licensed by the Arkansas State Board of Nursing may choose to enroll as PCPs.

~~F. PCP-qualified clinics and health centers (single-entity PCPs) are~~

~~1. UAMS Regional Programs~~

~~2. FQHCs~~

~~3. The family practice and internal medicine clinics at the University of Arkansas for Medical Sciences~~

## 171.110 Exclusions

9-15-094-1-  
24

- A. Physicians whose only specialty is emergency care or who practice exclusively in hospital emergency departments may not enroll as PCPs.

- B. Physician group practices ~~(except the family practice and internal medicine clinics at UAMS)~~ may not be PCPs.
- C. Rural Health Clinics (RHCs) may not be PCPs, but PCP-qualified physicians affiliated with RHCs must be PCPs.
- D. Physicians who certify in writing that they are employed.

**171.130      EPSDT Agreement Requirement****9-15-094-1-  
24**

- A. A PCP applicant must sign an agreement to participate as a screening provider in the Child Health Services (EPSDT) program.
- B. Internists, obstetricians, gynecologists, and physicians who customarily carry a caseload of patients who are 21 years of age or older are not required to furnish EPSDT screens.
  - 1. Their participation in the Child Health Services (EPSDT) program is optional.
  - 2. They must, however, sign Child Health Services (EPSDT) agreements if they elect to be screening providers.

~~C. PCP-qualified single-entity providers must execute Child Health Services (EPSDT) agreements.~~

**171.140      Primary Care Case Manager Agreement****7-1-054-1-  
24**

- A. Every PCP applicant must sign a Primary Care Case Manager (PCCM) contract.

~~B. PCP-qualified single-entity providers must execute Child Health Services (EPSDT) agreements.~~

**171.150      Physician Group Single-Entity PCCMs****7-1-05**

~~The family practice and internal medicine groups at the University of Arkansas for Medical Sciences are the only physician group providers that may enroll as single-entity PCPs.~~

**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY.**

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

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

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

1. Does this proposed, amended, or repealed rule have a financial impact?  
Yes                      No
  
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?  
Yes                      No
  
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes                      No

If no, please explain:

(a) how the additional benefits of the more costly rule justify its additional cost;

(b) the reason for adoption of the more costly rule;

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

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

4. If the purpose of this rule is to implement a *federal* rule or regulation, please state the following:  
(a) What is the cost to implement the federal rule or regulation?

**Current Fiscal Year**

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

Total \_\_\_\_\_

**Next Fiscal Year**

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

Total \_\_\_\_\_

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

**Current Fiscal Year**

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

Total \_\_\_\_\_

**Next Fiscal Year**

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

Total \_\_\_\_\_

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

**Current Fiscal Year**

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

**Next Fiscal Year**

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

6. What is the total estimated cost by fiscal year to a state, county, or municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

**Current Fiscal Year**

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

**Next Fiscal Year**

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

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes      No

If yes, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
  - (a) justifies the agency's need for the proposed rule; and
  - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
  - (a) the rule is achieving the statutory objectives;
  - (b) the benefits of the rule continue to justify its costs; and
  - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

**Statement of Necessity and Rule Summary**  
**[Provider Refunds and Primary Care Provider Qualification Updates]**

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

As a result of previous audit findings and to ensure compliance with federal requirements, the Division of Medical Services (DMS) updates the Arkansas Medicaid Provider Manual. DMS clarifies methods for providers to refund balances related to adverse actions pertaining to Medicaid claims findings and updates the qualifications for participating as a primary care provider.

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

Section I of the Arkansas Medicaid Provider Manuals is revised as follows:

Section 142.600	Added paragraph stating, “Any outstanding balances over thirty (30) days will be recouped against future payments. Providers unable to refund their outstanding balance within thirty (30) days must contact Gainwell Technologies Provider Assistance Center (PAC) to discuss repayment options. <b>Note:</b> All outstanding balances must be paid back within one (1) year. <a href="#">View or print the Provider Assistance Center contact information.</a> ”
Section 171.100	Remove language requiring clinics to enroll as PCPs and remove the exception for physicians employed exclusively by an Area Health Education Center, a Federally Qualified Health Center, a Medical College Physician’s Group, or a hospital for enrolling in the PCP program.  Remove language defining qualified clinics and health centers as single-entity PCP’s and listing them.
Section 171.110	Remove the exception of family practice and internal medicine clinics at UAMS as physician group practices under the exclusions rule.
Section 171.130	Remove PCP qualified single entity providers from list of providers required to execute Child Health Services (EPSDT) agreements.
Section 171.140	Remove PCP qualified single entity providers from list of providers required to execute Child Health Services (EPSDT) agreements under the Primary Care Case Manager Agreement.
Section 171.150	Delete Section specifying what practice groups were allowed to enroll as single-entity PCPs.

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

The Division of Medical Services (DMS) updates Section I of the Arkansas Medicaid Provider Manuals as a result of previous audit findings and to ensure compliance with federal requirements. The proposed effective date of the rule is April 1, 2024. There is no fiscal impact.

DMS clarifies methods for providers to refund balances related to adverse actions pertaining to Medicaid claims findings. Any outstanding balances over 30 days will be recouped against future payments and providers unable to refund their outstanding balance within 30 days must contact Gainwell Technologies Provider Assistance Center to discuss repayment options. All outstanding balances must be paid back within one year.

DMS also updates the qualifications for participating as a primary care provider (PCP). DMS removes language requiring clinics to enroll as PCPs and remove the exception for physicians employed exclusively by an Area Health Education Center, a Federally Qualified Health Center, a Medical College Physician's Group, or a hospital for enrolling in the PCP program and language defining qualified clinics and health centers as single-entity PCP's and listing them. DMS removes the exception of family practice and internal medicine clinics at UAMS as physician group practices under the exclusions rule, removes PCP qualified single entity providers from the list of providers required to execute Child Health Services agreements under Early and Periodic Screening, Diagnostic and Treatment (EPSDT) Agreement Requirement or Primary Care Case Manager Agreement. Finally, DMS deleted specific practice groups allowed to enroll as single-entity PCPs.

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](https://ar.gov/dhs-proposed-rules). This notice also shall be posted at the local office of the Division of County Operations (DCO) of DHS in every county in the state. Public comments must be submitted in writing at the above address or at the following email address: [ORP@dhs.arkansas.gov](mailto:ORP@dhs.arkansas.gov). All public comments must be received by DHS no later than February 12, 2024. 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 January 24, 2024 at 2:30 p.m. and public comments may be submitted at the hearing. Individuals can access this public hearing at <https://us02web.zoom.us/j/82351019847>. The webinar ID is 823 5101 9847. 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](mailto: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. 4502172997



Elizabeth Bitman, Director  
Division of Medical Services