

ARKANSAS REGISTER

Proposed Rule Cover Sheet



Secretary of State
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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 _____

Name of Rule _____

Newspaper Name _____

Date of Publishing _____

Final Date for Public Comment _____

Location and Time of Public Meeting _____

TOC not required**215.290 Health Education****2-4-229-1-
24**

Health education is a required component of screening services and includes anticipatory guidance. The developmental assessment, comprehensive physical examination, visual, hearing or dental screening provides the initial opportunity for providing health education. Health education and counseling to parents (or guardians) and children are required. Health education and counseling are designed to assist in understanding what to expect in terms of the child's development and to provide information about the benefits of healthy lifestyles and practices, as well as accident and disease prevention. See [Section 242.100](#) for procedure codes.

Health education can include but isn't limited to tobacco cessation counseling services to the parent/legal guardian of the child.

A. Counseling Visits:

[View or print the procedure codes and modifiers for Child Health Services/Early and Periodic Screening, Diagnosis, and Treatment \(EPSDT\) services.](#)

* Exempt from PCP referral requirements.

⚠(...) This symbol, along with text in parentheses, indicates the Arkansas Medicaid description of the service. When using a procedure code with this symbol, the service must meet the indicated Arkansas Medicaid description.

B. Referral of patient to an intensive tobacco cessation referral program.

C. Can be billed in addition to an office visit or EPSDT.

D. If the beneficiary is under the age of eighteen (18), and the parent/legal guardian smokes, he or she can be counseled as well, and the visit billed under the minor's beneficiary Medicaid number. The provider cannot prescribe meds for the parent under the child's Medicaid number. A parent/legal guardian session will count towards the four (4) counseling sessions limit described in section C above.

E. These counseling sessions do NOT require a PCP referral.

F. The provider must complete the counseling checklist and place in the patient records for audit. [View or Pprint the Arkansas Be Well Referral Form.](#)

Refer to Section 257.000 and Section 292.900 of the Physician's manual for more information.

[Health education can include vaccine counseling services to parents and legal guardians, and children. New codes for reimbursement for vaccine counseling under EPSDT are available beginning September 1, 2024. Vaccine counseling is allowed up to four \(4\) times per year, with the ability to request an extension of benefit limit. View or print DMS contractor information for extension of benefits.](#)

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.

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;

Clarify that Medicaid covers vaccine counseling by physician's under EPSDT and use CMS updated codes specific to standalone vaccine counseling in its Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program for children under age twenty-one.

- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;

This manual revision clarifies the availability of vaccine counseling for providers of EPSDT services and provides the hyperlink for information pertaining to extension of benefits, in compliance with a May 12, 2022, State Health Officials Letter.

- (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;

See above.

- (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;

None.

- (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
Vaccine Counseling for Early and Periodic Screening, Diagnostic and Treatment (EPSDT)

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

This Medicaid manual revision clarifies the availability of vaccine counseling for providers of Early and Periodic Screening, Diagnostic and Treatment (EPSDT) services in compliance with a Centers for Medicare & Medicaid Services (CMS) State Health Officials Letter. CMS issued guidance on Medicaid and Children's Health Insurance Program (CHIP) coverage and payment for "stand-alone vaccine counseling," a term used when a patient or caregiver receives counseling about a vaccine from a health care practitioner, but the patient does not actually receive the vaccine dose at the same time as the counseling. CMS interprets the EPSDT benefit to require states to provide coverage of stand-alone vaccine counseling to Medicaid beneficiaries under the age of 21 who are eligible for EPSDT.

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

Children Health Services/Early and Periodic Screening, Diagnostic and Treatment (EPSDT)
manual:

Section 215.290

Adds the paragraph, "Health education can include vaccine counseling services to parents and legal guardians, and children. New codes for reimbursement for vaccine counseling under EPSDT are available beginning 09/1/2024. Vaccine counseling is allowed up to 4 times per year, with the ability to request an extension of benefit limit. [View or print DMS contractor information for extension of benefits](#)."

NOTICE OF RULEMAKING

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) amends the Arkansas Medicaid Children Health Services/Early and Periodic Screening, Diagnostic and Treatment (EPSDT) Provider Manual in compliance with a Centers for Medicare & Medicaid Services (CMS) State Health Officials Letter. CMS issued guidance on Medicaid and Children's Health Insurance Program (CHIP) coverage and payment for "stand-alone vaccine counseling. CMS interprets the EPSDT benefit to require states to provide coverage of stand-alone vaccine counseling to Medicaid beneficiaries under the age of 21 who are eligible for EPSDT. The projected annual cost of this change for the current state fiscal year is \$1,194,138.00 (State share 167,179.00; Federal share \$1,026,959.00), and for the next state fiscal year \$4,776,552.00 (State share 1,170,255.00, Federal share \$3,606,297.00). The proposed effective date of the rule is September 1, 2024.

There are no 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 proposed rule is available for review at the Department of Human Services (DHS) Office of Policy and Rules, 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 July 13, 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 will be held by remote access through Zoom. Public comments may be submitted at the hearing. The details for attending the Zoom hearing appear at ar.gov/dhszoom.

If you need this material in a different format, such as large print, contact the Office of Policy and Rules 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. 4502201653

Elizabeth Pitman, Director
Division of Medical Services