

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 required***257.100 Cost Settlement Reopening Process****107-1-24**

The state will compute interim payments for providers and subsequently reconcile the interim payments with final payments for which providers are eligible based on billed claims. The interim payment methodology is not a prepayment prior to services being furnished but represents interim payments for services furnished that are subject to final reconciliation.

A medical facility administrator or an identified facility representative such as the cost report preparer, DHS representative, a Medicare Administrative Contractors (MAC) representative, or another relevant contract representative may request a hospital cost report reopening by writing to the **Reimbursement Unit of the Division of Medical Services**. The request must be received no later than three (3) years after the date of the determination (Notice of Program Reimbursement ("NPR") or Revised NPR) or the decision that is the subject of the reopening. The request must reflect a reimbursement impact that totals a cumulative amount of at least \$10,000 increase due to new and material issues within the individual cost report. Each issue cited must be reviewed and determined as new and material to be counted in the cumulative total.

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES -
INPATIENT HOSPITAL SERVICES

October 1, 2024

7. Cost Settlement Reopening Process

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Any cost reports reopened due to unforeseen and unavoidable events that are between two (2) and three (3) years after the NPR was issued and which result in a payment above the interim payments will qualify for an exception under 45 CFR 95.19(a).

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 Hospital Cost Settlement Reopening Process

Statement of Necessity

The Division of Medical Services (DMS) seeks to ensure federal claiming can be completed within the same rules and timelines as Medicare for reporting and claiming federal funding for hospital cost settlements. To do so, DMS aligns its rules and timeframes to require a minimum of \$10,000 difference in costs for a hospital cost settlement to be reopened based on the date the Notice of Program Reimbursement (NPR) was issued.

The proposed rule is a result of an identified efficiency in expending state and federal funding in the Medicaid program. It aligns Medicaid cost settlement reporting and federal claiming with the rules and timelines used by Medicare. The rule reduces the risk of paying federal funding amounts from State General Revenue (SGR) prior to finalizing a Hospital Cost Settlement Report, which currently can occur when reopened but not completed within the current timeframes.

Summary of Changes

DMS amends the Hospital Provider Manual by adding section 257.100 regarding the process for cost settlement reopening to ensure federal claiming can be completed within the same rules and timelines as Medicare. Requests must be in writing and must be received no later than three (3) years after the date of the determination or decision that is the subject of the reopening. The request must reflect a reimbursement impact that totals a cumulative amount of at least a \$10,000 increase due to new and material issues within the individual cost report. Each issue cited must be reviewed and determined as new and material to be counted in the cumulative total. These updates also require submission of an amendment to the Arkansas Medicaid State Plan Methods and Standards for Establishing Payment Rates to the Centers for Medicare & Medicaid Services.

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 Director of the Division of Medical Services amends the Arkansas Medicaid State Plan and Medicaid Hospital Provider Manual regarding the process for cost settlement reopening to ensure federal claiming can be completed within the same rules and timelines as Medicare. Requests must be in writing and must be received no later than three (3) years after the date of the determination or decision that is the subject of the reopening. The request must reflect a reimbursement impact that totals a cumulative amount of at least a \$10,000 increase due to new and material issues within the individual cost report. Each issue cited must be reviewed and determined as new and material to be counted in the cumulative total. Any cost reports reopened due to unforeseen and unavoidable events that are between two (2) and three (3) years after the Notice of Program Reimbursement was issued and which result in a payment above the interim payments will qualify for an exception under 45 CFR 95.19(a). There is no fiscal impact. The projected effective date is October 1, 2024.

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. 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.

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 August 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 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