

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 _____

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

ATTACHMENT 4.19-B
Page 2d(1)

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES
OTHER TYPES OF CARE

Revised: August 01, 2024

7. Home Health Services (continued)

c. Medical Supplies, Equipment and Appliances Suitable for Use in the Home (Continued)

(1) Medical Supplies (continued)

Effective August 1, 2024, specialized formula and associated supplies prescribed for enteral nutrition will be reimbursed at the lesser of one hundred percent (100%) of the non-rural Medicare rate for Arkansas, or eighty percent (80%) of the Arkansas Blue Cross Blue Shield rates with the minimum threshold set at eighty percent (80%) of the Medicare rate.

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

ATTACHMENT 4.19-B
Page 2e(1)

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES
OTHER TYPES OF CARE

Revised: August 01, 2024

7. Home Health Services (continued)

c. Medical Supplies, Equipment and Appliances Suitable for Use in the Home (Continued)

(2) Durable Medical Equipment (DME) (continued)

Effective August 1, 2024, equipment prescribed for administering enteral nutrition will be reimbursed at the lesser of one hundred percent (100%) of the non-rural Medicare rate for Arkansas, or eighty percent (80%) of the Arkansas Blue Cross Blue Shield rates with the minimum threshold set at eighty percent (80%) of the Medicare rate.

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 Does this proposed, amended, or repealed rule have a financial impact?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;

Department of Human Services, Division of Medical Services is changing the rate methodology for reimbursing specialized formula, hyperalimentation (enteral) formula, and associated supplies. Arkansas Medicaid also will cover specific supplies for hyperalimentation providers not currently covered (Bolus Syringe and Gravity Bags). The revision is necessary to ensure reimbursement is enough to cover costs, thereby retaining an adequate number of providers to ensure access to address beneficiaries' needs.

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

Revise covered specialized formula, hyperalimentation (enteral) formula, and associated supply rates within the Medicaid State Plan to reflect the lesser of one hundred percent (100 %) of Medicare non-rural rates for Arkansas, or eighty percent (80%) of Blue Cross Blue Shield rates, with a minimum threshold set at eighty percent (80%) of the Medicare non-rural rate in compliance with the access rule published at CFR 447.203 (C)(1).

- (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 Specialized Formula and Associated Supplies rate change

Statement of Necessity

Department of Human Services, Division of Medical Services is changing the rate methodology for reimbursing specialized formula, hyperalimentation (enteral) formula, and associated supplies. Arkansas Medicaid also will cover specific supplies for hyperalimentation providers not currently covered (Bolus Syringe and Gravity Bags). The revision is necessary to ensure reimbursement is enough to cover costs, thereby retaining an adequate number of providers to ensure access to address beneficiaries' needs.

Summary

Revise covered specialized formula, hyperalimentation (enteral) formula, and associated supply rates within the Medicaid State Plan to reflect the lesser of one hundred percent (100 %) of Medicare non-rural rates for Arkansas, or eighty percent (80%) of Blue Cross Blue Shield rates, with a minimum threshold set at eighty percent (80%) of the Medicare non-rural rate in compliance with the access rule published at CFR 447.203 (C)(1).

State Plan Amendment

Attachment 4.19-B, page 2d(1);

Attachment 4.19-B, page 2e(1)

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: §§ 25-10-129, 20-76-201, and 20-77-107. The proposed promulgation date of the state rule is December 1, 2024.

The Director of the Division of Medical Services (DMS) submit to the Centers for Medicare & Medicaid Services an amendment to the Arkansas Medicaid State Plan, with a requested retroactive effective date of August 1, 2024, that changes the rate methodology for reimbursing specialized formula, hyperalimentation (enteral) formula, and associated supplies to ensure adequate supplies are available for Arkansas citizens. The new rates shall be the lesser of one hundred percent (100 %) of Medicare non-rural rates for Arkansas or eighty percent (80%) of Blue Cross Blue Shield rates, but with a minimum threshold set at eighty percent (80%) of the Medicare non-rural rate in compliance with the access rule published at CFR 447.203 (C)(1). Arkansas Medicaid will cover specific supplies for hyperalimentation providers not currently covered (Bolos Syring and Gravity Bags). The projected annual cost of this change for the current state fiscal year is \$1,762,723.00 (State share \$504,932.00; Federal share \$1,257,791.00), and for the next state fiscal year \$1,922,971.00 (State share \$554,969.00; Federal share \$1,368,002.00).

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](https://www.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. All public comments must be received by DHS no later than October 13th, 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](https://www.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