

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



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 _____

DEPARTMENT OF TRANSFORMATION AND SHARED SERVICES
EMPLOYEE BENEFITS DIVISIONS RULES GOVERNING
VOLUNTARY PRODUCTS

Effective: _____

1.0 AUTHORITY

- 1.01 These rules shall be known as the Department of Transformation and Shared Services Employee Benefits Division Rules Governing Voluntary Products.
- 1.02 These rules are promulgated pursuant to Ark. Code Ann. § 21-5-905 and Ark. Code Ann. § 25-15-201 *et seq.*

2.0 PURPOSE

The purpose of these rules is to implement Ark. Code Ann. § 21-5-904 regarding the administration of voluntary products.

3.0 DEFINITIONS

- 3.01 EBD means the Department of Transformation and Shared Services, Employee Benefits Division.
- 3.02 Voluntary Products means any individual or group policy and other employee benefits that are wholly paid for by the employee, including without limitation those policies and benefits provided by the Arkansas State Employees Association, Inc., or a designee of the Arkansas State Employees Association, Inc., that develops and administers a cafeteria plan under Ark. Code Ann. § 21-5-405(d).

4.0 VOLUNTARY PRODUCTS OFFERINGS

- 4.01 All state employees who are eligible under Ark. Code Ann. § 21-5-901 shall be offered the opportunity to participate in a cafeteria plan for Voluntary Products during their new hire eligibility period and during the annual open enrollment.
- 4.02 The Arkansas State Employees Association, Inc., shall offer education and information to each employee regarding the available Voluntary Products annually during open enrollment and to new hires throughout the year.

5.0 VOLUNTARY PRODUCTS CONTRACTS

- 5.01 The Arkansas State Employees Association, Inc., shall develop and administer a cafeteria plan for Voluntary Products on behalf of eligible state employees.
- 5.02 All Voluntary Products shall be contracted through a competitive sealed bidding process.

- 5.02.1 The Arkansas State Employees Association, Inc., shall ensure the selection of Voluntary Products offer the best combination of benefits and pricing available.
- 5.02.2 The Arkansas State Employees Association, Inc., shall provide EBD a report of all competitive bids including the procedures followed and selection process.
- 5.02.3 No Voluntary Product contract, including amendments and extensions, shall exceed seven (7) years without being competitively rebid.
- 5.03 The Arkansas State Employees Association, Inc., shall present all new contracts and amendments to existing contracts for Voluntary Products to the State Board of Finance and the Employee Benefits Oversight Subcommittee of the Arkansas Legislative Council.
- 5.04 Any material changes to Voluntary Products contracts shall be reported to the State Board of Finance and the Employee Benefits Oversight Subcommittee of the Arkansas Legislative Council.

6.0 COORDINATION WITH THE EMPLOYEE BENEFITS DIVISION

- 6.01 To ensure continuity of service to state employees, the Arkansas State Employees Association, Inc., shall coordinate with the EBD on issues regarding, but not limited to billing, employee management, record keeping, and information sharing.
- 6.02 The Arkansas State Employees Association, Inc., shall meet with the EBD quarterly.
- 6.03 The State Board of Finance shall resolve any disputes between the Arkansas State Employees Association, Inc. and EBD regarding voluntary products. These disputes shall be exempt from the Administrative Procedures Act, Ark. Code Ann. § 25-15-201 *et seq.*

7.0 SEMI-ANNUAL REPORTING

- 7.01 The Arkansas State Employees Association, Inc., shall submit to the Employee Benefits Oversight Subcommittee of the Arkansas Legislative Council a semi-annual report that includes:
 - 7.01.1 A summary of the Voluntary Products offerings, including the contract, pricing, and number of participants for each offering; and
 - 7.01.2 A financial analysis report for each offering, including premiums paid by state employees and additional fees and expenses, if any.

Notice of Rulemaking

Pursuant to Arkansas Code Annotated § 25-15-201 et seq., notice is hereby given that the Arkansas Department of Transformation and Shared Services, Employee Benefits Division, is considering adoption of a new Rule Governing Voluntary Products. A public hearing will be held on February 13, 2024, at 1:30pm at the Employee Benefits Division boardroom, 501 Woodlane Avenue, Suite 500, Little Rock, AR 72201. Written comments should be mailed to TSS, Attn: Public Comments at P.O. Box 3522, Little Rock, AR 72203. Comments may also be e-mailed to TSS.RulesComments@arkansas.gov. Copies of the proposed rule may also be obtained from the Department of Transformation and Shared Services, 501 Woodlane Avenue, Suite 500, Little Rock, AR 72201, or by accessing the Department's website at <https://www.transform.ar.gov/secretarys-office/legal/rules-hearings/>.

DEPARTMENT OF TRANSFORMATION AND SHARED SERVICES
EMPLOYEE BENEFITS DIVISIONS RULES GOVERNING
VOLUNTARY PRODUCTS

NEW RULE SUMMARY

Act 533 of 2023 transferred the implementation and day-to-day management of voluntary products for eligible state employees from the Department of Transformation and Shared Services, Employee Benefits Division (“EBD”) to the Arkansas State Employees Association, Inc. (“ARSEA”). The Act requires ARSEA to develop and administer a cafeteria plan for voluntary products for eligible state employees with all contracts being acquired by sealed, competitive bid. Ark. Code Ann. § 21-5-905 authorizes EBD to promulgate rules to administer Act 533 of 2023.

The rules require ARSEA to provide EBD with a report on the competitive bid process, including the procedure followed and selection process. ARSEA shall present all new contracts and amendments to the State Board of Finance and Employee Benefits Oversight Subcommittee of the Arkansas Legislative Council. Any material changes shall also be reported.

To ensure continuity of services to eligible state employees, ARSEA and EBD shall meet quarterly and coordinate on issues regarding billing, employee management, record keeping, and information sharing. Any disputes between ARSEA and EBD shall be brought to the State Board of Finance. These matters shall not be subject to the Administrative Procedures Act, Ark. Code Ann. § 25-15-201 et seq.

ARSEA shall submit semiannual report to the Employee Benefits Oversight Subcommittee of the Arkansas Legislative Council with a summary of the voluntary products offered, including the contract, pricing, number of participants, and a financial analysis for each offering including premiums and additional expenses and fees, if any.

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.