

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

A Bill

SENATE BILL 101

5 By: Joint Budget Committee
6

For An Act To Be Entitled

8 AN ACT TO MAKE AN APPROPRIATION FOR PERSONAL SERVICES
9 AND OPERATING EXPENSES FOR THE DEPARTMENT OF HUMAN
10 SERVICES - DIVISION OF MEDICAL SERVICES FOR THE
11 FISCAL YEAR ENDING JUNE 30, 2016; AND FOR OTHER
12 PURPOSES.
13
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Subtitle

15 AN ACT FOR THE DEPARTMENT OF HUMAN
16 SERVICES - DIVISION OF MEDICAL SERVICES
17 APPROPRIATION FOR THE 2015-2016 FISCAL
18 YEAR.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. REGULAR SALARIES - OPERATIONS. There is hereby established
25 for the Department of Human Services - Division of Medical Services for the
26 2015-2016 fiscal year, the following maximum number of regular employees.
27

Item No.	Class Code	Title	Maximum No. of Employees	Maximum Annual Salary Rate Fiscal Year 2015-2016
32	(1) N181N	DIRECTOR OF MEDICAL SERVICES	1	GRADE N915
33	(2) L016N	REGISTERED PHARMACIST	6	GRADE N911
34	(3) N080N	DHS/DMS ASSISTANT DIRECTOR - FISCAL	3	GRADE N907
35	(4) N099N	DHS/DMS ADD - LONG TERM CARE	1	GRADE N906
36	(5) N100N	DHS/DMS ADD - MEDICAL SERVICES	3	GRADE N906



1	(6)	N111N	DHS ASST DEP DIR FOR MGR ACCOUNTING	1	GRADE N905
2	(7)	N167N	DHS POLICY & RESEARCH DIRECTOR	1	GRADE N901
3	(8)	A010C	AGENCY CONTROLLER II	1	GRADE C128
4	(9)	D007C	INFORMATION SYSTEMS MANAGER	2	GRADE C128
5	(10)	A016C	DHS DMS BUSINESS OPERATIONS MANAGER	12	GRADE C127
6	(11)	L010C	DHS DMS MEDICAL ASSISTANCE MANAGER	8	GRADE C125
7	(12)	L009C	NURSE MANAGER	4	GRADE C125
8	(13)	G076C	ADMINISTRATIVE SERVICES MANAGER	1	GRADE C124
9	(14)	A031C	ASSISTANT CONTROLLER	1	GRADE C124
10	(15)	B023C	ENGINEER, P.E.	1	GRADE C124
11	(16)	D030C	INFORMATION SYSTEMS COORDINATOR	1	GRADE C124
12	(17)	L020C	NURSING SERVICES UNIT MANAGER	2	GRADE C123
13	(18)	P004C	PUBLIC INFORMATION MANAGER	1	GRADE C123
14	(19)	L019C	REGISTERED NURSE COORDINATOR	5	GRADE C123
15	(20)	D038C	SENIOR SOFTWARE SUPPORT ANALYST	1	GRADE C123
16	(21)	A044C	AUDIT COORDINATOR	3	GRADE C122
17	(22)	G099C	DHS PROGRAM ADMINISTRATOR	19	GRADE C122
18	(23)	L027C	REGISTERED NURSE SUPERVISOR	10	GRADE C122
19	(24)	A052C	ACCOUNTING COORDINATOR	1	GRADE C121
20	(25)	A047C	FINANCIAL ANALYST II	1	GRADE C121
21	(26)	D058C	COMPUTER OPERATIONS COORDINATOR	1	GRADE C120
22	(27)	A056C	DHS FINANCIAL SECTION MANAGER	1	GRADE C120
23	(28)	L040C	DIETARY SERVICES DIRECTOR	1	GRADE C120
24	(29)	P013C	PUBLIC INFORMATION COORDINATOR	1	GRADE C120
25	(30)	L038C	REGISTERED NURSE	68	GRADE C120
26	(31)	E023C	TRAINING PROJECT MANAGER	1	GRADE C120
27	(32)	D063C	COMPUTER SUPPORT SPECIALIST	2	GRADE C119
28	(33)	G152C	DHS PROGRAM MANAGER	17	GRADE C119
29	(34)	G147C	GRANTS COORDINATOR	1	GRADE C119
30	(35)	X067C	HEALTH FACILITIES SURVEYOR	21	GRADE C119
31	(36)	D061C	INFORMATION SYSTEMS COORD SPECIALIST	1	GRADE C119
32	(37)	V007C	PROCUREMENT COORDINATOR	1	GRADE C119
33	(38)	X062C	QUALITY ASSURANCE COORDINATOR	2	GRADE C119
34	(39)	A060C	SENIOR AUDITOR	8	GRADE C119
35	(40)	A075C	FINANCIAL ANALYST I	1	GRADE C118
36	(41)	A081C	AUDITOR	2	GRADE C117

1	(42)	R027C	BUDGET SPECIALIST	3	GRADE C117
2	(43)	G183C	DHS PROGRAM COORDINATOR	12	GRADE C117
3	(44)	D068C	INFORMATION SYSTEMS ANALYST	2	GRADE C117
4	(45)	D067C	INFORMATION SYSTEMS SECURITY ANALYST	2	GRADE C117
5	(46)	G179C	LEGAL SERVICES SPECIALIST	1	GRADE C117
6	(47)	M039C	MEDICAID SERVICES SUPERVISOR	2	GRADE C117
7	(48)	G178C	POLICY DEVELOPMENT COORDINATOR	2	GRADE C117
8	(49)	B076C	RESEARCH PROJECT ANALYST	1	GRADE C117
9	(50)	A089C	ACCOUNTANT I	1	GRADE C116
10	(51)	A088C	ASSETS COORDINATOR	1	GRADE C116
11	(52)	X124C	HEALTH FACILITY REVIEWER	1	GRADE C116
12	(53)	C037C	ADMINISTRATIVE ANALYST	8	GRADE C115
13	(54)	A091C	FISCAL SUPPORT ANALYST	3	GRADE C115
14	(55)	C050C	ADMINISTRATIVE SUPPORT SUPERVISOR	1	GRADE C113
15	(56)	L070C	HEALTH CARE ANALYST	18	GRADE C113
16	(57)	C056C	ADMINISTRATIVE SPECIALIST III	28	GRADE C112
17	(58)	A098C	FISCAL SUPPORT SPECIALIST	2	GRADE C112
18	(59)	C073C	ADMINISTRATIVE SPECIALIST II	9	GRADE C109
19	(60)	C087C	ADMINISTRATIVE SPECIALIST I	<u>8</u>	GRADE C106
20			MAX. NO. OF EMPLOYEES	324	

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22 SECTION 2. EXTRA HELP - OPERATIONS. There is hereby authorized, for
 23 the Department of Human Services - Division of Medical Services for the 2015-
 24 2016 fiscal year, the following maximum number of part-time or temporary
 25 employees, to be known as "Extra Help", payable from funds appropriated
 26 herein for such purposes: seven (7) temporary or part-time employees, when
 27 needed, at rates of pay not to exceed those provided in the Uniform
 28 Classification and Compensation Act, or its successor, or this act for the
 29 appropriate classification.

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31 SECTION 3. APPROPRIATION - OPERATIONS. There is hereby appropriated,
 32 to the Department of Human Services - Division of Medical Services, to be
 33 payable from the paying account as determined by the Chief Fiscal Officer of
 34 the State, for personal services and operating expenses of the Department of
 35 Human Services - Division of Medical Services - Operations for the fiscal
 36 year ending June 30, 2016, the following:

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ITEM	FISCAL YEAR
<u>NO.</u>	<u>2015-2016</u>
(01) REGULAR SALARIES	\$16,137,864
(02) EXTRA HELP	201,892
(03) PERSONAL SERVICES MATCHING	5,400,857
(04) OVERTIME	5,000
(05) MAINT. & GEN. OPERATION	
(A) OPER. EXPENSE	7,363,652
(B) CONF. & TRAVEL	233,728
(C) PROF. FEES	555,132
(D) CAP. OUTLAY	0
(E) DATA PROC.	0
(06) DATA PROCESSING SERVICES	<u>299,600</u>
TOTAL AMOUNT APPROPRIATED	<u>\$30,197,725</u>

17 SECTION 4. APPROPRIATION - GRANTS. There is hereby appropriated, to
18 the Department of Human Services - Division of Medical Services, to be
19 payable from the paying account as determined by the Chief Fiscal Officer of
20 the State, for grant payments of the Department of Human Services - Division
21 of Medical Services - Grants for the fiscal year ending June 30, 2016, the
22 following:

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ITEM	FISCAL YEAR
<u>NO.</u>	<u>2015-2016</u>
(01) ARKIDS B PROGRAM	\$147,222,020
(02) HOSPITAL AND MEDICAL SERVICES	6,480,004,382
(03) PRESCRIPTION DRUGS	433,889,916
(04) PRIVATE NURSING HOME CARE	692,112,888
(05) CHILD AND FAMILY LIFE INSTITUTE	2,100,000
(06) INFANT INFIRMARY	31,283,630
(07) PUBLIC NURSING HOME CARE	<u>255,112,018</u>
TOTAL AMOUNT APPROPRIATED	<u>\$8,041,724,854</u>

35 SECTION 5. APPROPRIATION - NURSING HOME CLOSURE COSTS. There is hereby
36 appropriated, to the Department of Human Services - Division of Medical

1 Services, to be payable from the Long-Term Care Trust Fund, for the payment
 2 of relocation costs of residents in long-term care facilities, maintenance
 3 and operation of a facility pending correction of deficiencies or closure,
 4 and reimbursement of residents for personal funds lost for the fiscal year
 5 ending June 30, 2016, the following:

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7 ITEM	FISCAL YEAR
8 <u>NO.</u>	<u>2015-2016</u>
9 (01) EXPENSES	<u>\$50,000</u>

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11 SECTION 6. APPROPRIATION - LONG-TERM CARE FACILITY RECEIVERSHIP. There
 12 is hereby appropriated, to the Department of Human Services - Division of
 13 Medical Services, to be payable from the Long Term Care Facility Receivership
 14 Fund Account, for the payment of expenses of long-term care facility
 15 receivers as authorized by law of the Department of Human Services - Division
 16 of Medical Services - Long-Term Care Facility Receivership for the fiscal
 17 year ending June 30, 2016, the following:

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19 ITEM	FISCAL YEAR
20 <u>NO.</u>	<u>2015-2016</u>
21 (01) EXPENSES	<u>\$100,000</u>

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23 SECTION 7. APPROPRIATION - NURSING HOME QUALITY GRANTS. There is
 24 hereby appropriated, to the Department of Human Services - Division of
 25 Medical Services, to be payable from the Long-Term Care Trust Fund, for
 26 Nursing Home Quality Care Grants of the Department of Human Services -
 27 Division of Medical Services - Nursing Home Quality Grants for the fiscal
 28 year ending June 30, 2016, the following:

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30 ITEM	FISCAL YEAR
31 <u>NO.</u>	<u>2015-2016</u>
32 (01) NURSING HOME QUALITY GRANTS AND AID	<u>\$1,500,000</u>

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34 SECTION 8. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
 35 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW.
 36 DEPARTMENT OF HUMAN SERVICES GRANTS FUND ACCOUNT. The Department of Human

1 Services Grants Fund Account shall be used for the following grant programs
2 to consist of general revenues and any other nonfederal funds, as may be
3 appropriated by the General Assembly:

- 4 (i) Children's Medical Services;
- 5 (ii) Food Stamp Employment and Training Program;
- 6 (iii) Aid to the Aged, Blind, and Disabled;
- 7 (iv) Transitional Employment Assistance Program;
- 8 (v) Private nursing home care;
- 9 (vi) Infant Infirmary - nursing home care;
- 10 (vii) Public Nursing Home Care;
- 11 (viii) Prescription Drugs;
- 12 (ix) Hospital and Medical Services;
- 13 (x) Child and Family Life Institute;
- 14 (xi) Community Services Block Grant;
- 15 (xii) ARKIDSFIRST;
- 16 (xiii) Child Health Management Services; and
- 17 (xiv) Child Care Grant

18 The provisions of this section shall be in effect only from July 1,
19 2015 through June 30, 2016.

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21 SECTION 9. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
22 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL
23 SERVICES - CHILD AND FAMILY LIFE INSTITUTE. The Child Health and Family Life
24 Institute shall be administered under the direction of Arkansas Children's
25 Hospital. Arkansas Children's Hospital shall enter into a cooperative
26 agreement and/or contract with the University of Arkansas for Medical
27 Sciences - Department of Pediatrics for services required in delivering the
28 programs of the Child Health and Family Life Institute. Utilizing a
29 multidisciplinary collaboration of professionals, the Child Health and Family
30 Life Institute shall provide a statewide effort to explore, develop and
31 evaluate new and better ways to address medically, socially and economically
32 interrelated health and developmental needs of children with special health
33 care needs and their families. The Child Health and Family Life Institute's
34 priorities shall include, but are not limited to, wellness and prevention,
35 screening and diagnosis, treatment and intervention, training and education
36 and research and evaluation.

1 Arkansas Children's Hospital and the University of Arkansas for Medical
2 Sciences - Department of Pediatrics shall make annual reports to the Arkansas
3 Legislative Council on all matters of funding, existing programs and services
4 offered through the Child Health and Family Life Institute.

5 The provisions of this section shall be in effect only from July 1, ~~2014~~
6 2015 through June 30, ~~2015~~ 2016.

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8 SECTION 10. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
9 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL
10 SERVICES - PHARMACEUTICAL DISPENSING FEE SURVEY. No more than two years prior
11 to making any changes to the current pharmaceutical dispensing fee, the State
12 shall conduct an independent survey utilizing generally accepted accounting
13 principles, to determine the cost of dispensing a prescription by pharmacists
14 in Arkansas. Only factors relative to the cost of dispensing shall be
15 surveyed. These factors shall not include actual acquisition costs or average
16 profit or any combination of actual acquisition costs or average profit. The
17 survey results shall be the basis for establishing the dispensing fee paid to
18 participating pharmacies in the Medicaid prescription drug program in
19 accordance with Federal requirements. The dispensing fee shall be no lower
20 than the cost of dispensing as determined by the survey. Nothing in this
21 section shall be construed to prohibit the State from increasing the
22 dispensing fee at any time.

23 The provisions of this section shall be in effect only from July 1, ~~2014~~
24 2015 through June 30, ~~2015~~ 2016.

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26 SECTION 11. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
27 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL
28 SERVICES - GENERAL MEDICAID RATE METHODOLOGY PROVISIONS.

29 (a) Rates established by the Division of Medical Services for the services
30 or programs covered by this Act shall be calculated by the methodologies
31 approved by the Centers for Medicare and Medicaid Services (CMS). The
32 Division of Medical Services shall have the authority to reduce or increase
33 rates based on the approved methodology. Further, the Division of Medical
34 Services shall have the authority to increase or decrease rates for good
35 cause including, but not limited to: (1) Identification of provider(s) who
36 can render needed services of equal quality at rates less than traditionally

1 charged and who meet the applicable federal and state laws, rules and
2 regulations pertaining to the provision of a particular service;

3 (2) Identification that a provider or group of providers has consistently
4 charged rates to the Arkansas Medicaid Program greater than to other
5 purchasers of medical services of similar size;

6 (3) The Division determines that there has been significant changes in the
7 technology or process by which services are provided by a provider or group
8 of providers which has affected the costs of providing services, or;

9 (4) A severe economic downturn in the Arkansas economy which has affected the
10 overall state budget of the Division of Medical Services.

11 The Division of Medical Services shall make available to requesting
12 providers, the CMS's inflationary forecasts (CMS Market Basket Index). Rates
13 established with cost of living increases based on the CMS Market Basket
14 Index or other indices will be adjusted annually except when the state budget
15 does not provide sufficient appropriation and funding to affect the change or
16 portion thereof.

17 (b) Any rate methodology changes proposed by the Division of Medical
18 Services both of a general and specific nature, shall be subject to prior
19 approval by the Legislative Council or Joint Budget Committee.

20 Determining the maximum number of employees and the maximum amount of
21 appropriation and general revenue funding for a state agency each fiscal year
22 is the prerogative of the General Assembly. This is usually accomplished by
23 delineating such maximums in the appropriation act(s) for a state agency and
24 the general revenue allocations authorized for each fund and fund account by
25 amendment to the Revenue Stabilization law. Further, the General Assembly has
26 determined that the Department of Human Services – Division of Medical
27 Services may operate more efficiently if some flexibility is provided to the
28 Department of Human Services – Division of Medical Services authorizing broad
29 powers under this section. Therefore, it is both necessary and appropriate
30 that the General Assembly maintain oversight by requiring prior approval of
31 the Legislative Council or Joint Budget Committee as provided by this
32 section. The requirement of approval by the Legislative Council or Joint
33 Budget Committee is not a severable part of this section. If the requirement
34 of approval by the Legislative Council or Joint Budget Committee is ruled
35 unconstitutional by a court of competent jurisdiction, this entire section is
36 void.

1 The provisions of this section shall be in effect only from July 1, 2014
2 2015 through June 30, ~~2015~~ 2016.

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4 SECTION 12. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
5 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. FUND
6 USAGE AUTHORIZED. The Arkansas Children's Hospital may request the Department
7 of Human Services - Division of Medical Services to retain in the Department
8 of Human Services Grant Fund account an amount not to exceed \$2,100,000 from
9 funds made available by this Act for the Child and Family Life Institute,
10 Section 4, item number 05 to be used to match federal funds used for
11 supplemental Medicaid payments to Arkansas Children's Hospital. These
12 retained funds shall not be recovered to transfer to the General Revenue
13 Allotment Reserve Fund.

14 The provisions of this section shall be in effect only from July 1,
15 2015 through June 30, 2016.

16
17 SECTION 13. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
18 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. STATE
19 PLAN. The State Plan must include the provision of EPSDT services as those
20 services are defined in §1396d(r). See §§ 1396a(a)(10)(A), 1396d(a)(4)(B);
21 see also 1396a(a)(43). Section 1396d(r) lists in detail the screening
22 services, vision services, dental services, and hearing services that the
23 State Plan must expressly include, but with regard to treatment services, it
24 states that EPSDT means "[s]uch other necessary health care, diagnostic
25 services, treatment, and other measures described in subsection (a) of this
26 section to correct or ameliorate defects and physical and mental illnesses
27 and conditions discovered by the screening services, whether or not such
28 services are covered under the State plan." 42 U.S.C. § 1396d(r)(5) (emphasis
29 added). Reading §1396a, § 1396d(a), and § 1396d(r) together, we believe that
30 the State Plan need not specifically list every treatment service conceivably
31 available under the EPSDT mandate.

32 The State Plan, however, must pay part or all of the cost of treatments to
33 ameliorate conditions discovered by the screening process when those
34 treatments meet the definitions set forth in § 1396a. See §1396d(r)(5); see
35 also §§1396a(a)(10), 1396a(a)(43), and 1396d(a)(4)(B). The Arkansas State
36 Plan states that the "State will provide other health care described in [42

1 U.S.C. 1396d(a)] that is found to be medically necessary to correct or
2 ameliorate defects and physical and mental illnesses and conditions
3 discovered by the screening services, even when such health care is not
4 otherwise covered under the State Plan." See State Plan Under Title XIX of
5 the Social Security Act Medical Assistance Program, State Of Arkansas at
6 §4.b. This provision Meets the EPSDT mandate of the Medicaid Act.

7 We affirm the district court's decision to the extent that it holds that a
8 Medicaid-Eligible individual has a federal right to early intervention day
9 treatment when a physician recommends such treatment. Section 1396d(r)(5)
10 states that EPSDT includes any treatments or measures outlined in §1396d(a).
11 There are twenty-seven sub-parts to §1396d(a), and we find that sub-part
12 (a)(13), in particular, when read with the other sections of the Medicaid Act
13 listed above, mandates that early intervention day treatment be provided when
14 it is prescribed by a physician. See 42 U.S.C. §1396d(a)(13) (defining
15 medical assistance reimbursable by Medicaid as "other diagnostic, screening,
16 preventive, and rehabilitative services, including any medical or remedial
17 services recommended by a physician...for the maximum reduction of physical
18 and mental disability and restoration of an individual to the best possible
19 functional level"). Therefore, after CHMS clinic staff perform a diagnostic
20 evaluation of an eligible child, if the CHMS physician prescribes early
21 intervention day treatment as a service that would lead to the maximum
22 reduction of medical and physical disabilities and restoration of the child
23 to his or her best possible functional level, the Arkansas State Plan must
24 reimburse the treatment. Because CHMS clinics are the only providers of early
25 intervention day treatment, Arkansas must reimburse those clinics.

26 The provisions of this section shall be in effect only from July 1,
27 2015 through June 30, 2016.

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29 SECTION 14. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
30 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAL
31 SERVICES - STATE MEDICAID PROGRAM/PERSONAL CARE PROGRAM.

32 (a) It is the legislative intent that the Department of Human Services in
33 its administration of the Arkansas Medicaid Program set forth Medicaid
34 provider participation requirements for "personal care providers" that will
35 insure sufficient available providers to meet the required needs of all
36 eligible recipients, to include insuring available in home services twenty-

1 four (24) hours a day and seven (7) days a week for personal care.

2 (b) For the purposes of this section, "private care agencies" are defined
3 as those providers licensed by the Department of Labor, certified as
4 ElderChoices Providers and who furnish in home staffing services for respite,
5 chore services, and homemaker services, and are covered by liability
6 insurance of not less than one million dollars (\$1,000,000) covering their
7 employees and independent contractors while they are engaged in providing
8 services, such as personal care, respite, chore services, and homemaker
9 services.

10 (c) The purpose of this section is to allow the private care agencies
11 defined herein to be eligible to provide Medicaid reimbursed personal care
12 services seven (7) days a week, and does not supercede Department of Human
13 Services rules establishing monthly benefit limits and prior authorization
14 requirements.

15 (d) The availability of providers shall not require the Department of
16 Human Services to reimburse for twenty-four (24) hours per day of personal
17 care services.

18 (e) The Arkansas Department of Human Services, Medical Services Division
19 shall take such action as required by the Centers for Medicare and Medicaid
20 Services to amend the Arkansas Medicaid manual to include, private care
21 agencies, as qualified entities to provide Medicaid reimbursed personal care
22 services.

23 (f) The private care agencies shall comply with rules and regulations
24 promulgated by the Arkansas Department of Health which shall establish a
25 separate licensure category for the private care agencies for the provision
26 of Medicaid reimbursable personal care services seven (7) days a week.

27 (g) The Arkansas Department of Health shall supervise the conduct of the
28 personal care agencies defined herein.

29 (h) The purpose of this section is to insure the care provided by the
30 private care agencies, is consistent with the rules and regulations of the
31 Arkansas Department of Health.

32 The provisions of this section shall be in effect only from July 1, ~~2014~~
33 2015 through June 30, ~~2015~~ 2016.

34
35 SECTION 15. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
36 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. REVIEW OF

1 RULES IMPACTING STATE MEDICAID COSTS. (a) In light of the rapidly rising
2 potential costs to the State attributable to the Medicaid program and the
3 importance of Medicaid expenditures to the health and welfare of the citizens
4 of this State, the General Assembly finds it desirable to exercise more
5 thorough review of future proposed changes to rules that might impact those
6 costs or expenditures.

7 (b) As used in this section, "rule impacting state Medicaid costs" means
8 a proposed rule, as defined by § 25-15-202(9)(A), or a proposed amendment to
9 an existing rule, as defined by § 25-15-202(9)(A), that would, if adopted,
10 adjust Medicaid reimbursement rates, Medicaid eligibility criteria, or
11 Medicaid benefits, including without limitation a proposed rule or a proposed
12 amendment to an existing rule seeking to accomplish the following:

- 13 (1) Reduce the number of individuals covered by Arkansas Medicaid;
- 14 (2) Limit the types of services covered by Arkansas Medicaid;
- 15 (3) Reduce the utilization of services covered by Arkansas Medicaid;
- 16 (4) Reduce provider reimbursement;
- 17 (5) Increase consumer cost-sharing;
- 18 (6) Reduce the cost of administering Arkansas Medicaid;
- 19 (7) Increase Arkansas Medicaid revenues;
- 20 (8) Reduce fraud and abuse in the Arkansas Medicaid program;
- 21 (9) Change any of the methodologies used for reimbursement of
22 providers;
- 23 (10) Seek a new waiver or modification of an existing waiver of any
24 provision under Medicaid, Title XIX, of the Social Security Act, including a
25 waiver that would allow a demonstration project;
- 26 (11) Participate or seek to participate in Social Security Act Section
27 1115(a)(1) waiver authority that would allow operation of a demonstration
28 project or program;
- 29 (12) Participate or seek to participate in a Social Security Act
30 Section 1115(a)(2) request for the Secretary of the Department of Health and
31 Human Services to provide federal financial participation for costs
32 associated with a demonstration project or program;
- 33 (13) Implement managed care provisions under Section 1932 of Medicaid,
34 Title XIX of the Social Security Act; or
- 35 (14) Participate or seek to participate in the Centers for Medicare and
36 Medicaid Services Innovation projects or programs.

1 (c)(1) In addition to filing requirements under the Arkansas
2 Administrative Procedure Act, § 25-15-201 et seq., and § 10-3-309, the
3 Department of Human Services shall, at least thirty (30) days before the
4 expiration of the period for public comment, file a proposed rule impacting
5 state Medicaid costs or a proposed amendment to an existing rule impacting
6 state Medicaid costs with the Senate Interim Committee on Public Health,
7 Welfare, and Labor and the House Interim Committee on Public Health, Welfare,
8 and Labor, or, when the General Assembly is in session, with the Senate
9 Committee on Public Health, Welfare, and Labor and the House Committee on
10 Public Health, Welfare and Labor.

11 (2) Any review of the proposed rule or proposed amendment to an
12 existing rule by the Senate and House Interim Committees on Public Health,
13 Welfare and Labor or the Senate and House Committees on Public Health,
14 Welfare, and Labor shall occur within forty-five (45) days of the date the
15 proposed rule or proposed amendment to an existing rule is filed with the
16 committees.

17 (d)(1) If adopting an emergency rule impacting state Medicaid costs,
18 in addition to the filing requirements under the Arkansas Administrative
19 Procedure Act, § 25-15-201 et seq. and § 10-3-309, the Department of Human
20 Services shall notify the Speaker of the House of Representatives, the
21 President Pro Tempore of the Senate, the chair of the Senate Committee on
22 Public Health, Welfare, and Labor, and the chair of the House Committee on
23 Public Health, Welfare and Labor of the emergency rule and provide each of
24 them a copy of the rule within five (5) business days of adopting the rule.

25 (2) Any review of the emergency rule by the Senate and House
26 Interim Committees on Public Health, Welfare and Labor or the Senate and
27 House Committees on Public Health, Welfare, and Labor shall occur within
28 forty-five (45) days of the date the emergency rule is provided to the
29 chairs.

30 (e)(1) The Joint Budget Committee may review a rule impacting state
31 Medicaid costs during a regular, fiscal, or special session of the General
32 Assembly.

33 (2) Actions taken by the Joint Budget Committee when reviewing a
34 rule impacting state Medicaid costs shall have the same effect as actions
35 taken by the Legislative Council under § 10-3-309.

36 (3) If the Joint Budget Committee reviews a rule impacting state

1 Medicaid costs, it shall file a report of its actions with the Legislative
2 Council as soon as practicable.

3 (f) This section expires on June 30, ~~2015~~ 2016.

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5 SECTION 16. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
6 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. (a) As
7 used in this section, "Health Care Independence Program" means the Health
8 Care Independence Program established under the Health Care Independence Act
9 of 2013, Arkansas Code § 20-77-2401 et seq.

10 (b)(1) Determining the maximum number of employees, the maximum amount
11 of appropriation, for what purposes an appropriation is authorized, and
12 general revenue funding for a state agency each fiscal year is the
13 prerogative of the General Assembly.

14 (2) The purposes of subdivision (b)(1) of this section are
15 typically accomplished by:

16 (A) Identifying the purpose in the appropriation act;

17 (B) Delineating such maximums in the appropriation act for
18 a state agency; and

19 (C) Delineating the general revenue allocations authorized
20 for each fund and fund account by amendment to the Revenue Stabilization Law,
21 Arkansas Code § 19-5-101 et seq.

22 (3) It is both necessary and appropriate that the General
23 Assembly restrict the use of appropriations authorized in this act.

24 (c)(1) Except as provided in this subsection, the Department of Human
25 Services shall not allocate, budget, expend, or utilize any appropriation
26 authorized by the General Assembly for the purpose of advertisement,
27 promotion, or other activities designed to promote or encourage enrollment in
28 the Arkansas Health Insurance Marketplace or the Health Care Independence
29 Program, including without limitation:

30 (A) Unsolicited communications mailed to potential
31 recipients;

32 (B) Television, radio, or online commercials;

33 (C) Billboard or mobile billboard advertising;

34 (D) Advertisements printed in newspapers, magazines, or
35 other print media; and

36 (E) Internet websites and electronic media.

(2) This subsection does not prohibit the department from:

(A) Direct communications with:

(i) Licensed insurance agents; and

(ii) Persons licensed by the department;

(B) Solicited communications with potential recipients;

(C)(i) Responding to an inquiry regarding the coverage for which a potential recipient might be eligible, including without limitation providing educational materials or information regarding any coverage for which the individual might qualify.

(ii) Educational materials and information

distributed under subdivision (c)(2)(C)(i) of this section shall contain only factual information and shall not contain subjective statements regarding the coverage for which the potential recipient might be eligible; and

(D) Using an Internet website for the exclusive purpose of

enrolling individuals in the Arkansas Health Insurance Marketplace or the Health Care Independence Program.

(d) The Department of Human Services shall not apply for or accept any funds, including without limitation federal funds, for the purpose of advertisement, promotion, or other activities designed to promote or encourage enrollment in the Arkansas Health Insurance Marketplace or the Health Care Independence Program.

(e)(1) Except as provided in subdivision (e)(2) of this section, the Department of Human Services shall not:

(A)(i) Except as provided in subdivision (e)(1)(A)(ii) of this section, allocate, budget, expend, or utilize an appropriation authorized by the General Assembly for the purpose of funding activities of navigators, guides, certified application counselors, and certified licensed producers under the Arkansas Health Insurance Marketplace Navigator, Guide, and Certified Application Counselors Act, Arkansas Code § 23-64-601 et seq.

(ii) Subdivision (e)(1)(A)(i) of this section does not apply to regulatory and training responsibilities related to navigators, guides, certified application counselors, and certified licensed producers; and

(B) Apply for or accept any funds, including without limitation federal funds, for the purpose of funding activities of navigators, guides, certified application counselors, and certified licensed

1 producers under the Arkansas Health Insurance Marketplace Navigator, Guide,
2 and Certified Application Counselors Act, Arkansas Code § 23-64-601 et seq.

3 (2) Subdivision (e)(1) of this section does not apply to
4 certified application counselors at health related institutions, including
5 without limitation the University of Arkansas for Medical Sciences.

6 (f) An appropriation authorized by the General Assembly shall not be
7 subject to the provisions allowed through reallocation of resources or
8 transfer of appropriation authority for the purpose of transferring an
9 appropriation to any other appropriation authorized for the Department of
10 Human Services to be allocated, budgeted, expended, or utilized in a manner
11 prohibited by this section.

12 (g) The provisions of this section are severable, and the invalidity
13 of any subsection or subdivision of this section shall not affect other
14 provisions of the section that can be given effect without the invalid
15 provision.

16 (h) This section expires on June 30, ~~2015~~ 2016.

17
18 SECTION 17. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
19 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. (a) As
20 used in this section, "Health Care Independence Program" means the Health
21 Care Independence Program established under the Health Care Independence Act
22 of 2013, Arkansas Code § 20-77-2401 et seq.

23 (b)(1) Determining the maximum number of employees, the maximum amount
24 of appropriation, for what purposes an appropriation is authorized, and
25 general revenue funding for a state agency each fiscal year is the
26 prerogative of the General Assembly.

27 (2) The purposes of subdivision (b)(1) of this section are
28 typically accomplished by:

29 (A) Identifying the purpose in the appropriation act;

30 (B) Delineating such maximums in the appropriation act for
31 a state agency; and

32 (C) Delineating the general revenue allocations authorized
33 for each fund and fund account by amendment to the Revenue Stabilization Law,
34 Arkansas Code § 19-5-101 et seq.

35 (3) It is both necessary and appropriate that the General
36 Assembly restrict the use of appropriations authorized in this act.

1 (c)(1) The Department of Human Services shall submit and seek approval
2 of a state plan amendment or waiver, or both, for the following revisions to
3 the Health Care Independence Program to be effective no later than February
4 1, 2015:

5 (A) Approval of a limited state-designed nonemergency
6 transportation benefit for persons covered under the Health Care Independence
7 Program;

8 (B) Approval of a model to allow non-aged, nondisabled
9 persons eligible to participate in the Health Care Independence Program to
10 enroll in a program that will create and utilize independence accounts that
11 operate similarly to a health savings account or medical savings account; and

12 (C) That cost sharing under the Health Care Independence
13 Program shall apply to beneficiaries with incomes above fifty percent (50%)
14 of the federal poverty level.

15 (2) The Department of Human Services shall:

16 (A) Submit drafts of state plan amendments or waivers
17 required under subdivision (c)(1) of this section for public comment by
18 August 1, 2014; and

19 (B) File the required state plan amendments or waivers
20 with the United States Department of Health and Human Services by September
21 15, 2014.

22 (d)(1) Except as provided in subdivision (d)(2) of this section, if
23 the Department of Human Services is unable to secure the approvals requested
24 under subsection (c) of this section, then effective for dates of service on
25 and after February 1, 2015, the Department of Human Services shall not
26 allocate, budget, expend, or utilize appropriations under this act for the
27 participation of persons in the Health Care Independence Program.

28 (2) Subdivision (d)(1) of this section does not prohibit the
29 payment of expenses incurred before February 1, 2015, by persons
30 participating in the Health Care Independence Program who were determined to
31 be more effectively covered through the standard Medicaid program.

32 (e) This section expires on June 30, ~~2015~~ 2016.

33
34 SECTION 18. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
35 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. MEDICAID
36 PRIMARY CARE CASE MANAGEMENT PROGRAM.

1 (a) The General Assembly finds that:

2 (1) The Arkansas Delta is an area that is medically underserved
3 and has some of the worst health outcomes in our state, with a large number
4 of recipients who are in the top quartile of costs;

5 (2)(A) There has been much success in other states, particularly
6 in the Louisiana Delta with improvements in health outcomes and saving money
7 through the use of an intensive care-coordination, shared-savings model of
8 care.

9 (B) This success has come through contracting with private
10 companies that specialize in working with those individuals who meet certain
11 criteria and are at a minimum in the top quartile of costs to the Medicaid
12 program;

13 (3) Medicaid is one of the largest percentage expenditures of
14 Arkansas tax dollars, and there is a need for reforming approaches to the use
15 of these dollars; and

16 (4) The approach created in this section to dealing with this
17 population has never been implemented in Arkansas.

18 (b)(1)(A) The Department of Human Services shall contract with an
19 experienced vendor to implement a two-year Medicaid Primary Care Case
20 Management shared-savings pilot program in the Arkansas Delta region to begin
21 January 1, 2014.

22 (B) The department shall give preference to a vendor that:

23 (i) Demonstrates experience with the type of model
24 established under this section in the type of geographic area specified in
25 subsection (e) of this section;

26 (ii) Has demonstrated customer satisfaction as
27 documented through independent Consumer Assessment of Healthcare Providers
28 and Systems survey; and

29 (iii) Maintains a Utilization Review Accreditation
30 Commission accreditation for its Health Utilization Management and Case
31 Management programs.

32 (2) The pilot program shall encompass a minimum of five thousand
33 (5,000) recipients who:

34 (A) Are not currently in the Arkansas Patient-Centered
35 Medical Home Program, the federal Comprehensive Primary Care Initiative, or a
36 similar home health program;

1 (B)(i) Have catastrophic or chronic conditions as defined
2 by the Johns Hopkins Adjusted Clinical Groups System; or

3 (ii) Are women with a history of past high-risk
4 pregnancies, poor birth outcomes or preterm deliveries; and

5 (C) Whose estimated costs are in the top quartile for
6 their defined population.

7 (c) The vendor shall recruit an adequate number of primary care
8 clinics to initiate the program.

9 (d) The Medicaid Primary Care Case Management shared savings pilot
10 program shall exclude the Alternatives for Persons with Disabilities, the
11 Division of Developmental Disabilities Services Alternative Community
12 Services, ElderChoices, Living Choices Assisted Living waivers, and members
13 of the Program of All-Inclusive Care for the Elderly.

14 (e) The Medicaid Primary Care Case Management program shared savings
15 pilot program shall include without limitation the following Arkansas delta
16 counties:

- 17 (1) Arkansas;
- 18 (2) Ashley;
- 19 (3) Baxter;
- 20 (4) Bradley;
- 21 (5) Calhoun;
- 22 (6) Chicot;
- 23 (7) Clay;
- 24 (8) Cleveland;
- 25 (9) Crittenden;
- 26 (10) Cross;
- 27 (11) Dallas;
- 28 (12) Desha;
- 29 (13) Drew;
- 30 (14) Fulton;
- 31 (15) Grant;
- 32 (16) Greene;
- 33 (17) Independence;
- 34 (18) Izard;
- 35 (19) Jackson;
- 36 (20) Jefferson;

- 1 (21) Lawrence;
- 2 (22) Lee;
- 3 (23) Lincoln;
- 4 (24) Lonoke;
- 5 (25) Marion;
- 6 (26) Mississippi;
- 7 (27) Monroe;
- 8 (28) Ouachita;
- 9 (29) Phillips;
- 10 (30) Poinsett;
- 11 (31) Prairie;
- 12 (32) Randolph;
- 13 (33) Searcy;
- 14 (34) Sharp;
- 15 (35) St. Francis;
- 16 (36) Stone;
- 17 (37) Union;
- 18 (38) Van Buren; and
- 19 (39) Woodruff.

20 (f) The department shall require that a contracting vendor generate
 21 savings in comparison to a risk-adjusted Arkansas Fee-For-Service benchmark.

22 (g) The per-member monthly fee paid to the vendor shall not decrease
 23 the current primary care case management fee paid to the primary care
 24 providers.

25 (h)(1) Savings realized under the Medicaid Primary Care Case
 26 Management program shall be shared:

27 (A) Thirty-four percent (34%) with the department; and

28 (B)(i) Sixty-six percent (66%) with the Medicaid Primary
 29 Care Case Management shared-savings pilot program vendor up to a maximum
 30 sharing cap of five percent (5%) of the total cost of administrative and
 31 health service expenditures as defined by the Centers for Medicare and
 32 Medicaid Service.

33 (ii) Further, fifty percent (50%) of savings
 34 received by the vendor shall be shared with eligible contracted network
 35 primary care providers based upon meeting agreed upon performance standards.

36 (2) Twenty five percent (25%) of the Medicaid Primary Care Case

1 Management shared-savings pilot program vendor's administrative per member
2 per month fee shall be at risk and shall be paid back to the state if savings
3 are not realized.

4 (i)(1) After the Medicaid Primary Care Case Management shared-savings
5 pilot program has operated for fifteen (15) months, the department shall
6 utilize an agreed upon savings algorithm to calculate savings based on the
7 first twelve (12) months of operations, allowing three (3) months of run-out.

8 (2)(A) Savings shall be disbursed within thirty (30) calendar
9 days of final calculation.

10 (B) After the initial year of operation, savings shall be
11 calculated on a quarterly basis.

12 (j) This section does not conflict with or reduce the Medicaid
13 hospital access payments under section § 20-77-1901 et seq.

14 (k)(1) This section does not require a physician to participate in the
15 pilot program created under this section.

16 (2) A physician has the right to refuse to contract under the
17 pilot program created under this section or to terminate the contract at any
18 time without penalty.

19 (l) If requested, the vendor shall agree to support any contracted
20 physician in meeting the requirements of the Arkansas Patient-Centered
21 Medicaid Home model.

22 The provisions of this section shall be in effect only from July 1, 2015
23 through June 30, 2016.

24
25 SECTION 19. COMPLIANCE WITH OTHER LAWS. Disbursement of funds
26 authorized by this act shall be limited to the appropriation for such agency
27 and funds made available by law for the support of such appropriations; and
28 the restrictions of the State Procurement Law, the General Accounting and
29 Budgetary Procedures Law, the Revenue Stabilization Law, the Regular Salary
30 Procedures and Restrictions Act, or their successors, and other fiscal
31 control laws of this State, where applicable, and regulations promulgated by
32 the Department of Finance and Administration, as authorized by law, shall be
33 strictly complied with in disbursement of said funds.

34
35 SECTION 20. LEGISLATIVE INTENT. It is the intent of the General
36 Assembly that any funds disbursed under the authority of the appropriations

1 contained in this act shall be in compliance with the stated reasons for
2 which this act was adopted, as evidenced by the Agency Requests, Executive
3 Recommendations and Legislative Recommendations contained in the budget
4 manuals prepared by the Department of Finance and Administration, letters, or
5 summarized oral testimony in the official minutes of the Arkansas Legislative
6 Council or Joint Budget Committee which relate to its passage and adoption.
7

8 SECTION 21. EMERGENCY CLAUSE. It is found and determined by the
9 General Assembly, that the Constitution of the State of Arkansas prohibits
10 the appropriation of funds for more than a one (1) year period; that the
11 effectiveness of this Act on July 1, 2015 is essential to the operation of
12 the agency for which the appropriations in this Act are provided, and that in
13 the event of an extension of the legislative session, the delay in the
14 effective date of this Act beyond July 1, 2015 could work irreparable harm
15 upon the proper administration and provision of essential governmental
16 programs. Therefore, an emergency is hereby declared to exist and this Act
17 being necessary for the immediate preservation of the public peace, health
18 and safety shall be in full force and effect from and after July 1, 2015.
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