

**ADMINISTRATIVE RULES SUBCOMMITTEE  
OF THE  
ARKANSAS LEGISLATIVE COUNCIL**

**Wednesday, May 21, 2025**

**10:00 a.m.**

**Room A, MAC**

**Little Rock, Arkansas**

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- A. Call to Order**
- B. Adoption of Subcommittee Rules**
- C. Reports from the Executive Subcommittee Concerning Emergency Rules**
- D. Reports on Administrative Directives Pursuant to Act 1258 of 2015, for Quarters Ending December 31, 2024, and March 31, 2025 (Tawnie Rowell)**

- 1. Department of Corrections**

- 2. Post-Prison Transfer Board**

- E. Rules Filed Pursuant to Arkansas Code § 10-3-309**

- 1. ~~DEPARTMENT OF AGRICULTURE~~**

- a. ~~Liquid Animal Waste Management Systems~~**

- 2. DEPARTMENT OF AGRICULTURE, STATE PLANT BOARD**  
**(Secretary Wes Ward)**

- a. Pest Control Rules**

**DESCRIPTION:** The Department of Agriculture, State Plant Board, proposes amendments to its Pest Control Rules. The purpose of the proposed rule amendment is to align with minor federal rule changes that have recently occurred, in accordance with the department's updated Certification and Training agreement with the Environmental Protection Agency.

**PUBLIC COMMENT:** There was no public hearing for this rule. The public comment period closed on December 23, 2024. The agency indicated that it received no public comments.

The proposed effective date is pending legislative review and approval.

**FINANCIAL IMPACT:** The agency has indicated that the amended rule has no financial impact. The agency further states that the following costs are unchanged by the rule amendment:

|                           |   |
|---------------------------|---|
| Commercial business:      | \$100 – 300 based on number of employees  |
| Commercial applicator:    | \$150 – 300 based on number of categories |
| Technician:               | \$30.00                                   |
| Noncommercial applicator: | \$70.00                                   |

**LEGAL AUTHORIZATION:** The State Plant Board shall have the authority to adopt rules which shall have the full force and effect of law for the purpose of carrying into effect the provisions of Title 17, Chapter 37 of the Arkansas Code, which concerns pest control services. *See Ark. Code Ann. § 17-37-105(a)(2)(A).* The rules may include the authorization to require licensed operators to submit written monthly reports setting out the description and location of properties on which pest control service has been rendered and such other information relative thereto as the board shall deem necessary. *See Arkansas Code Annotated § 17-37-105(a)(2)(B).* The rules also may include minimum standards for pest control service work and shall include fees sufficient to pay the cost of carrying out the provisions of Title 17, Chapter 37 of the Arkansas Code. *See Ark. Code Ann. § 17-37-105(a)(2)(C).*

Further authority for the rulemaking can be found in Ark. Code Ann. § 17-37-208(a), which provides that, in promulgating rules under Title 17, Chapter 37 of the Arkansas Code, the board shall prescribe standards for the licensing of applicators of pesticides. The standards shall relate to the use and handling of the pesticides or to the use and handling of the pesticide or class of pesticide covered by the individual's license and shall be relative to the hazards involved. *See Ark. Code Ann. § 17-37-208(b).* In determining standards, the board shall consider the characteristics of the pesticide formulation such as: the acute dermal and inhalation toxicity; the persistence, mobility, and susceptibility to biological concentration; the use experience which may reflect an inherent misuse or an unexpected good safety record which does not always follow laboratory toxicological information; the relative hazards of patterns of use such as granular soil applications, ultra low volume or dust aerial applications, or air blast sprayer applications; and the extent of the intended use. *See Ark. Code Ann. § 17-37-208(c)(1).* Further, the board shall take into consideration standards of the United States Environmental Protection Agency and is authorized to adopt these standards by rule. *See Ark. Code Ann. § 17-37-208(c)(2).* In its rules made pursuant to Title 17, Chapter 37 of the Arkansas Code and after a public hearing, the board shall establish license, registration, inspection, reinspection, reporting, and examination fees

sufficient to carry out the provisions of Title 17, Chapter 37 of the Arkansas Code. *See* Ark. Code Ann. § 17-37-107(a). Finally, by rule, the board shall make provisions to ensure that applicators continue to meet the requirements of changing technology and to assure a continuing level of competence and ability to use pesticides safely and properly. *See* Ark. Code Ann. § 17-37-206.

The agency has indicated that the proposed amendments are also required to comply with federal law, specifically 16 C.F.R. § 171.

3. **DEPARTMENT OF COMMERCE, DIVISION OF WORKFORCE SERVICES** (David McCoy, Kristen Rhodes)

a. **Unemployment Insurance Contributions and Employers, 11 CAR § 1-201 et seq.**

**DESCRIPTION:** The Department of Commerce, Division of Workforce Services seeks to amend 11 CAR § 1-205, Contribution Payments and Reports, Payments in Lieu of Contributions, Advance Payments, and Wage Reports. The changes to 11 CAR § 1-205 update the process for employers to submit their quarterly contribution and wage reports electronically in the online Division of Workforce Services portal. It deletes outdated wage reporting procedures and formats, potentially leading to cost savings related to DWS receiving less information on paper to enter manually. Finally, it reduces the number of employees an employer who submits their quarterly wage reports may have from 10 to 5 to encourage more electronic submissions.

Post Public-Comment Period: No public comments were received; a non-substantive technical change was made to the rule.

**PUBLIC COMMENT:** A public hearing was held on January 31, 2025. The public comment period closed on February 17, 2025. The agency indicated that it did not receive any public comments.

The proposed effective date is pending legislative review and approval.

**FINANCIAL IMPACT:** The agency has indicated that the amended rule does not have a financial impact. Additionally, the agency states that there are no additional costs to amend the rule, and the rule will result in cost savings by reducing agency staff time spent working on paper employer contributions.

**LEGAL AUTHORIZATION:** The Director of the Division of Workforce Services shall have power and authority to adopt, amend, or rescind such rules, employ such persons, make such expenditures, require

such reports, make such investigations, and take such other action as he or she deems necessary or suitable to that end. *See* Arkansas Code Annotated § 11-10-306(b)(1). Rules may be adopted, amended, or rescinded by the director and shall become effective in the manner and at the time prescribed by the director. *See* Ark. Code Ann. § 11-10-307(b). The contributions shall become due and be paid by each employer to the director for the Unemployment Compensation Fund in accordance with such rules as the director may prescribe and shall not be deducted, in whole or in part, from the wages of individuals in employment for the employer. *See* Ark. Code Ann. § 11-10-701(a)(2).

The agency has indicated that the amended rule is required to comply with the following federal law: 26 USC § 3304(a) of the Internal Revenue Code of 1986 and 20 CFR § 601.1.

4. **DEPARTMENT OF COMMERCE, OFFICE OF SKILLS DEVELOPMENT** (Stephanie Isaacs)

- a. **Rules for Arkansas' Registered Apprenticeship Programs & REPEALS: Rules and Regulations for the Construction Industry Craft Training Education Program; Rules and Regulations for Electrician Apprenticeship Programs; Rules and Regulations for Plumbing Apprenticeship Programs; Rules and Regulations for Arkansas' Registered Apprenticeship Programs**

**DESCRIPTION:** The Department of Commerce, Office of Skills Development proposes its Rules for Arkansas' Registered Apprenticeship Programs. With the promulgation of this new rule, OSD also proposes to repeal the following four (4) rules: Rules and Regulations for the Construction Industry Craft Training Education Program; Rules and Regulations for Electrician Apprenticeship Programs; Rules and Regulations for Plumbing Apprenticeship Programs; and Rules and Regulations for Arkansas' Registered Apprenticeship Programs. The agency provided the following summary for the rulemaking:

The proposed Arkansas Office of Skills Development (the "OSD") rule replaces OSD's four existing apprenticeship rules into a single, modernized rule. The rule streamlines the apprenticeship program requirements, updates statutory references and requirements, and eliminates overlapping administrative requirements. The proposed rule change imposes no additional costs to the state or taxpayers.

Arkansas' registered apprenticeship programs are currently spread across four different rules, with the oldest dating back to 1999. The current rules partially overlap in their requirements, are ambiguous with respect to the role OSD plays in regulating certain portions of apprenticeship programs

and contain outdated statutory and committee references. The proposed rule modernizes and combines the existing apprenticeship rules into a single rule, modernizes the rule requirements and statutory references, and clarifies OSD's responsibilities in handling all aspects of apprenticeship in Arkansas.

With rising college costs and an increase in demand for the skilled trades, apprenticeship programs are an increasingly attractive career path for Arkansas youth, and OSD has seen a significant increase in registered apprenticeship activity over the past seven years as a result. The proposed rule streamlines the requirements for apprenticeship programs and clarifies existing requirements at no additional cost to the state or taxpayers, further boosting these programs.

**PUBLIC COMMENT:** A public hearing was held on January 7, 2025. The public comment period closed on January 19, 2025. The agency indicated that it received no public comments.

**FINANCIAL IMPACT:** The agency states that the proposed rule does not have a financial impact.

**LEGAL AUTHORIZATION:** Pursuant to Arkansas Code Annotated § 25-30-102(a)(2), the Office of Skills Development and the Career Education and Workforce Development Board, in coordination with the Division of Higher Education, the Chief Workforce Officer, and the Department of Education, shall develop and oversee a comprehensive apprenticeship office that serves as the center point for business, industry, and education leaders that want to establish an earn-to-learn apprenticeship program. Furthermore, the Office of Skills Development and the Career Education and Workforce Development Board shall adopt rules to administer the office and the board and the programs developed by the office and the board, including without limitation the creation and election of officers subsequent to the initial chairs. *See* Ark. Code Ann. § 25-30-102(a)(9).

Additional rulemaking authority can be found in Ark. Code Ann. § 17-28-313, which provides that the Career Education and Workforce Development Board shall have the power to adopt rules as to the qualifications, training, and supervision of apprentice electricians subject to the approval of the Department of Labor and Licensing, and to adopt rules establishing the roles and duties of the following organizations or officials in the electrical apprenticeship program in compliance with the Revised National Guidelines for Apprenticeship Standards for electrical training as approved and registered with the United States Office of Apprenticeship: the Office of Skills Development and the State Electrical Apprenticeship Committee. Furthermore, the Career Education and

Workforce Development Board shall have the power adopt rules as to the qualifications, training, and supervision of apprentice plumbers subject to the approval of the Department of Health, and to adopt rules establishing the roles and duties of the following organizations or officials in the plumbing apprenticeship program in compliance with the Revised National Guidelines for Apprenticeship Standards for plumber training as approved and registered with the United States Office of Apprenticeship: the Office of Skills Development and the State Plumbing Apprenticeship Committee. *See* Ark. Code Ann. § 17-38-402. Finally, Ark. Code Ann. § 6-55-108 provides that the Office of Skills Development and the Arkansas Apprenticeship Coordination Steering Committee shall promulgate rules necessary to implement the provisions of the Arkansas Construction Industry Craft Training Act, codified in Title 6, Chapter 55 of the Arkansas Code.

**5. DEPARTMENT OF CORRECTIONS, POST-PRISON TRANSFER BOARD (Charlotte Moore)**

**a. Revocation of Parole and Post-Release Supervision**

**DESCRIPTION:** The Department of Corrections' Post-Prison Transfer Board proposes its Revocation of Parole and Post-Release Supervision rule for legislative review and approval. The rule is being promulgated to adhere to substantive changes in the statutes regarding Revocation of Supervision as required by Act 659 of 2023, the Protect Arkansas Act. These substantive changes include the expansion of additional violent offenses that require mandatory warrants and the modification of consequences for the violation of conditions of supervision for certain offenses that occur on or after January 1, 2025. Additionally, the Revocation of Parole and Post-Release Supervision rule provides the update of terms that align with the changes in the statutes as required by Act 659 of 2023, the Protect Arkansas Act which include without limitation:

- The name of the Parole Board is renamed to the Post-Prison Transfer Board;
- The term parole officer is renamed community supervision officer; and
- The term parole is renamed to post-release supervision.

Most subject matter covered by this new rule is currently promulgated as a section of the Parole Board Manual, but that rule is being simultaneously amended to remove those references to revocations.

Following the public comment period, the agency indicated that it made the following changes to its rule:

- In section 2, definitions have been renumbered to conform to the standard numbering conventions for definitions section of a codified rule;
- In the definition section, item 2(w) is a duplicate definition and has been stricken;
- In the definition section, in item 2(27) the phrase “...and as reference in A.C.A. § 16-93-712...” the letter “d” has been added and corrected to read “...and as referenced in A.C.A. § 16-93-712...”; and
- In section 6.1, subsection 6.1(c)(1)(A) has been renumbered to 6.1(c)(4) due to an outlining error.

**PUBLIC COMMENT:** A public hearing was not held for this matter. The public comment period expired December 15, 2024. The agency indicated that it has received no public comments.

Grant Wise, an attorney with the Bureau of Legislative Research, asked the following questions and was provided with the following agency responses:

1. The rules often refer to the “statement of conditions established by the Board.” Could you please forward a copy of that? **RESPONSE:** [The agency provided the following link to access the document: <https://doc.arkansas.gov/wp-content/uploads/2022/05/Standard-Conditions-of-Parole-Release-Form.pdf>]
2. Section 2(j) – Is there a reason that a different definition for “Division of Community Correction” was used in this section rather than that provided in Arkansas Code § 16-93-1202(4)? **RESPONSE:** Arkansas Code § 16-93-1202(4) cites that the “Division of Community Correction...oversees the development and operation of community correction facilities, programs, and services...,” however, since transformation, the Division of Community Correction no longer oversees the development and operation of community correction facilities, programs, and services. The functions have been moved to the oversight of the Division of Correction. For the purposes of this rule, the community correction facilities are not a factor in considering or executing revocation processes. The Division of Community Correction’s oversight of parole, and post-release supervision was retained from statutory language since this is relevant to the revocation process. Although not cited in statute, oversight of “Interstate Compact” offenders are a function of the Division of Community Correction and was added to the definition since this is germane to the rule.

3. Sections 2(w) and (x) – It appears that the term “technical condition violation” is defined twice with the definition in § 2(x) tracking the language of the definition in Arkansas Code § 16-93-101(13). Was this intentional? **RESPONSE:** This is an error. We should retain definition 2(x) and strike definition 2(w). This will be corrected in the final draft. [The agency amended the proposed rule to remove the superfluous definition.]
4. Section 3.1(h) – Arkansas Code § 16-93-1908(g) provides that an offender may be held in a county or regional jail while awaiting a revocation hearing “and the ruling of the board or its designee.” Is there a reason that the proposed rule appears to track the statute but for the quoted language? **RESPONSE:** The quoted language is not necessary for the rule.
5. Section 3.1(j) – It appears that this section substantially tracks the language found in Arkansas Code § 16-93-705(e)(2). While the rule includes the fourteen-day qualifier, is there a reason it does not also include the remaining language found in the statute: “and reasonably near the place where the alleged violation occurred or where the parolee was arrested.”? **RESPONSE:** The Post-Prison Transfer Board has no control over this process. The community supervision officer with the Division of Community Correction schedules the location. This is typically conducted wherever the inmate is incarcerated; otherwise, it will be at the nearest parole office. Sometimes, the inmate will be moved from one jail to another due to overcrowding or medical reasons. Our intent was to streamline those processes defined in the rule that the Board has volition over and to remove processes controlled by other agencies.
6. Section 3.4(f)(2) – It appears that this section is premised upon § 16-93-705(a)(4), which is within the subchapter concerning parole. Will it also be applicable to or used for offenders under post-release supervision? **RESPONSE:** 3.4(f) cites every statute upon which 3.4(f)(2) is premised. Namely, A.C.A. § 16-93-705(a)(4), A.C.A. § 16-93-705(a)(5), A.C.A. § 16-93-1908(a)(4), A.C.A. § 16-93-1908(a)(5). Per the definitions of “Parole” and “Post-Release Supervision” defined in 2(r) and 2(s) and for the purpose of this rule, “Parole” and “Post-Release Supervision” are synonymous terms. “Post-Release Supervision” is used throughout the rule to mean both “Parole” and “Post-Release Supervision.” With few exceptions, the revocation processes for both “Parole” and “Post-Release Supervision” are identical and creating separate rule sections for both would be redundant and confusing to the public.



7. Section 4.2(a) – This section concerns the revocation hearing requirement; however, it also cites to “A.C.A. § 16-93-705(b)(1)” and “A.C.A. § 16-93-1908(b)(1)” that concern preliminary hearings. Was this intentional? **RESPONSE:** As described in 3.1(j), if a revocation hearing is held within 14 days of arrest, a separate preliminary hearing is not required. In practice, a revocation hearing is always conducted prior to the 14 days required window – and satisfies the need for a separate preliminary hearing. Functionally, a separate preliminary hearing is never held.
8. Section 4.2(b) – This section appears to set forth the schedule for a “revocation hearing”; however, the language used in the rule and timeframes set forth appear to come from Arkansas Code §§ 16-93-705(b)(2) and 16-93-1908(b)(2) that both concern the time frames for “[t]he preliminary hearing.” Was this intentional? **RESPONSE:** See the answer to Question #7.
9. Section 4.2(c) – It appears that the language used in the section tracks that of Arkansas Code § 16-93-705(e)(2). Similar to question (5), is there a reason it does not also include the remaining language found in the statute “and reasonably near the place where the alleged violation occurred or where the parolee was arrested.”? **RESPONSE:** See the answer to Question #5.
10. Section 4.2(c) – Similar to question (6), it appears that this section is premised upon § 16-93-705(e)(2), which is within the subchapter concerning parole. Will it also be applicable to or used for offenders under post-release supervision? **RESPONSE:** See the answer to Question #6.
11. Section 4.2(d) – This section addresses the notice provided an offender for a “revocation hearing.” However, the Arkansas Code sections cited in the rule, Arkansas Code §§ 16-93-705(b) and 16-93-1908(b), concern preliminary hearings. Was this intentional? **RESPONSE:** See the answer to Question #7.
12. Section 4.2(e) – This section addresses the location of a revocation hearing; however, the statutes cited in the rule §§ 16-93-705(b) and 16-93-1908(b), concern preliminary hearings. Should the citations be to other sections, perhaps §§ 16-93-705(e)(2) and 16-93-1908(e)(2)? **RESPONSE:** See the answer to Question #7.
13. Section 4.2(g)(2) – Both Arkansas Code §§ 16-93-705(c)(3) and 16-93-1908(c)(3) appear to provide that a parolee or offender has the “right...to be represented by counsel.” However, while not included in the statutes, the rule further provides that the offender “shall not have

the right to have counsel appointed by the State.” Is the language in the rule based on statute, and if so, which one? **RESPONSE:** The language was added to clarify the meaning of “right to be represented by counsel” to differentiate it from the right to appointed counsel in a criminal trial. A convicted offender has the right to hire an attorney for a revocation hearing, but the State does not appoint an attorney for a violator.

**14. Section 4.5(c) –** With respect to the revocation waiver hearing, is this something required by statute? If so, which one? If not, what is the reasoning behind its inclusion in the rules? **RESPONSE:** All waivers must be made knowingly and intelligently [16-93-705(c)(1) and 16-93-1908(c)(1)(A)]. This section was included to reflect actual practice. Offenders that commit higher level offenses cited in 4.5(c) can only sign a waiver of a revocation hearing after a revocation judge determines they knowingly and intelligently agree to waive the hearing, and a revocation hearing must be held on Capital murder or Murder 1st degree. This additional step is not statutory, but a safeguard because an offender is admitting the alleged laws violations that could incriminate himself or herself for future criminal proceedings.

**15. Section 4.5(d) –** Is there a reason that offenders charged with capital murder or murder in the first degree are precluded from waiving a revocation hearing, where Arkansas Code §§ 16-93-705(c)(1)(A) and 16-93-1908(c)(1)(A) reference only that the revocation hearing must be “knowingly and intelligently waived by the offender”?

**RESPONSE:** See the answer to Question #14.

**16. Section 5.1 –** This section addresses appeals from revocation decisions; however, the only appeal referenced in Arkansas Code §§ 16-93-705 and 16-93-1908 is that from the granting of a waiver of a revocation hearing referenced in § 16-93-705(c)(1)(B) and § 16-93-1908(c)(1)(B). Is this right to appeal and the process thereof addressed in statute? If so, which one? If not, what is the reasoning behind this provision? **RESPONSE:** The right to an appeal from revocation decisions is not addressed in statute, it is only in our rule.

**FOLLOW UP QUESTION:** With respect to Question 16, the response provided explained that the right to appeal from revocation decisions is addressed only in the rule. What is the agency’s reasoning behind this provision in the rule? **RESPONSE:** Including an appeal process for revocation decisions ensures fairness and adherence to due process. It also provides a mechanism for an offender adversely affected by a revocation decision to seek review by the full Board.

**17.** Section 5.1 – This section addresses appeals from a revocation decision, but is an offender also permitted to appeal from the decision of a preliminary hearing? If not, why not? **RESPONSE:** See the answer to Question #7.

**18.** Section 5.2 – This section addresses the review of an appeal from a revocation decision. Is this provided for by statute? If so, which one? **RESPONSE:** See the answer to Question #16.

**19.** Just so that I am clear, it appears from the statutes that the preliminary hearing is conducted by a revocation hearing judge, while the actual revocation hearing is conducted by the Board or its designee. Is that accurate? If not, how does the process operate in practice?

**RESPONSE:** As described in the answer to Question #7, and in 3.1(j) of the proposed rule, if a revocation hearing is held within 14 days of arrest, a separate preliminary hearing is not required. We always meet this requirement, so, in practice, a separate preliminary hearing is never held. This revocation hearing is always held by a revocation hearing judge. The potential outcomes of this revocation hearing are either the return to the Division of Correction for six months or one year. After this six month or 12-month period, there is a subsequent related hearing conducted by the Board or its designee, the rule for which is described in our rule for transfer hearings.

The proposed effective date is pending legislative review and approval.

**FINANCIAL IMPACT:** The agency has indicated that the proposed rule has no financial impact.

**LEGAL AUTHORIZATION:** Pursuant to Arkansas Code Annotated § 16-93-713, the Post-Prison Transfer Board may adopt rules to implement, administer, and enforce Title 16, Chapter 93, Subchapter 7 of the Arkansas Code, concerning parole. *See also* Ark. Code Ann. § 16-93-212 (providing that the Post-Prison Transfer Board may adopt rules to implement, administer and enforce Title 16, Chapter 93, Subchapter 2 of the Arkansas Code, concerning the Parole Board<sup>1</sup>). Further authority for the rulemaking can be found in Arkansas Code § 16-93-1911, which provides that the Post-Prison Transfer Board shall adopt rules to implement Title 16, Chapter 93, Subchapter 19 of the Arkansas Code, which concerns post-release supervision for person committing offenses on or after January 1, 2025.

The proposed rule implements changes made in light of Act 659 of 2023, sponsored by Senator Ben Gilmore, which created the Protect Arkansas Act; amended Arkansas law concerning sentencing and parole; amended

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<sup>1</sup> The Parole Board was renamed the Post-Prison Transfer Board by Act 659 of 2023, § 160.

Arkansas law concerning certain criminal offenses; amended Arkansas law concerning the Parole Board; and created the Legislative Recidivism Reduction Task Force.

**b. Arkansas Parole Board Policy Manual – Section 3: Release Revocation**

**DESCRIPTION:** The purpose of this rule amendment is to remove Section 3: Release Revocation from the Arkansas Parole Board Manual – Rule 158 and reference the standalone rule title Revocation of Parole and Post-Release Supervision.

**PUBLIC COMMENT:** A public hearing was not held for this matter. The public comment period expired December 15, 2024. The agency indicated that it received no public comment.

The proposed effective date is pending legislative review and approval.

**FINANCIAL IMPACT:** The agency indicated that the amended rule has no financial impact.

**LEGAL AUTHORIZATION:** The Post-Prison Transfer Board may adopt rules to implement, administer, and enforce Title 16, Chapter 93, Subchapter 7 of the Arkansas Code, concerning parole. *See* Ark. Code Ann. § 16-93-713.

**6. DEPARTMENT OF EDUCATION, DIVISION OF HIGHER EDUCATION  
(Courtney Salas-Ford, Dr. Ken Warden)**

**a. Rules Governing the Arkansas Academic Challenge Scholarship**

**DESCRIPTION:** The Department of Education, Division of Higher Education, proposes amendments to its Rules Governing Arkansas Academic Challenge Scholarship Program. Act 413 of 2023 amended the law governing the Arkansas Concurrent Challenge Scholarship, which is codified at Ark. Code Ann. § 6-85-401 et seq. As part of the amendment, the Act creates an additional provision of the rule to allow scholarship recipient students to utilize scholarship funds for enrolling and attending courses offered during a summer term at the postsecondary institution in which the student is enrolled.

Act 539 of 2023 further amends this rule effective January 1, 2025, by expanding on the definition of institutions of higher education which will now include public or private vocational-technical institutes and public or private technical institutes. Act 386 of 2023 created the Arkansas Academic Challenge Plus Scholarship as an additional award for students

in the Academic Challenge Scholarship Program; this rule is amended to implement that program.

**PUBLIC COMMENT:** A public hearing was held on October 8, 2024. The public comment period expired on October 13, 2024. The agency indicated that it received no public comments.

The proposed effective date is pending legislative review and approval.

**FINANCIAL IMPACT:** The agency has indicated that the amended rule does not have a financial impact.

**LEGAL AUTHORIZATION:** The Division of Higher Education shall develop and promulgate rules for the administration of the Arkansas Academic Challenge Scholarship Program consistent with the purposes and requirements of Arkansas Code Annotated § 6-85-201 et seq., concerning the scholarship program. *See* Ark. Code Ann. § 6-85-205(a). The rules developed and promulgated by the division under Ark. Code Ann. § 6-85-205(a) shall pertain to: 1) Student eligibility criteria based on Ark. Code Ann. §§ 6-85-201 – 6-85-222; 2) The method for selecting scholarship recipients and for determining continuing eligibility; 3) The procedures for making payment to an approved institution of higher education where the recipient is enrolled; and 4) Other administrative procedures that may be necessary for the implementation and operation of the program. *See* Ark. Code Ann. § 6-85-205(b).

Furthermore, the division shall promulgate rules in consultation with ACT, Inc. to determine the mechanism for calculating and disseminating an applicant's superscore on the ACT. *See* Ark. Code Ann. § 6-85-204(16)(B)(i). However, a rule promulgated under § 6-85-204(16)(B)(i) shall not result in a negative amount of net revenue available. *See* Ark. Code Ann. § 6-85-204(16)(B)(ii). The division shall also establish by rule the specific data required, manner of reporting the information required, and technology or software required for reporting under Ark. Code Ann. § 6-85-216, which concerns institution reports to the division. Finally, the division shall administer the Arkansas Challenge Plus Scholarship Program and may promulgate rules to administer the program under Title 6, Chapter 85, Subchapter 6 of the Arkansas Code, concerning the program. *See* Ark. Code Ann. § 6-85-604(a), (b).

The proposed amendments are those made in light of the following Acts from the 2023 Regular Session:

Act 386, sponsored by Senator Jane English, which created the Arkansas Challenge Plus Scholarship Program;

Act 413, sponsored by representative Julie Mayberry, which concerned rules promulgated by the Division of Higher Education; and required the Division of Higher Education to promulgate certain rules concerning the administration of scholarships funded with state funds and lottery proceeds; and

Act 539, sponsored by Representative Robin Lundstrum, which amended the Arkansas Academic Challenge Scholarship Program to include vocational-technical schools and technical institutes as approved institutions of higher education; and to ensure that certain funds from the Higher Education Grants Fund Account are expended on students enrolled in a technical institute or a vocational-technical school.

**b. Rules Governing Uniform Course Credit for Institutions of Higher Education**

**DESCRIPTION:** The Department of Education, Division of Higher Education proposes its Rules Governing Uniform Course Credit for Institutions of Higher Education. Act 237 of 2023, Section 54, requires the division to establish uniform postsecondary criteria for awarding credit to students who have successfully completed the International Baccalaureate Diploma Programme or achieved required scores on one or more CLEP examinations. Act 237, Section 54, further gives the division the option to establish uniform postsecondary criteria for awarding credit to students who attain other nationally recognized college-level credentials, including without limitation those attained through: The Cambridge Advanced International Certificate of Education; and Industry-based credentials.

**PUBLIC COMMENT:** A public hearing was held on October 8, 2024. The public comment period closed on October 13, 2024. The agency indicated that it received no public comments.

The proposed effective date is pending legislative review and approval.

**FINANCIAL IMPACT:** The agency has indicated that the proposed rules have no financial impact.

**LEGAL AUTHORIZATION:** Pursuant to Arkansas Code Annotated § 6-60-119(b)(1), the Division of Higher Education shall establish uniform postsecondary criteria for awarding credit to students who have successfully completed the International Baccalaureate Diploma Programme or achieved required scores on one (1) or more CLEP examinations. Furthermore, the division may establish uniform postsecondary criteria for awarding credit to students who attain other nationally recognized college-level credentials, including without

limitation those attained through the Cambridge Advanced International Certificate of Education and industry-based credentials. *See* Ark. Code Ann. § 6-60-119(b)(2).

The proposed changes include those made in light of Act 237 of 2023, sponsored by Senator Breanne Davis, which created the LEARNS Act and amended various provisions of the Arkansas Code as they relate to early childhood through grade twelve (12) education in the State of Arkansas.

7. ~~**DEPARTMENT OF ENERGY AND ENVIRONMENT, DIVISION OF ENVIRONMENTAL QUALITY**~~

a. ~~**Rule No. 6: Rules for State Administration of the National Pollutant Discharge Elimination System (NPDES)**~~

b. ~~**Rule No. 2: Rule Establishing Water Quality Standards for Surface Waters of the State of Arkansas**~~

8. **DEPARTMENT OF FINANCE AND ADMINISTRATION, REVENUE DIVISION** (Paul Gehring, Alicia Austin Smith)

a. **Arkansas Waterways Investment Tax Credit Rule**

**DESCRIPTION:** Pursuant to Act 881 of 2023, the Department of Finance and Administration is mandated to promulgate rules to administer the Waterways Investment Income Tax Credit. Under Act 881, an income tax credit is allowed against the Arkansas income tax due from a taxpayer for eligible costs incurred by a taxpayer to make capital improvements to a waterway facility or property related to water transportation in Arkansas.

The proposed rule:

- Adds necessary definitions;
- Provides clarification on the procedure a taxpayer shall follow to apply for the income tax credit;
- Provides clarification on the issuance of a cost-benefit analysis by the Department of Commerce; and
- Provides clarification on the procedure the Department shall follow to issue the tax credit.

**PUBLIC COMMENT:** A public hearing was held on this rule on December 17, 2024. The public comment period expired on December 24, 2024. The agency indicated that it received no public comments.

The proposed effective date is pending legislative review and approval.

**FINANCIAL IMPACT:** The agency indicated that this rule has no financial impact.

**LEGAL AUTHORIZATION:** The Secretary of the Department of Finance and Administration shall promulgate rules to implement Arkansas Code § 26-51-517, regarding waterways investment tax credit. *See* Ark. Code Ann. § 26-51-517(e)(1).

This rule implements Act 881 of 2023. The Act, sponsored by Senator Jonathan Dismang, concerned funding and incentives for certain waterways systems, programs, and investments, amended the Arkansas Port, Intermodal, and Waterway Development Grant Program, provided additional funding for the Arkansas Port, Intermodal, and Waterway Development Grant Program Fund, and created an investment tax credit for capital improvements relating to water transportation in the state.

**b. REPEAL: Administrative Procedure Rule 1993-5**

**DESCRIPTION:** This is a repeal of DFA Administrative Procedure Rule 1993-5. Administrative Procedure Rule 1993-5 provided the procedure by which the Director of the Department of Finance could revise an administrative decision from the Office of Hearings and Appeals. This administrative procedure was eliminated by the enactment of Act 586 of 2021, which created the Independent Tax Appeals Commission. Administrative Procedure Rule 1993-5 is no longer valid and should be repealed.

**PUBLIC COMMENT:** A public hearing was held on this rule on December 17, 2024. The public comment period expired on January 1, 2025. The agency indicated that it received no public comments.

The proposed effective date is pending legislative review and approval.

**FINANCIAL IMPACT:** The agency indicated that this rule has no financial impact.

**LEGAL AUTHORIZATION:** “The Secretary of the Department of Finance and Administration shall administer and enforce the provisions of every state tax law and when necessary shall promulgate and enforce the rules[.]” Ark. Code Ann. § 26-18-301(a).

Per the agency, this rule “provided the procedure by which the Director of the Department of Finance could revise an administrative decision from the Office of Hearings and Appeals.” Special language contained within Act 586 of 2021 abolished the Office of Hearings and Appeals. *See* Act 586 of 2021, § 2.



c. **REPEAL: Administrative Procedure Rule 1993-6**

**DESCRIPTION:** This is a repeal of DFA Administrative Procedure Rule 1993-6, now codified at 26 CAR § 3-101. Administrative Procedure Rule 1993-6 provided the procedure by which the Director of the Department of Finance could revise an administrative decision from the Office of Hearings and Appeals. This administrative procedure was eliminated by the enactment of Act 586 of 2021, which created the Independent Tax Appeals Commission. Administrative Procedure Rule 1993-6, codified at 26 CAR § 3-101, is no longer valid and should be repealed.

**PUBLIC COMMENT:** A public hearing was held on this rule on December 17, 2024. The public comment period expired on January 1, 2025. The agency indicated that it received no public comments.

The proposed effective date is pending legislative review and approval.

**FINANCIAL IMPACT:** The agency indicated that this rule has no financial impact.

**LEGAL AUTHORIZATION:** “The Secretary of the Department of Finance and Administration shall administer and enforce the provisions of every state tax law and when necessary shall promulgate and enforce the rules[.]” Ark. Code Ann. § 26-18-301(a).

Per the agency, this rule “provided the procedure by which the Director of the Department of Finance could revise an administrative decision from the Office of Hearings and Appeals.” Special language contained within Act 586 of 2021 abolished the Office of Hearings and Appeals. *See* Act 586 of 2021, § 2.

9. **DEPARTMENT OF HUMAN SERVICES, DIVISION OF AGING, ADULT, AND BEHAVIORAL HEALTH SERVICES** (Lori McDonald, Jay Hill)

a. **Policy and Procedure for Name Removal from the Arkansas Adult Maltreatment Registry, 12 CAR pt. 100**

**DESCRIPTION:**

Statement of Necessity

The Division of Aging, Adult, and Behavioral Health Services (DAABHS) proposes to amend the rules concerning Name Removal from Arkansas Adult Maltreatment Registry contained within 12 CAR § 100-101. The proposal allows the panel who reviews Adult Maltreatment Registry name removal requests to include a representative of the office

whose finding placed that name in the registry initially. As this rule currently stands, requests for name removal from the Adult Maltreatment Registry are reviewed by a panel composed exclusively of representatives of the Arkansas Department of Human Services' (DHS) Adult Protective Services (APS) unit. The proposed rule change provides that a representative of either the Office of Long-Term Care or the Attorney General's Office will be on the review panel when reviewing a name removal request submitted by a person whose name was initially placed on the Arkansas Adult Maltreatment Registry by one of those offices.

#### Summary of Changes

This proposed revision provides that the Adult Maltreatment Registry Review Team will include at least one (1) member from the Office of Long-Term Care or the Attorney General's Office, respectively, depending on which office made the initial finding.

**PUBLIC COMMENT:** No public hearing was held on this rule. The public comment period expired on February 17, 2025. The agency indicated that it received no public comments.

The proposed effective date is June 1, 2025.

**FINANCIAL IMPACT:** The agency indicated that this rule has no financial impact.

**LEGAL AUTHORIZATION:** The Secretary of the Department of Human Services has authority to adopt rules implementing the Adult and Long-Term Care Facility Resident Maltreatment Act. *See* Ark. Code Ann. § 12-12-1723. The Act established the Adult and Long-term Care Facility Resident Maltreatment Central Registry within the Department. *See* Ark. Code Ann. § 12-12-1716.

### **10. DEPARTMENT OF HUMAN SERVICES, DIVISION OF MEDICAL SERVICES (Lori McDonald, Elizabeth Pitman)**

#### **a. Specialized Formula and Associated Supplies Rate Change**

##### **DESCRIPTION:**

##### Statement of Necessity

The 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 of Changes

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)**

**PUBLIC COMMENT:** A public hearing was held on this rule on September 25, 2024. The public comment period expired on October 13, 2024. The agency provided a public comment summary. Due to its length, the public comment summary is attached separately.

The proposed effective date is pending legislative review and approval.

**FINANCIAL IMPACT:** The agency indicated that this rule has a financial impact.

Per the agency, the total estimated cost to implement this rule is \$1,762,723 for the current fiscal year (\$504,932 in general revenue and \$1,257,791 in federal funds) and \$1,922,971 for the next fiscal year (\$554,969 in general revenue and \$1,368,002 in federal funds). The total estimated cost by fiscal year to a state, county, or municipal government to implement this rule is \$504,932 for the current fiscal year and \$554,969 for the next fiscal year.

The agency indicated that there is a new or increased cost or obligation of at least \$100,000 per year to a private individual, private entity, private business, state government, county government, municipal government, or to two or more of those entities combined. Accordingly, the agency provided the following written findings:

*(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.

**LEGAL AUTHORIZATION:** The Department of Human Services has the responsibility to administer assigned forms of public assistance and is specifically authorized to maintain an indigent medical care program (Arkansas Medicaid). *See* Ark. Code Ann. §§ 20-76-201(1), 20-77-107(a)(1). The Department has the authority to make rules that are necessary or desirable to carry out its public assistance duties. Ark. Code Ann. § 20-76-201(12). The Department and its divisions also have the authority to promulgate rules as necessary to conform their programs to federal law and receive federal funding. Ark. Code Ann. § 25-10-129(b).

**b. Core Set Reporting Requirements**

**DESCRIPTION:**

Statement of Necessity

Beginning January 1, 2025, all states must comply annually with mandatory reporting of the Core Set of Children's Health Care Quality Measures for Medicaid and CHIP (Child Core Set) and the behavioral health measures on the Core Set of Adult Health Care Quality Measures for Medicaid (Adult Core Set) as established by federal rule issued by the Centers for Medicare & Medicaid Services (CMS). CMS developed a Medicaid Administrative State Plan Amendment (SPA) package to assist states in attesting to compliance with mandatory reporting requirements. In this rule, DHS amends the Arkansas Medicaid State Plan to attest compliance for Arkansas.

Summary

Using the form package issued by CMS, the Division of Medical Services submits an attestation of compliance as a SPA. The SPA must be submitted to CMS no later than December 31, 2024. DHS must comply with the reporting requirements and attest to such annually.

**PUBLIC COMMENT:** A public hearing was held on this rule on December 4, 2024. The public comment period expired on December 12, 2024. The agency indicated that it received no public comments.

The proposed effective date is pending legislative review and approval.

**FINANCIAL IMPACT:** The agency indicated that this rule has a financial impact.

Per the agency, the total estimated cost by fiscal year to implement this rule is \$32,016 for the current fiscal year (\$16,008 in general revenue and \$16,008 in federal funds) and \$64,030 for the next fiscal year (\$32,015 in general revenue and \$32,015 in federal funds). The total estimated cost by fiscal year to a state, county, or municipal government to implement this rule is \$16,008 for the current fiscal year and \$32,015 for the next fiscal year.

**LEGAL AUTHORIZATION:** The Department of Human Services has the responsibility to administer assigned forms of public assistance and is specifically authorized to maintain an indigent medical care program (Arkansas Medicaid). *See* Ark. Code Ann. §§ 20-76-201(1), 20-77-107(a)(1). The Department has the authority to make rules that are necessary or desirable to carry out its public assistance duties. Ark. Code Ann. § 20-76-201(12). The Department and its divisions also have the authority to promulgate rules as necessary to conform their programs to federal law and receive federal funding. Ark. Code Ann. § 25-10-129(b).

**~~e. Urgent Care Clinics~~**

- d. Medicaid Administrative Reconsiderations and Appeals, 20 CAR pts. 500, 600, 604, 608, 610, 613-14, 619, 622, 624-27, 631-41, 643-44, 646, 649-50**

**DESCRIPTION:**

Statement of Necessity

This rule change was developed to comply with a settlement agreement in *Elder v. Gillespie*, Case No. 3:19-cv-155-KGB. This rule amendment will provide consistency across all programs administered by DHS. DHS beneficiaries will receive thirty (30) days' notice, which begins five (5) days after the date of the written notice, effectively allowing thirty-five (35) days, before any final adverse action is taken regarding their eligibility for assistance or availability of benefits. Beneficiaries may file an administrative appeal of the final action within this notice period. If a request for an appeal is timely filed, eligibility or benefits will remain unchanged until a final decision is issued regarding the appeal.

Rule Summary

**Medicaid Provider Manuals**

Sections 161.200, 161.300, 161.400, 161.500, and 191.004 are amended to:

- Allow 30 days to request a reconsideration or appeal which begins 5 days after the date of the written notice, effectively allowing 35 days.
- Update the address of where to send an appeal.

- Clarify that beneficiaries will continue receiving benefits during the appeal process unless the beneficiary opts out of the continuation of benefits.

Section II of the following Medicaid Provider Manuals have been amended to reflect and reference the changes listed in Section I above; and some sections are being deleted if no longer applicable: ARKids First-B; Ambulatory Surgical Center; Chiropractic; Certified Nurse-Midwife; Counseling Services; Federally Qualified Health Center; Home Health; Hospital/Critical Access Hospital (CAH)/End Stage Renal Disease (ESRD); Hyperalimentation; IndependentChoices; Inpatient Psychiatric Services for Under Age 21; Nurse Practitioner; Program of All-Inclusive Care for the Elderly (PACE); Provider-Led Arkansas Shared Savings Entity (PASSE) Program; Patient-Centered Medical Home; Private Duty Nursing Services; Personal Care; Pharmacy; Physician/Independent Lab/CRNA/Radiation Therapy Center; Podiatrist; Portable X-Ray; Prosthetics; Rehabilitative Hospital; Rehabilitative Services for Persons with Physical Disabilities; Rural Health Clinic; Occupational Therapy, Physical Therapy, and Speech-Language Pathology Services; Ventilator Equipment; and Visual Care.

### **Medical Services Policy Manual**

Sections A-200; E-410; F-121, 123, and 125; H-650, 710, 720, and 730; I-630, 640, 650, and 660; J-100, 110, and 120; L-100; O-731, 810, and 940; and the Glossary are being amended to:

- Remove references to 10-day advanced notices and the client appealing within 10 days.
- Allow 30 days to request an appeal which begins 5 days after the date of the written notice, effectively allowing 35 days.
- Clarify that some determinations are done by the “system” instead of the eligibility worker.
- Remove procedures that will be moved to the Health Care Procedure Manual.
- Provide general formatting and clean-up.

A-200 is also amended to clarify when eligibility ends for an individual turning 65 in the Adult Expansion Group.

**PUBLIC COMMENT:** A public hearing was held on this rule on February 12, 2025. The public comment period expired on February 17, 2025. The agency provided the following public comment summary:

**Commenter’s Name:** Joy Long, Compliance Analyst III, Compliance Regulatory Distribution Management, CareSource

**COMMENT:** Thank you for the opportunity to review and provide comment/questions on proposed manual changes regarding Medicaid

Administration and Appeals. CareSource has no written comments or questions to submit. Respectfully, Joy Long

**RESPONSE:** Thank you for your input.

The proposed effective date is June 1, 2025.

**FINANCIAL IMPACT:** The agency indicated this rule has a financial impact.

Per the agency, the total cost to implement this rule is \$3,427,317 for the current fiscal year (\$537,212 in general revenue and \$2,890,105 in federal funds) and \$40,727,803 for the next fiscal year (\$6,346,541 in general revenue and \$34,381,262 in federal funds). The total estimated cost by fiscal year to a state, county, or municipal government to implement the rule is \$537,212 for the current fiscal year and \$6,346,541 for the next fiscal year.

The agency indicated that there is a new or increased cost or obligation of at least \$100,000 per year to a private individual, private entity, private business, state government, county government, municipal government, or to two or more of those entities combined. Accordingly, the agency provided the following written findings:

*(1) a statement of the rule's basis and purpose;*

This rule amendment will provide consistency across all programs administered by DHS. DHS beneficiaries will receive thirty (30) days' notice, which begins five (5) days after the date of the written notice, effectively allowing thirty-five (35) days, before any final adverse action is taken regarding their eligibility for assistance or availability of benefits. Beneficiaries may file an administrative appeal of the final action within this notice period. If a request for an appeal is timely filed, eligibility or benefits will remain unchanged until a final decision is issued regarding the appeal.

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

This rule change was developed to comply with a settlement agreement in *Elder v. Gillespie*, Case No. 3:19-cv-155-KGB.



- (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. This rule change was developed to comply with a settlement agreement in *Elder v. Gillespie*, Case No. 3:19-cv-155-KGB.

- (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;*

There are no other alternatives to the proposed rule, as this rule change was developed to comply with a settlement agreement in *Elder v. Gillespie*, Case No. 3:19-cv-155-KGB.

- (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.

**LEGAL AUTHORIZATION:** The Department of Human Services has the responsibility to administer assigned forms of public assistance and is specifically authorized to maintain an indigent medical care program (Arkansas Medicaid). See Ark. Code Ann. §§ 20-76-201(1), 20-77-

107(a)(1). The Department has the authority to make rules that are necessary or desirable to carry out its public assistance duties. Ark. Code Ann. § 20-76-201(12). The Department and its divisions also have the authority to promulgate rules as necessary to conform their programs to federal law and receive federal funding. Ark. Code Ann. § 25-10-129(b).

Per the agency, this rule change was developed to comply with a settlement agreement in *Elder v. Gillespie*, Case No. 3:19-cv-155-KGB.

**e. Hospice Provider Manual Updates, 20 CAR pt. 623**

**DESCRIPTION:**

Statement of Necessity

The Division of Medical Services (DMS) proposes streamlining coding processes for hospice providers to allow for more timely and accurate claims processing. To do so, DMS implements use of a new form to identify when a Medicaid beneficiary is being admitted to or discharged from hospice services. The new processes require an update to the Hospice Provider Manual.

Summary of Changes

Arkansas Medicaid Hospice Provider Manual

- Section 220.200: Added subsection K instructing providers to complete the new form, DMS-9939, when a beneficiary is being admitted or discharged, and providing a hyperlink to the new form.
- Section 250.230: Updated field 04 to include reference to streamline hospice provider coding for claims.

**PUBLIC COMMENT:** A public hearing was held on this rule on January 29, 2025. The public comment period expired on February 17, 2025. The agency provided the following public comment summary:

Commenter's Name: Joy Long, Compliance Analyst III, Compliance Regulatory Distribution Management, CareSource

**COMMENT:** Thank you for the opportunity to review and comment on the proposed Hospice Provider Manual updates. CareSource has no comments or questions, at this time. Respectfully, Joy Long

**RESPONSE:** Thank you for your comment.

The proposed effective date is June 1, 2025.

**FINANCIAL IMPACT:** The agency indicated that this rule has no financial impact.

**LEGAL AUTHORIZATION:** The Department of Human Services has the responsibility to administer assigned forms of public assistance and is specifically authorized to maintain an indigent medical care program (Arkansas Medicaid). *See* Ark. Code Ann. §§ 20-76-201(1), 20-77-107(a)(1). The Department has the authority to make rules that are necessary or desirable to carry out its public assistance duties. Ark. Code Ann. § 20-76-201(12). The Department and its divisions also have the authority to promulgate rules as necessary to conform their programs to federal law and receive federal funding. Ark. Code Ann. § 25-10-129(b).

**11. DEPARTMENT OF TRANSFORMATION AND SHARED SERVICES,  
DIVISION OF INFORMATION SYSTEMS (Jennifer Davis)**

**a. REPEAL: Standard Statement – Virus Scanning**

**DESCRIPTION:** The Department of Transformation and Shared Services, Division of Information Systems (DIS), seeks to repeal its Standard Statement – Virus Scanning. The rule was previously promulgated by the Office of the State Executive Chief Information Officer in 2003. This office was disbanded in 2007, and the rule was never officially transferred to DIS. This rule is an internally used standards policy that relates to the use of virus scanning software. This policy is outdated and has been modified many times over the last 20 years by DIS. The Administrative Procedure Act states a rule does not mean a statement that concerns the internal management of a state agency and that does not affect the private rights or procedures available to the public. Ark. Code Ann. § 25-15-202(9)(B)(i). The rule currently promulgated only describes and affects the procedures within DIS and its interaction with other departments without any public interaction. As such, the rule needs to be repealed.

**PUBLIC COMMENT:** A public hearing was held on January 21, 2025. The public comment period closed on January 27, 2025. The agency indicated that it received no public comments.

The proposed effective date is pending legislative review and approval.

**FINANCIAL IMPACT:** The agency indicated that the proposed repeal has no financial impact.

**LEGAL AUTHORIZATION:** Pursuant to Arkansas Code Annotated § 25-4-105(a)(1), the Division of Information Systems shall be vested with all the powers and duties necessary to administer the division and to enable it to carry out fully and effectively the rules and laws relating to the division. The division's powers and duties relate to information technology and include without limitation promulgating rules that are

necessary for efficient administration and enforcement of the powers, functions, and duties of the division as provided under Title 25, Chapter 4 of the Arkansas Code, which concerns the Division of Information Systems. *See Ark. Code Ann. § 25-4-105(a)(2)(G).*

**b. REPEAL: Standard Statement – Password Management**

**DESCRIPTION:** The Department of Transformation and Shared Services, Division of Information Systems (DIS), seeks to repeal its Standard Statement – Password Management. The rule was previously promulgated by the Office of the State Executive Chief Information Officer in 2003. This office was disbanded in 2007, and the rule was never officially transferred to DIS. This rule is an internally used standards policy that relates to the password management. This policy is outdated and has been modified many times over the last 20 years by DIS. The Administrative Procedure Act states a rule does not mean a statement that concerns the internal management of a state agency and that does not affect the private rights or procedures available to the public. Ark. Code Ann. § 25-15-202(9)(B)(i). The rule currently promulgated only describes and affects the procedures within DIS and its interaction with other departments without any public interaction. As such, the rule needs to be repealed.

**PUBLIC COMMENT:** A public hearing was held on January 21, 2025. The public comment period closed on January 27, 2025. The agency indicated that it received no public comments.

The proposed effective date is legislative review and approval.

**FINANCIAL IMPACT:** The agency indicated that the proposed repeal has no financial impact.

**LEGAL AUTHORIZATION:** Pursuant to Arkansas Code Annotated § 25-4-105(a)(1), the Division of Information Systems shall be vested with all the powers and duties necessary to administer the division and to enable it to carry out fully and effectively the rules and laws relating to the division. The division's powers and duties relate to information technology and include without limitation promulgating rules that are necessary for efficient administration and enforcement of the powers, functions, and duties of the division as provided under Title 25, Chapter 4 of the Arkansas Code, which concerns the Division of Information Systems. *See Ark. Code Ann. § 25-4-105(a)(2)(G).*

c. **REPEAL: Standard Statement – Warning Banner**

**DESCRIPTION:** The Department of Transformation and Shared Services, Division of Information Systems (DIS), seeks to repeal its Standard Statement – Warning Banner. The rule was previously promulgated by the Office of the State Executive Chief Information Officer in 2003. This office was disbanded in 2007, and the rule was never officially transferred to DIS. This rule is an internally used standards policy that relates to the use of warning banners on state computers. This policy is outdated and has been modified many times over the last 20 years by DIS. The Administrative Procedure Act states a rule does not mean a statement that concerns the internal management of a state agency and that does not affect the private rights or procedures available to the public. Ark. Code Ann. § 25-15-202(9)(B)(i). The rule currently promulgated only describes and affects the procedures within DIS and its interaction with other departments without any public interaction. As such, the rule needs to be repealed.

**PUBLIC COMMENT:** A public hearing was held on January 21, 2025. The public comment period closed on January 27, 2025. The agency indicated that it received no public comments.

The proposed effective date is pending legislative review and approval.

**FINANCIAL IMPACT:** The agency indicated that the proposed repeal has no financial impact.

**LEGAL AUTHORIZATION:** Pursuant to Arkansas Code Annotated § 25-4-105(a)(1), the Division of Information Systems shall be vested with all the powers and duties necessary to administer the division and to enable it to carry out fully and effectively the rules and laws relating to the division. The division's powers and duties relate to information technology and include without limitation promulgating rules that are necessary for efficient administration and enforcement of the powers, functions, and duties of the division as provided under Title 25, Chapter 4 of the Arkansas Code, which concerns the Division of Information Systems. *See* Ark. Code Ann. § 25-4-105(a)(2)(G).

d. **REPEAL: Standard Statement – Personnel Security**

**DESCRIPTION:** The Department of Transformation and Shared Services, Division of Information Systems (DIS), seeks to repeal its Standard Statement – Personnel Security. The rule was previously promulgated by the Office of the State Executive Chief Information Officer in 2003. This office was disbanded in 2007, and the rule was never officially transferred to DIS. This rule is an internally used

standards policy that relates to personnel security and access to data. This policy is outdated and has been modified many times over the last 20 years by DIS. The Administrative Procedure Act states a rule does not mean a statement that concerns the internal management of a state agency and that does not affect the private rights or procedures available to the public. Ark. Code Ann. § 25-15-202(9)(B)(i). The rule currently promulgated only describes and affects the procedures within DIS and its interaction with other departments without any public interaction. As such, the rule needs to be repealed.

**PUBLIC COMMENT:** A public hearing was held on January 21, 2025. The public comment period closed on January 27, 2025. The agency indicated that it received no public comments.

The proposed effective date is pending legislative review and approval.

**FINANCIAL IMPACT:** The agency indicated that the proposed repeal has no financial impact.

**LEGAL AUTHORIZATION:** Pursuant to Arkansas Code Annotated § 25-4-105(a)(1), the Division of Information Systems shall be vested with all the powers and duties necessary to administer the division and to enable it to carry out fully and effectively the rules and laws relating to the division. The division's powers and duties relate to information technology and include without limitation promulgating rules that are necessary for efficient administration and enforcement of the powers, functions, and duties of the division as provided under Title 25, Chapter 4 of the Arkansas Code, which concerns the Division of Information Systems. *See* Ark. Code Ann. § 25-4-105(a)(2)(G).

e. **REPEAL: Policy Statement – Project Management**

**DESCRIPTION:** The Department of Transformation and Shared Services, Division of Information Systems (DIS), seeks to repeal its Policy Statement – Project Management. The rule was previously promulgated by the Office of the State Executive Chief Information Officer in 2003 with authority through Act 1042 of 2001. This office was disbanded in 2007, and the rule was never officially transferred to DIS. This rule is an internally used standards policy that relates to the management of the state's information technology projects. This policy is outdated and has been modified many times over the last 20 years by DIS. The Administrative Procedure Act states a rule does not mean a statement that concerns the internal management of a state agency and that does not affect the private rights or procedures available to the public. Ark. Code Ann. § 25-15-202(9)(B)(i). The rule currently promulgated only describes and affects the procedures within DIS and its interaction with other

departments without any public interaction. As such, the rule needs to be repealed.

**PUBLIC COMMENT:** A public hearing was held on January 21, 2025. The public comment period closed on January 27, 2025. The agency indicated that it received no public comments.

The proposed effective date is pending legislative review and approval.

**FINANCIAL IMPACT:** The agency indicated that the proposed repeal has no financial impact.

**LEGAL AUTHORIZATION:** Pursuant to Arkansas Code Annotated § 25-4-105(a)(1), the Division of Information Systems shall be vested with all the powers and duties necessary to administer the division and to enable it to carry out fully and effectively the rules and laws relating to the division. The division's powers and duties relate to information technology and include without limitation promulgating rules that are necessary for efficient administration and enforcement of the powers, functions, and duties of the division as provided under Title 25, Chapter 4 of the Arkansas Code, which concerns the Division of Information Systems. *See Ark. Code Ann. § 25-4-105(a)(2)(G).*

**f. REPEAL: Standard Statement – Encryption**

**DESCRIPTION:** The Department of Transformation and Shared Services, Division of Information Systems (DIS), seeks to repeal its Standard Statement – Encryption. The rule was previously promulgated by the Office of the State Executive Chief Information Officer in 2006. This office was disbanded in 2007, and the rule was never officially transferred to DIS. This rule is an internally used standards policy that relates to the encryption of sensitive data. This policy is outdated and has been modified many times over the last 18 years by DIS. The Administrative Procedure Act states a rule does not mean a statement that concerns the internal management of a state agency and that does not affect the private rights or procedures available to the public. Ark. Code Ann. § 25-15-202(9)(B)(i). The rule currently promulgated only describes and affects the procedures within DIS and its interaction with other departments without any public interaction. As such, the rule needs to be repealed.

**PUBLIC COMMENT:** A public hearing was held on January 21, 2025. The public comment period closed on January 27, 2025. The agency indicated that it received no public comments.

The proposed effective date is pending legislative review and approval.

**FINANCIAL IMPACT:** The agency indicated that the proposed repeal has no financial impact.

**LEGAL AUTHORIZATION:** Pursuant to Arkansas Code Annotated § 25-4-105(a)(1), the Division of Information Systems shall be vested with all the powers and duties necessary to administer the division and to enable it to carry out fully and effectively the rules and laws relating to the division. The division's powers and duties relate to information technology and include without limitation promulgating rules that are necessary for efficient administration and enforcement of the powers, functions, and duties of the division as provided under Title 25, Chapter 4 of the Arkansas Code, which concerns the Division of Information Systems. *See* Ark. Code Ann. § 25-4-105(a)(2)(G).

**g. REPEAL: Department of Information Systems Rules (October 17, 1997)**

**DESCRIPTION:** The Department of Transformation and Shared Services, Division of Information Systems (DIS), seeks to repeal its Department of Information Systems Rules (October 17, 1997). The rules were promulgated in 1997 and relate to information technology planning. This outdated policy has been modified many times internally by DIS and applies only to DIS and other state entities with no public interaction. The Administrative Procedure Act states a rule does not mean a statement that concerns the internal management of a state agency and that does not affect the private rights or procedures available to the public. Ark. Code Ann. § 25-15-202(9)(B)(i). The rule currently promulgated only describes and affects the procedures within DIS and its interaction with other departments without any public interaction. As such, the rule needs to be repealed.

**PUBLIC COMMENT:** A public hearing was held on January 21, 2025. The public comment period closed on January 27, 2025. The agency indicated that it received no public comments.

The proposed effective date is pending legislative review and approval.

**FINANCIAL IMPACT:** The agency indicated that the proposed repeal has no financial impact.

**LEGAL AUTHORIZATION:** Pursuant to Arkansas Code Annotated § 25-4-105(a)(1), the Division of Information Systems shall be vested with all the powers and duties necessary to administer the division and to enable it to carry out fully and effectively the rules and laws relating to the division. The division's powers and duties relate to information



technology and include without limitation promulgating rules that are necessary for efficient administration and enforcement of the powers, functions, and duties of the division as provided under Title 25, Chapter 4 of the Arkansas Code, which concerns the Division of Information Systems. *See* Ark. Code Ann. § 25-4-105(a)(2)(G).

**F. Agency Updates on the Status of Outstanding Rulemaking from the 2023 Regular Session Pursuant to Act 595 of 2021<sup>2</sup>**

**1. DEPARTMENT OF AGRICULTURE (Secretary Wes Ward)**

*Rules Outstanding as of May 1, 2025, as Reported and Updated by the Agency*

- **Liquid Animal Waste Management Systems Rule (Act 824 of 2023)**
  - Act 824 provides that the Department of Agriculture, in consultation with the Division of Environmental Quality, has authority over all liquid animal waste management systems in the state, including issuance of permits for those systems. The Act requires the Department to adopt rules but provides that the Department shall use the current Pollution Control and Ecology Commission Regulation No. 5 until the Department promulgates rules. The public comment period ran from August 3 to September 16, 2024, and the Department held a public hearing on the rule on August 26, 2024.
  - On November 14, 2024, this rule did not receive the ALC Rules Subcommittee review necessary for completion of the promulgation process. To allow more time to carefully review the proposed rule in response to the large number of comments from interested parties and stakeholders and anticipated legislation before the General Assembly, the Department requested removal of the rule from December's ALC-Administrative Rules Subcommittee agenda. The Department has now requested the rule be placed on the next available ALC-Administrative Rules Subcommittee agenda. [The rule was pulled from the current agenda, at the agency's request, on May 13, 2025.]

**2. DEPARTMENT OF COMMERCE, ARKANSAS ECONOMIC DEVELOPMENT COMMISSION (Jake Windley, Bo Loftis)**

*Rules Outstanding as of May 1, 2025, as Reported and Updated by the Agency*

- **Consolidated Incentive Act Rules (Act 834 of 2023)**
  - Changes to existing version of rule required by changes to the

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<sup>2</sup> Outstanding rules that are on the current agenda for legislative review and approval are designated by an asterisk (\*).

definition of an “eligible business” included in Act 834 of 2023. The current version of the rule does not incorporate these changes.

- This rule is not currently at any stage in the rulemaking process. Internal discussions are ongoing as to whether the existing rule should be amended or repealed in its entirety. The Consolidated Incentive Act does not require rules promulgation, and the current version of the rule largely restates the statute. Due to the fact that internal discussions are ongoing, no anticipated date for the rule being on the subcommittee’s agenda can be provided.

**3. DEPARTMENT OF CORRECTIONS (Tawnie Rowell)**

***Rules Outstanding as of May 1, 2025, as Reported and Updated by the Agency***

*Secretary of Corrections*

- **Visitation (Act 659, § 112 of 2023)**

- This rule will be promulgated by the Secretary of Corrections, who has approved it. There was a stakeholder request for a definition change. It is anticipated that review and approval will be sought in July 2025.

*Post-Prison Transfer Board*

- **Transfer to Post Release Supervision (Act 659, § 2 of 2023)**

- This rule is being promulgated by the Post-Prison Transfer Board, and a draft is being circulated to stakeholders. It is anticipated that review and approval will be sought in July of 2025.

- **\*Revocation from Supervision (Act 659, § 2 of 2023)**

**4. DEPARTMENT OF EDUCATION (Courtney Salas-Ford)**

***Rules Outstanding as of May 1, 2025, as Reported and Updated by the Agency***

*Arkansas State Library*

- **Rules Governing the Standards for State Aid to Public Libraries (Act 566, § 11 of 2023)**

- Rulemaking regarding Act 566 of 2023 is temporarily suspended due to the passage of Act 903 of 2025. The agency anticipates rulemaking to occur following the appointment of a new slate of library board members.

*Division of Career and Technical Education*

- **Rules Governing the Approval of Computer Science-Related Career and Technical Education Course (Act 654, § 4 of 2023)**

- This rule is being redrafted in compliance with the Code of Arkansas Rules. It is anticipated that the final rule will be submitted for ALC review in August.

- **Rules Governing the Vocational Start-Up Grant Program (Act 867, § 7 of 2023)**

- This rule is being redrafted in compliance with the Code of Arkansas Rules. It is anticipated that the final rule will be submitted for ALC review in August.

*Division of Elementary and Secondary Education*

- **Rules Governing the Child Sexual Abuse and Human Trafficking Prevention Program (Act 237, § 16 of 2023)**

- This amendment has been drafted and is on the State Board of Education in its May 8, 2025 agenda to be released for public comment. It is anticipated that the final rule will be submitted for ALC review in August.

- **Rules Governing School District Waivers (Act 347, § 1 of 2023)**

- The agency is redrafting this rule due to the enactment of Act 304 of 2025. The rule will be a top priority for the current round of rulemaking with a final rule anticipated in August.

- **Rules Governing Grading and Course Credit (Act 654, §§ 2, 4 of 2023)**

- This rule has been released by the State Board of Education to be released for a public comment; however, the agency is redrafting this rule due to the enactment of Act 341 of 2025. The rule will be a top priority for the current round of rulemaking with a final rule anticipated in August.

*State Board of Education*

- **Rules Governing the Course Choice Program (Act 237, § 20 of 2023)**

- The agency is redrafting this rule due to the enactment of Act 730 of 2025. The rule will be a top priority for the current round of rulemaking with a final rule anticipated in August.

- **Rules Governing Dyslexia Screenings in Schools (Act 237, § 51 of 2023)**

- This rule is currently in public comment. It is anticipated that the final rule will be submitted for ALC review in June.

- **Rules Governing Implementation of the Inpatient and Residential Facilities Appropriation (Act 572, § 11 of 2023)**

- This rule is being considered by the State Board of Education for final approval on May 8, 2025.

- **Rules Governing Implementation of the Juvenile Detention Facilities Appropriation (Act 572, § 12 of 2023)**

- This rule is being considered by the State Board of Education for final approval on May 8, 2025.

- **Rules Governing Public Charter Schools (Act 237, § 49 of 2023)**

- The agency is redrafting this rule due to the enactment of Act 800 of 2025. The rule will be a top priority for the current round of rulemaking with a final rule anticipated in August.

*Division of Higher Education*

- **\*Rules Governing Universal Academic Credit (Act 237, § 54 of 2023)**

**5. DEPARTMENT OF FINANCE AND ADMINISTRATION, REVENUE DIVISION (Paul Gehring, Alicia Austin Smith)**

*Rules Outstanding as of May 1, 2025, as Reported and Updated by the Agency*

- **\*Waterways Investment Tax Credit (Act 881 of 2023)**

**G. Adjournment**