

DEPARTMENT OF HUMAN SERVICES, DIVISION OF MEDICAL SERVICES

SUBJECT: Hospital Cost Settlement Reopening Process

DESCRIPTION:

Statement of Necessity

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

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

Summary of Changes

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

PUBLIC COMMENT: A public hearing was held on these rules on July 24, 2024. The public comment period expired on August 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 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).



ARKANSAS
DEPARTMENT OF
**HUMAN
SERVICES**

Office of Policy and Rules

P.O. Box 1437, Slot S295, Little Rock, AR 72203-1437

P: 501.320.6383 F: 501.404.4619

July 12, 2024

Mrs. Rebecca Miller-Rice
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
#1 Capitol, 5th Floor
Little Rock, AR 72201

Dear Mrs. Rebecca Miller-Rice:

Re: Hospital Cost Settlement Reopening Process

Please arrange for this rule to be reviewed by the ALC-Administrative Rules Subcommittee. If you have any questions or need additional information, please contact me at 501-320-6383 or by emailing Mac.E.Golden@dhs.arkansas.gov.

Sincerely,

Mac Golden

Mac Golden
Deputy Chief

Attachments

**QUESTIONNAIRE FOR FILING PROPOSED RULES WITH
THE ARKANSAS LEGISLATIVE COUNCIL**

DEPARTMENT _____
 BOARD/COMMISSION _____
 BOARD/COMMISSION DIRECTOR _____
 CONTACT PERSON _____
 ADDRESS _____
 PHONE NO. _____ EMAIL _____
 NAME OF PRESENTER(S) AT SUBCOMMITTEE MEETING _____

 PRESENTER EMAIL(S) _____

INSTRUCTIONS

In order to file a proposed rule for legislative review and approval, please submit this Legislative Questionnaire and Financial Impact Statement, and attach (1) a summary of the rule, describing what the rule does, the rule changes being proposed, and the reason for those changes; (2) both a markup and clean copy of the rule; and (3) all documents required by the Questionnaire.

If the rule is being filed for permanent promulgation, please email these items to the attention of Rebecca Miller-Rice, miller-ricer@blr.arkansas.gov, for submission to the Administrative Rules Subcommittee.

If the rule is being filed for emergency promulgation, please email these items to the attention of Director Marty Garrity, garritym@blr.arkansas.gov, for submission to the Executive Subcommittee.

Please answer each question completely using layman terms.

1. What is the official title of this rule?

2. What is the subject of the proposed rule? _____
3. Is this rule being filed under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No

If yes, please attach the statement required by Ark. Code Ann. § 25-15-204(c)(1).

If yes, will this emergency rule be promulgated under the permanent provisions of the Arkansas Administrative Procedure Act? Yes No

4. Is this rule being filed for permanent promulgation? Yes No

If yes, was this rule previously reviewed and approved under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No

If yes, what was the effective date of the emergency rule? _____

On what date does the emergency rule expire? _____

5. Is this rule required to comply with a *federal* statute, rule, or regulation? Yes No

If yes, please provide the federal statute, rule, and/or regulation citation.

6. Is this rule required to comply with a *state* statute or rule? Yes No

If yes, please provide the state statute and/or rule citation.

7. Are two (2) rules being repealed in accord with Executive Order 23-02? Yes No

If yes, please list the rules being repealed.

If no, please explain.

8. Is this a new rule? Yes No

Does this repeal an existing rule? Yes No

If yes, the proposed repeal should be designated by strikethrough. If it is being replaced with a new rule, please attach both the proposed rule to be repealed and the replacement rule.

Is this an amendment to an existing rule? Yes No

If yes, all changes should be indicated by strikethrough and underline. In addition, please be sure to label the markup copy clearly as the markup.

9. What is the state law that grants the agency its rulemaking authority for the proposed rule, outside of the Arkansas Administrative Procedure Act? Please provide the specific Arkansas Code citation(s), including subsection(s).

10. Is the proposed rule the result of any recent legislation by the Arkansas General Assembly?
Yes No

If yes, please provide the year of the act(s) and act number(s).

11. What is the reason for this proposed rule? Why is it necessary?

12. Please provide the web address by which the proposed rule can be accessed by the public as provided in Ark. Code Ann. § 25-19-108(b)(1).

13. Will a public hearing be held on this proposed rule? Yes No

If yes, please complete the following:

Date: _____

Time: _____

Place: _____

Please be sure to advise Bureau Staff if this information changes for any reason.

14. On what date does the public comment period expire for the permanent promulgation of the rule? Please provide the specific date. _____

15. What is the proposed effective date for this rule? _____

16. Please attach (1) a copy of the notice required under Ark. Code Ann. § 25-15-204(a)(1) and (2) proof of the publication of that notice.

17. Please attach proof of filing the rule with the Secretary of State, as required by Ark. Code Ann. § 25-15-204(e)(1)(A).

18. Please give the names of persons, groups, or organizations that you anticipate will comment on these rules. Please also provide their position (for or against), if known.

19. Is the rule expected to be controversial? Yes No

If yes, please explain.

NOTICE OF RULEMAKING

The Department of Human Services announces for a public comment period of thirty (30) calendar days a notice of rulemaking for the following proposed rule under one or more of the following chapters, subchapters, or sections of the Arkansas Code: §§ 20-76-201, 20-77-107, and 25-10-129.

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

The proposed rule is available for review at the Department of Human Services (DHS) Office of Policy and Rules, 2nd floor Donaghey Plaza South Building, 7th and Main Streets, P. O. Box 1437, Slot S295, Little Rock, Arkansas 72203-1437. This notice also shall be posted at the local office of the Division of County Operations (DCO) of DHS in every county in the state.

You may also access and download the proposed rule at ar.gov/dhs-proposed-rules. Public comments must be submitted in writing at the above address or at the following email address: ORP@dhs.arkansas.gov. All public comments must be received by DHS no later than August 12, 2024. Please note that public comments submitted in response to this notice are considered public documents. A public comment, including the commenter's name and any personal information contained within the public comment, will be made publicly available and may be seen by various people. A public hearing will be held by remote access through Zoom. Public comments may be submitted at the hearing. The details for attending the Zoom hearing appear at ar.gov/dhszoom.

If you need this material in a different format, such as large print, contact the Office of Policy and Rules at (501) 320-6428. The Arkansas Department of Human Services is in compliance with Titles VI and VII of the Civil Rights Act and is operated, managed, and delivers services without regard to religion, disability, political affiliation, veteran status, age, race, color, or national origin. 4502201653

Elizabeth Pitman, Director
Division of Medical Services

From: [Legal Ads](#)
To: [Chloe Crater](#)
Subject: Re: FULL RUN AD - Hospital Cost Reporting Reopenings
Date: Friday, July 12, 2024 6:40:08 AM
Attachments: [image001.png](#)
[image002.png](#)

[EXTERNAL SENDER]

Thanks, Chloe. Will run Sun 7/14, Mon 7/15, and Tues 7/16.

Gregg Sterne, Legal Advertising
Arkansas Democrat-Gazette
legalads@arkansasonline.com

From: "Chloe Crater" <Chloe.Crater@dhs.arkansas.gov>
To: "legalads" <legalads@arkansasonline.com>
Cc: "Jack Tiner" <jack.tiner@dhs.arkansas.gov>, "Mac Golden" <Mac.E.Golden@dhs.arkansas.gov>, "Lakeya Gipson" <Lakeya.Gipson@dhs.arkansas.gov>, "Elaine Stafford" <elaine.stafford@dhs.arkansas.gov>
Sent: Thursday, July 11, 2024 2:08:07 PM
Subject: FULL RUN AD - Hospital Cost Reporting Reopenings

Hi Gregg,

Please run the attached ad in the Arkansas Democrat-Gazette on the following days:

- Sunday July 14, 2024
- Monday July 15, 2024
- Tuesday July 16, 2024

A public hearing by remote access only will be held through a Zoom webinar. The public comment period will end on August 12, 2024. I am aware that the print version will only be provided to all counties on Sundays. Also, please reply to this email using "Reply All".

Invoice to: **AR Dept of Human Services**
OPR, ATTN: Lakeya Gipson
P.O. Box 1437, Slot S295
Little Rock, AR 72203-8068

(Lakeya.Gipson@dhs.arkansas.gov)

OFFICE OF LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS – RULES
PROMULGATION
PROGRAM ADMINISTRATOR

P: 501-320-6217
700 MAIN STREET
Little Rock, AR 72201
Chloe.Crater@dhs.arkansas.gov

humanservices.arkansas.gov



This email may contain sensitive or confidential information.

CONFIDENTIALITY NOTICE: The information contained in this email message and any attachment(s) is the property of the State of Arkansas and may be protected by state and federal laws governing disclosure of private information. It is intended solely for the use of the entity to which this email is addressed. If you are not the intended recipient, you are hereby notified that reading, copying or distribution this transmission is **STRICTLY PROHIBITED**. The sender has not waived any applicable privilege by sending the accompanying transmission. If you have received this transmission in error, please notify the sender by return and delete the message and attachment(s) from your system.

From: [Janiya Pettus](#)
To: [Chloe Crater](#); [Arkansas Register](#)
Cc: [Mac Golden](#); [Jack Tiner](#); [Lakeya Gipson](#); [JAMIE EWING](#)
Subject: RE: DHS/DMS - PROPOSED FILING - Hospital Cost Report Reopenings (Rule 279)
Date: Thursday, July 11, 2024 6:20:07 PM
Attachments: [image003.png](#)
[image001.png](#)
[image002.png](#)
[SOS_INITIAL_PACKET - Hospital Cost Reopenings.pdf](#)

[EXTERNAL SENDER]

The attachment has **received** a stamp indicating our office has received the rule that was sent to us. It is now uploaded on our website.

Best,



Janiya Pettus (She/Her)

Elections Services Representative
Arkansas Secretary of State
501.682.5070 ext. 5011

From: Chloe Crater <Chloe.Crater@dhs.arkansas.gov>
Sent: Thursday, July 11, 2024 4:38 PM
To: Arkansas Register <ArkansasRegister@sos.arkansas.gov>
Cc: Mac Golden <Mac.E.Golden@dhs.arkansas.gov>; Jack Tiner <jack.tiner@dhs.arkansas.gov>; Lakeya Gipson <Lakeya.Gipson@dhs.arkansas.gov>; JAMIE EWING <JAMIE.EWING@dhs.arkansas.gov>
Subject: DHS/DMS - PROPOSED FILING - Hospital Cost Report Reopenings (Rule 279)
Importance: High

External Message

The attached Rule will run in the Arkansas Democrat Gazette on the following days:

- Sunday July 14, 2024
- Monday July 15, 2024
- Tuesday July 16, 2024

A public hearing by remote access only will be held through a Zoom webinar on July 24 2024 at 10:00 a.m. The public comment period will end on August 12, 2024.

-Thanks

Chloe



CHLOE CRATER-BETTON

OFFICE OF LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS – RULES

PROMULGATION

PROGRAM ADMINISTRATOR

P: 501-320-6217

700 MAIN STREET

Little Rock, AR 72201

Chloe.Crater@dhs.arkansas.gov

humanservices.arkansas.gov



This email may contain sensitive or confidential information.

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FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY.

DEPARTMENT _____
BOARD/COMMISSION _____
PERSON COMPLETING THIS STATEMENT _____
TELEPHONE NO. _____ **EMAIL** _____

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

TITLE OF THIS RULE _____

1. Does this proposed, amended, or repealed rule have a financial impact?
Yes No

2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?
Yes No

3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If no, please explain:

(a) how the additional benefits of the more costly rule justify its additional cost;

(b) the reason for adoption of the more costly rule;

(c) whether the reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and

(d) whether the reason for adoption of the more costly rule is within the scope of the agency's statutory authority, and if so, how.

4. If the purpose of this rule is to implement a *federal* rule or regulation, please state the following:
 - (a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

(b) What is the additional cost of the state rule?

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

5. What is the total estimated cost by fiscal year to any private individual, private entity, or private business subject to the proposed, amended, or repealed rule? Please identify those subject to the rule, and explain how they are affected.

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

6. What is the total estimated cost by fiscal year to a state, county, or municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes No

If yes, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

Statement of Necessity and Rule Summary Hospital Cost Settlement Reopening Process

Statement of Necessity

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

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

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

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

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

MARKED

TOC required**257.100 Cost Settlement Reopening Process****10-1-24**

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METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES -
INPATIENT HOSPITAL SERVICES

October 1, 2024

7. Cost Settlement Reopening Process

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

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES -
INPATIENT HOSPITAL SERVICES

October 1, 2024

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