

EXHIBIT H

DEPARTMENT OF HUMAN SERVICES, MEDICAL SERVICES

SUBJECT: Notice of Rule Making 002-15 (CPT) and 003-15 (HCPCS) Conversion Notices

DESCRIPTION: To comply with federal regulation 45 CFR Subpart J, Section 162.1002, these Notices of Rulemaking informs providers of the implementation of the annual Current Procedure Codes, (CPT), and the annual Healthcare Common Procedure Codes Systems, (HCPCS). These data sets are created and published by the American Medical Association and the Centers for Medicare and Medicaid on an annual basis. This rule is necessary for consistency with the utilization of procedure codes used by Medicare and other third party payers of medical claims. These data sets are standardized and are used nationally for claims processing. This emergency notice will help expedite claims processing. Payable procedure codes will be added to the provider fee schedules and policy manuals will be updated as necessary. This will ensure that additional claims system testing will not be needed before implementation, resulting in subsequent delays and further lost efficiency of time. It will also help to put 2016 CPT/HCPCS planning, programming, testing, and promulgation processes back on its regular timelines.

PUBLIC COMMENT: No public hearing was held. The public comment period expired on February 9, 2016. The Department received no comments.

This rule was originally filed as an Emergency Regulation and was approved by the Executive Sub-Committee on January 4, 2015. The proposed effective date of the permanent promulgation of this rule is pending Legislative approval.

CONTROVERSY: This is not expected to be controversial.

FINANCIAL IMPACT: The cost to implement the rule is \$163,287 for the current fiscal year (\$48,627 in general revenue and \$114,660 in federal funds) and \$304,913 for the next fiscal year (\$92,175 in general revenue and \$212,738 in federal funds). This is a required code conversion. Failure to implement these code changes would result in Arkansas Medicaid being out of compliance with HIPAA requirements.

LEGAL AUTHORIZATION: Arkansas Code Annotated § 20-76-201 (12) gives the Department the general authority to “make rules and regulations and take actions as are necessary or desirable to carry out the provisions of this chapter and that are not inconsistent therewith.”

**QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE**

DEPARTMENT/AGENCY Department of Human Services
 DIVISION Division of Medical Services
 DIVISION DIRECTOR Dawn Zekis
 CONTACT PERSON Cathy Coffman
 ADDRESS P.O. Box 1437, Slot S295, Little Rock, AR 72203-1437
 PHONE NO. 501-537-1670 FAX NO. (501)682-2480 E-MAIL cathy.coffman@dhs.arkansas.gov
 NAME OF PRESENTER AT COMMITTEE MEETING Tami Harlan
 PRESENTER E-MAIL tami.harlan@dhs.arkansas.gov

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

**Donna K. Davis
 Administrative Rules Review Section
 Arkansas Legislative Council
 Bureau of Legislative Research
 One Capitol Mall, 5th Floor
 Little Rock, AR 72201**

1. What is the short title of this rule? Notice of Rule Making Notice 002-15 and 003-15
2. What is the subject of the proposed rule? To inform providers of the 2015 Healthcare Common Procedural Coding System (HCPSC) and the 2015 Current Procedural Codes (CPT)
3. Is this rule required to comply with a federal statute, rule, or regulation? Yes No
 If yes, please provide the federal rule, regulation, and/or statute citation. 45 CFR Subpart A Section 162.1002 and the Health Insurance Portability and Accountability Act
4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes No
 If yes, what is the effective date of the emergency rule? December 18, 2015

When does the emergency rule expire?

February 13, 2016

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act?

Yes

No

5. Is this a new rule? Yes No

If yes, please provide a brief summary explaining the regulation. To comply with federal regulation 45 CFR Section 162.1002 implementing an annual code conversion.

Does this repeal an existing rule? Yes No

If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does. _____

Is this an amendment to an existing rule?

Yes

No

If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. Arkansas Statute 20-76-201

7. What is the purpose of this proposed rule? Why is it necessary? The purpose of the proposed rule is to be in compliance with federal regulations 45 CFR Part 45 Section 162.1002. These notices of rulemaking are prepared in order to inform Arkansas Medicaid enrolled providers of the implementation of the annual CPT and HCPCS coding conversion and make non payable those deleted procedure codes from the 2014 code books. This rule is necessary for consistency with utilization of procedure codes used by Medicare and other third party payers of medical claims.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).

<https://www.medicaid.state.ar.us/InternetSolution/general/comment/comment.aspx>

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

If yes, please complete the following:

Date: _____

Time: _____

Place: _____

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

February 9, 2016

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

March 1, 2016

12. Do you expect this rule to be controversial? Yes No

If yes, please
explain.

13. Please give the names of persons, groups, or organizations that you expect to comment on these rules?
Please provide their position (for or against) if known.

Medical associations and interested providers are for this legislation.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Department of Human Services
DIVISION Division of Medical Services
PERSON COMPLETING THIS STATEMENT Brian Jones
TELEPHONE NO. (501)5372064 **FAX NO.** (501)682-2480 **EMAIL:** brian.jones@dhs.arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Notice of Rulemaking 002-15 & 003-15

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 an agency is proposing a more costly rule, please state the following:

- (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 more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;

- (d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.

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) _____

Next Fiscal Year

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

Total _____

Total _____

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

Current Fiscal Year

Next Fiscal Year

General Revenue	<u>\$48,627</u>
Federal Funds	<u>\$114,660</u>
Cash Funds	_____
Special Revenue	_____
Other (Identify)	_____
Total	<u>\$163,287</u>

General Revenue	<u>\$92,175</u>
Federal Funds	<u>\$212,738</u>
Cash Funds	_____
Special Revenue	_____
Other (Identify)	_____
Total	<u>\$304,913</u>

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

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

6. What is the total estimated cost by fiscal year to state, county, and 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

\$ \$48,627

Next Fiscal Year

\$ \$92,175

This is required code conversion. Failure to implement these codes changes would result in Arkansas Medicaid being out of compliance with HIPAA requirements.

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.