

State of Arkansas
91st General Assembly
Regular Session, 2017

A Bill

HOUSE BILL 1501

By: Representative McCollum

For An Act To Be Entitled

AN ACT TO MODIFY AND REPEAL LANGUAGE REFERENCING THE
SUPERSEDED ELDERCHOICES PROGRAM; AND FOR OTHER
PURPOSES.

Subtitle

TO MODIFY AND REPEAL LANGUAGE REFERENCING
THE SUPERSEDED ELDERCHOICES PROGRAM.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 11-10-210(f)(21)(A), concerning exclusions to the definition of "employment" within the Department of Workforce Services Law, is amended to read as follows:

(21)(A) Services performed as personal care services for a certified ~~ElderChoices Provider~~ home- and community-based health services provider licensed under § 20-10-2301 et seq., unless the provider is a state or local government entity or federally recognized Indian tribe as described in 26 U.S.C § 3306(c)(7) or a nonprofit organization as described in 26 U.S.C § 3309(a)(1).

SECTION 2. Arkansas Code § 20-10-2302 is amended to read as follows:
20-10-2302. Definitions.

As used in this subchapter, "private care agency" means a provider that is ~~licensed by the Department of Labor and certified by the Division of Aging and Adult Services of the Department of Human Services as an ElderChoices a~~ provider of home- and community-based health services and that:

(1) Furnishes in-home staffing services for personal and



~~attendant care services that include without limitation respite services, chore services, and homemaker services; and~~

(2) Retains liability insurance of not less than one million dollars (\$1,000,000) to cover its employees and independent contractors while its employees and independent contractors are engaged in providing personal ~~and attendant care services that include without limitation respite services, chore services, and homemaker services.~~

SECTION 3. Arkansas Code § 20-33-213(a)(2)(A), concerning the definition of "service provider" for elder care criminal history and registry records checks, is amended to read as follows:

(A) ~~An ElderChoices~~ A home- and community-based health services provider certified by the Division of Aging and Adult Services of the Department of Human Services;

SECTION 4. Arkansas Code § 20-38-101(9)(E), concerning the definition of "service provider" for criminal backgrounds checks, is amended to read as follows:

(E) ~~An ElderChoices~~ A home- and community-based health services provider certified by the Division of Aging and Adult Services of the Department of Human Services;

SECTION 5. Arkansas Code § 20-77-102(e), concerning the program for long-term care facility care, is repealed.

~~(e) To the extent not prohibited by federal law or regulation, the department shall promulgate rules concerning prior authorization for Medicaid ElderChoices, a community-based service, that are identical to those in effect for nursing homes on July 16, 2003.~~

SECTION 6. Arkansas Code § 20-77-120 is repealed.

~~20-77-120. Medicaid waiver for home and community based care.~~

~~(a) In determining Medicaid eligibility for and providing Medicaid benefits to persons eligible for services through the ElderChoices care program, a home and community based care waiver pursuant to section 1915(e) of the Social Security Act, 42 U.S.C. § 651 et seq., as in effect January 1, 2003, the Department of Human Services, subject to the availability of funds~~

~~for the purpose and to the extent not prohibited by federal law or regulation, shall use the same division of assets and income allowances for Level 1 and Level 2 ElderChoices applications that are used in determining Medicaid eligibility for and providing Medicaid benefits to persons requiring institutional care.~~

~~(b)(1) The department shall apply to the Centers for Medicare and Medicaid Services for an amendment to the ElderChoices Medicaid waiver for home and community based care waivers if an amendment is necessary to implement the provisions of this section.~~

~~(2)(A)(i) The amended waiver shall be funded by savings to the Medicaid program as a result of § 20-77-102(e).~~

~~(ii) The department may set aside sufficient funds to pay administrative costs of implementing the program created by § 20-77-102(e) and provide services according to funding availability. If the provisions of § 20-77-102(e) are approved by the Centers for Medicare and Medicaid Services, the department shall project the savings to the Medicaid program that will result from § 20-77-102(e).~~

~~(B) The department shall implement the amended waiver using the savings projected in subdivision (b)(2)(A)(ii) of this section to the extent allowed under this subdivision (b)(2).~~

~~(c) The department shall promulgate rules to:~~

~~(1) Establish a mechanism to track separately from existing services those clients served and costs incurred by the waiver program established by this section; and~~

~~(2) Report the progress of the program at least quarterly to the House Committee on Public Health, Welfare, and Labor and the Senate Committee on Public Health, Welfare, and Labor.~~

APPROVED: 03/23/2017