

DEPARTMENT OF HUMAN SERVICES, DIVISION OF DEVELOPMENTAL DISABILITIES SERVICES

SUBJECT: Community and Employment Supports (CES) Agency Provider Standards & REPEALS: Arkansas Refugee Resettlement Program State Plan; DHS Policy 3007 – Options Counseling

DESCRIPTION:

Statement of Necessity

This rule establishes the minimum standards for community providers delivering services to beneficiaries enrolled in the Arkansas 1915(c) home and community-based waiver number, AR.0188, which is known as the Community and Employment Support Waiver (CES Waiver).

Rule Summary

Since the implementation of the Provider-led Arkansas Shared Savings Entity (PASSE) managed care model, each PASSE has established its own minimum standards for the CES Waiver providers in its network. Since many providers are enrolled in multiple PASSE networks, this has resulted in the inconsistent application of standards across the PASSE model. This single set of CES Waiver minimum standards establishes a uniform set of standards and provides PASSEs and providers with certainty in the requirements and expectations when delivering CES Waiver services to beneficiaries.

Repeals pursuant to the Governor’s Executive Order 23-02:

- (1) Arkansas Refugee Resettlement Program State Plan; and
- (2) DHS Policy3007, Options Counseling.

Updates made in Response to Public Comments

- Revised Section 302(b)(2): “Each individual eighteen (18) years of age or older residing in an alternative living home that is not a family member of the beneficiary must successfully pass the checks and searches required by Ark. Code Ann. §20-48-812(c)(1-4).”
- Revised Section 302(b)(3): “(3) The checks, screens, and searches prescribed in subdivision (b)(1) of this part are not required for any:
(A) Licensed professional; or
(B) Legal guardian of a beneficiary.”
- Added Section 305(a)(3): “A beneficiary service record must be made immediately available to a beneficiary and their legal guardian upon request.”
- Revised Section 403(c): “The new Provider must hold a transition conference to develop a transition plan for the beneficiary within fourteen (14) business days of issuing the notification required in subsection (b) above. If the new Provider is

unable to hold the a transition conference within the required timeframe, reasonable justification for the delay must be documented.”

- Revised Section 403(d)(1)(f) to read “Documentation or other evidence that demonstrated both the current and new provider’s consent to the transition plan (i.e. signatures on plan, email approval, etc.)” to expand the ways agreement can be demonstrated beyond signatures.
- Added Section 403(e)(3): “If a current provider is denied access to deliver services by the beneficiary or the beneficiary’s family/guardian before transition to the new provider is complete, then the current provider must specifically document its attempts and the family/guardian’s denial of access to provide services.”
- Revised Section 404(d): “If a Provider is currently serving a beneficiary when declaring a refusal to serve, the Provider shall remain responsible for the delivery of CES Waiver Services until the beneficiary transitions to their new Provider or other placement unless there is an immediate health or safety risk to Provider employees. A detailed description of any health and safety risk justifying the ceasing of service delivery prior to a completed transition of beneficiary to a new Provider must be documented.”
- Revised Section 703(a): “If a beneficiary has a legal guardian, then a Provider must notify the legal guardian of any reportable incident involving the beneficiary within one (1) hour of discovery.”

PUBLIC COMMENT: A public hearing was held on this rule on January 24, 2024. The public comment period expired on February 12, 2024. The agency provided a public comment summary which, due to its length, is attached separately.

The proposed effective date is April 1, 2024.

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).