

DEPARTMENT OF HUMAN SERVICES, DIVISION OF AGING, ADULT AND BEHAVIORAL HEALTH SERVICES

SUBJECT: Assisted Living Facility Cost Reporting Pursuant to Act 198

DESCRIPTION:

Statement of Necessity

In compliance with Act 198 of 2023, the Division of Aging, Adult and Behavioral Health Services (DAABHS) amends the Living Choices Assisted Living Medical Provider Manual to advise assisted living providers of cost-reporting requirements. Assisted Living Facilities (ALFs) must complete annual cost-reports as a condition for participating in the Arkansas Medicaid Program.

Rule Summary

Living Choices Assisted Living Medical Provider Manual Section 202.202 (formerly “Reserved”) updated to include new mandate that:

- Any ALF participating in, or seeking to participate in, the Arkansas Medicaid Program, including any Medicaid waiver program under 42 U.S.C. § 1396n(c) or 42 U.S.C. §1315, shall file a cost report with the Department of Human Services with the following requirements:
 - Annually not later than ninety (90) days after the end of the fiscal year of the facility;
 - Within sixty (60) days of any significant change in the facility’s ownership, management, or financial status or solvency; and
 - At any time within sixty (60) days of a written request from the department or the Office of Medicaid Inspector General;
- The Department of Human Services (DHS) shall post the cost-reporting instructions, forms, and schedules on its website;
- DHS may revise the cost-reporting instructions, forms, and schedules at any time, following consultation with representatives of the assisted living facility industry and sixty days before written notice to each Medicaid-certified Level II licensed assisted living facility;
- DHS may require electronic submission of cost reports and accompanying information;
- In preparation and filing of cost reports, each ALF shall:
 - Comply with generally accepted accounting principles and cost-reporting instructions of the department;
 - Follow the accrual method of accounting; and
 - Maintain the working trial balance used in completing the cost reports for each reporting period for a minimum of three (3) years; and
- Requirement that to be considered complete and timely filed, each cost report shall include all information required by the forms, schedules, certifications, and

instructions specified by the department and otherwise comply with generally accepted accounting principles and cost-reporting instructions of the department.

PUBLIC COMMENT: No public hearing was held on this rule. The public comment period expired on May 13, 2024. The agency indicated that it received no comments.

The proposed effective date is July 1, 2024.

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

Per the agency, the total cost to implement the rule is \$4,167 for the current fiscal year (\$2,083 in general revenue and \$2,083 in federal funds) and \$50,000 for the next fiscal year (\$25,000 in general revenue and \$25,000 in federal funds). The total estimated cost by fiscal year to state, county, or municipal government to implement this rule is \$2,083 for the current fiscal year and \$25,000 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).

This rule implements Act 198 of 2023. The Act, sponsored by Representative Jon Eubanks, established cost reporting for assisted living facilities to the Department of Human Services as a condition of participation in the Arkansas Medicaid Program.



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

April 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: Assisted Living Facility Cost Reporting Pursuant to Act 198

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

MG:

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 RULE MAKING

The Department of Human Services (DHS) 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 proposed effective date is July 1, 2024.

The Director of the Division of Aging, Adult and Behavioral Health Services amends the Living Choices Medicaid Provider Manual in compliance with Act 198 of 2023. The “Assisted Living Facility Cost Reporting pursuant to Act 198” rule establishes the annual cost-reporting requirements for Assisted Living Facilities (ALFs) as a condition for participating in the Arkansas Medicaid Program. The projected annual cost of this change is \$4,167.00 for the current state fiscal year and \$50,000.00 for the next state fiscal year, with both years shared equally between the state and federal governments.

The proposed rule is available for review at the Department of Human Services (DHS) Office of Rules Promulgation, 2nd floor Donaghey Plaza South Building, 7th and Main Streets, P. O. Box 1437, Slot S295, Little Rock, Arkansas 72203-1437. 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 May 13, 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.

If you need this material in a different format, such as large print, contact the Office of Rules Promulgation 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

Jay Hill, Director
Division of Aging, Adult and Behavioral Health Services

From: [Legal Ads](#)
To: [Renita Jones](#)
Subject: Re: Full Run AD - Assisted Living Facility Cost Reporting Pursuant to Act 198 (Rule #256)
Date: Friday, April 12, 2024 1:47:41 PM
Attachments: [image001.png](#)
[image002.png](#)

[EXTERNAL SENDER]

Notice will run Sunday, April 14, April 15 and April 16.

Thank you.
Cate Hubbard, filling in for
Gregg Sterne, Legal Advertising
Arkansas Democrat-Gazette
legalads@arkansasonline.com

From: "Renita Jones" <Renita.Jones@dhs.arkansas.gov>
To: "legalads" <legalads@arkansasonline.com>
Cc: "Renita Jones" <Renita.Jones@dhs.arkansas.gov>, "Jack Tiner" <jack.tiner@dhs.arkansas.gov>, "Lakeya Gipson" <Lakeya.Gipson@dhs.arkansas.gov>, "Elaine Stafford" <elaine.stafford@dhs.arkansas.gov>
Sent: Friday, April 12, 2024 8:02:24 AM
Subject: Full Run AD - Assisted Living Facility Cost Reporting Pursuant to Act 198 (Rule #256)

Good morning,

Please run the attached public notice on **Sunday, April 14th, Monday, April 15th and Tuesday, April 16th**. I am aware that the print version will only be provided to all counties on Sundays. Please let me know if you have any questions or concerns. [Please reply to this email using REPLY ALL.](#)

Please invoice to: **AR Dept. of Human Services**
P.O. Box 1437
Slot S535
Little Rock, AR 72203
ATTN: Elaine Stafford (Elaine.Stafford@dhs.arkansas.gov)
Or email invoices to : dms.invoices@arkansas.gov

Thank you,



Renita Jones

[Office of Policy & Rules](#)

Program Administrator

P: 501.320.3949

F: 501.404.4619

700 Main St.

Little Rock, AR 72203

Renita.Jones@dhs.arkansas.gov

humanservices.arkansas.gov



This email may contain sensitive or confidential information.

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From: [Renita Jones](#)
To: register@sos.arkansas.gov
Cc: [Renita Jones](#); [Mac Golden](#); [Jack Tiner](#); [Amanda Cox](#); [Lakeya Gipson](#)
Subject: DHS/DMS - Proposed Filing - Assisted Living Facility Cost Reporting Pursuant to Act 198 (Rule #256) - SOS
Date: Friday, April 12, 2024 2:33:00 PM
Attachments: [image001.png](#)
[image002.png](#)
[Sec of State Initial Filing - Rule #256.pdf](#)

Good afternoon,

Please see attached for initial filing. This rule will run in the Arkansas Democrat Gazette on Sunday, April 14th, Monday, April 15th and Tuesday, April 16th. The public comment period ends on May 13, 2024. Let me know if you have any questions.

Thank you,



Renita Jones

[Office of Policy & Rules](#)

Program Administrator

P: 501.320.3949

F: 501.404.4619

700 Main St.

Little Rock, AR 72203

Renita.Jones@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

Assisted Living Facility Cost Reporting pursuant to Act 198

Statement of Necessity

In compliance with Act 198 of 2023, the Division of Aging, Adult and Behavioral Health Services (DAABHS) amends the Living Choices Assisted Living Medical Provider Manual to advise assisted living providers of cost-reporting requirements. Assisted Living Facilities (ALFs) must complete annual cost-reports as a condition for participating in the Arkansas Medicaid Program.

Rule Summary

Living Choices Assisted Living Medical Provider Manual Section 202.202 (formerly “Reserved”) updated to include new mandate that:

- Any ALF participating in, or seeking to participate in, the Arkansas Medicaid Program, including any Medicaid waiver program under 42 U.S.C. § 1396n(c) or 42 U.S.C. §1315, shall file a cost report with the Department of Human Services with the following requirements:
 - Annually not later than ninety (90) days after the end of the fiscal year of the facility;
 - Within sixty (60) days of any significant change in the facility’s ownership, management, or financial status or solvency; and
 - At any time within sixty (60) days of a written request from the department or the Office of Medicaid Inspector General;
- The Department of Human Services (DHS) shall post the cost-reporting instructions, forms, and schedules on its website;
- DHS may revise the cost-reporting instructions, forms, and schedules at any time, following consultation with representatives of the assisted living facility industry and sixty days before written notice to each Medicaid-certified Level II licensed assisted living facility;
- DHS may require electronic submission of cost reports and accompanying information;
- In preparation and filing of cost reports, each ALF shall:
 - Comply with generally accepted accounting principles and cost-reporting instructions of the department;
 - Follow the accrual method of accounting; and
 - Maintain the working trial balance used in completing the cost reports for each reporting period for a minimum of three (3) years; and
- Requirement that to be considered complete and timely filed, each cost report shall include all information required by the forms, schedules, certifications, and instructions specified by the department and otherwise comply with generally accepted accounting principles and cost-reporting instructions of the department.

TOC required

202.200

Reserved Living Choices Assisted Living Facility Cost Report Requirements4-4-437-1-
24

An assisted living facility participating in, or seeking to participate in, the Arkansas Medicaid Program, including any Medicaid waiver program under 42 U.S.C. § 1396n(c) or 42 U.S.C. §1315, shall file a cost report with the Department of Human Services:

- A. Annually not later than ninety (90) days after the end of the fiscal year of the facility;
- B. Within sixty (60) days of any significant change in the facility's ownership, management, or financial status or solvency; and
- C. At any time within sixty (60) days of a written request from the department or the Office of Medicaid Inspector General.

The department shall post the cost-reporting instructions, forms, and schedules on its website.

- A. The department may revise the cost-reporting instructions, forms, and schedules at any time, following consultation with representatives of the assisted living facility industry and sixty days before written notice to each Medicaid-certified Level II licensed assisted living facility.
- B. In the cost-reporting instructions, the department may require electronic submission of cost reports and accompanying information.
- C. In preparation and filing of cost reports, each assisted living facility shall:
 - 1. Comply with generally accepted accounting principles and cost-reporting instructions of the department;
 - 2. Follow the accrual method of accounting; and
 - 3. Maintain the working trial balance used in completing the cost reports for each reporting period for a minimum of three (3) years.
- D. To be considered complete and timely filed, each cost report shall include all information required by the forms, schedules, certifications, and instructions specified by the department and otherwise comply with generally accepted accounting principles and cost-reporting instructions of the department.
- E. Failure to file a cost-report may result in penalties and sanctions as set forth in Arkansas Code 20-10-2401 et seq.

TOC required**202.200 Living Choices Assisted Living Facility Cost Report Requirements 7-1-24**

An assisted living facility participating in, or seeking to participate in, the Arkansas Medicaid Program, including any Medicaid waiver program under 42 U.S.C. § 1396n(c) or 42 U.S.C. §1315, shall file a cost report with the Department of Human Services:

- A. Annually not later than ninety (90) days after the end of the fiscal year of the facility;
- B. Within sixty (60) days of any significant change in the facility's ownership, management, or financial status or solvency; and
- C. At any time within sixty (60) days of a written request from the department or the Office of Medicaid Inspector General.

The department shall post the cost-reporting instructions, forms, and schedules on its website.

- A. The department may revise the cost-reporting instructions, forms, and schedules at any time, following consultation with representatives of the assisted living facility industry and sixty days before written notice to each Medicaid-certified Level II licensed assisted living facility.
- B. In the cost-reporting instructions, the department may require electronic submission of cost reports and accompanying information.
- C. In preparation and filing of cost reports, each assisted living facility shall:
 - 1. Comply with generally accepted accounting principles and cost-reporting instructions of the department;
 - 2. Follow the accrual method of accounting; and
 - 3. Maintain the working trial balance used in completing the cost reports for each reporting period for a minimum of three (3) years.
- D. To be considered complete and timely filed, each cost report shall include all information required by the forms, schedules, certifications, and instructions specified by the department and otherwise comply with generally accepted accounting principles and cost-reporting instructions of the department.
- E. Failure to file a cost-report may result in penalties and sanctions as set forth in Arkansas Code 20-10-2401 et seq.

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

As Engrossed: H2/22/23

A Bill

HOUSE BILL 1445

5 By: Representative Eubanks
6 By: Senator Irvin
7

For An Act To Be Entitled

9 AN ACT TO ESTABLISH COST-REPORTING FOR ASSISTED
10 LIVING FACILITIES TO THE DEPARTMENT OF HUMAN SERVICES
11 AS A CONDITION OF PARTICIPATION IN THE ARKANSAS
12 MEDICAID PROGRAM; AND FOR OTHER PURPOSES.
13
14

Subtitle

15 TO ESTABLISH COST-REPORTING FOR ASSISTED
16 LIVING FACILITIES TO THE DEPARTMENT OF
17 HUMAN SERVICES AS A CONDITION OF
18 PARTICIPATION IN THE ARKANSAS MEDICAID
19 PROGRAM.
20
21
22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

25 SECTION 1. Arkansas Code Title 20, Chapter 10, is amended to add an
26 additional subchapter to read as follows:

27 Subchapter 24 – Cost-Reporting of Assisted Living Facilities
28

29 20-10-2401. Definitions.

30 As used in this section:

31 (1) “Cost report” means all the cost-reporting forms, schedules,
32 filing certifications, compilation reports, attachments, and supplemental
33 information specified by the instructions of the Department of Human
34 Services; and

35 (2) “Room and board” means all property-related costs, including
36 rental or purchase of real estate, construction costs, interest,



1 depreciation, furnishings, equipment, utilities, maintenance of buildings and
2 grounds, maintenance of equipment and furnishings, building and other
3 property insurance, repairs, renovations, improvements, real estate taxes,
4 and related administrative services, and food expenses for three (3) meals a
5 day or other full nutritional regimen.

6
7 20-10-2402. Cost reports.

8 (a) An assisted living facility participating in, or seeking to
9 participate in, the Arkansas Medicaid Program, including any Medicaid waiver
10 program under 42 U.S.C. § 1396n(c) or 42 U.S.C. §1315, shall file a cost
11 report with the Department of Human Services:

12 (1) Annually not later than ninety (90) days after the end of
13 the fiscal year of the facility;

14 (2) Within sixty (60) days of any significant change in the
15 facility's ownership, management, or financial status or solvency; and

16 (3) At any time within sixty (60) days of a written request from
17 the department or the Office of Medicaid Inspector General.

18 (b)(1) The department shall post the cost-reporting instructions,
19 forms, and schedules on its website.

20 (2) The department may revise the cost-reporting instructions,
21 forms, and schedules at any time, following consultation with representatives
22 of the assisted living facility industry and sixty (60) days before written
23 notice to each Medicaid-certified Level II licensed assisted living facility.

24 (3) In the cost-reporting instructions, the department may
25 require electronic submission of cost reports and accompanying information.

26 (c) In preparation and filing of cost reports, each assisted living
27 facility shall:

28 (1) Comply with generally accepted accounting principles and
29 cost-reporting instructions of the department;

30 (2) Follow the accrual method of accounting; and

31 (3) Maintain the working trial balance used in completing the
32 cost reports for each reporting period for a minimum of three (3) years.

33 (d) To be considered complete and timely filed, each cost report
34 shall:

35 (1) Include:

36 (A)(i) All information required by the forms, schedules,

1 certifications, and instructions specified by the department and otherwise
2 comply with generally accepted accounting principles and cost-reporting
3 instructions of the department.

4 (ii) Failure of full disclosure as required by
5 generally accepted accounting principles and cost-reporting instructions
6 shall constitute an incomplete and misleading cost report;

7 (B) Identification of individuals and firms responsible
8 for facility management, accounting and financial reporting, cost report
9 preparation, and internal or independent audits;

10 (C) Owner and related party information;

11 (D) Statistical, occupancy, and staffing information;

12 (E) Certification by the authorized facility officer;

13 (F) Compilation report by the preparer of the cost report
14 or any portion thereof;

15 (G) General operating expenses, including housekeeping,
16 laundry, dietary services, food and dietary supplies, maintenance, utilities,
17 software, and computer equipment;

18 (H) Direct care expenses for providing medically necessary
19 assistance with Medicaid covered activities of daily living and instrumental
20 activities of daily living;

21 (I) General administrative expenses, including
22 administration, marketing, and property, general liability, and professional
23 liability insurance;

24 (J) Employee benefits and payroll taxes expenses;

25 (K) Ownership costs, property related expenses, and all
26 other room and board expenses;

27 (L) Home office expenses and other shared or allocated
28 expenses within or among organizations, owners or related parties, multiple
29 facilities, or different healthcare-related operations;

30 (M) Legal-related and compliance-related expenses,
31 including attorney fees, payment of court judgments, court costs, civil
32 momentary penalties, other fines or penalties incurred, cost of corrective
33 actions; and other expenses to remedy a deficiency;

34 (N) Copy of any management report, audit report, or
35 written opinion issued by a certified public accountant, accounting or audit
36 firm, or internal auditor or compliance officer concerning the facility's

1 accounting or financial reporting practices, internal auditing practices, or
2 the preparation or contents of the current or any prior cost report;

3 (O) Balance sheet for facility operations and for the
4 consolidated company;

5 (P) Additional information and attachments as necessary to
6 explain cost report contents, provide backup documentation, and describe and
7 justify any variations from the department forms, schedules, or instructions;
8 and

9 (Q) Any other information that the department deems
10 necessary to:

11 (i) Support state or facility compliance with
12 federal requirements, including Medicaid waiver terms and conditions;

13 (ii) Meet generally accepted accounting principles;

14 (iii) Facilitate the performance of independent
15 audits consistent with generally accepted auditing standards and federal and
16 state cost finding standards;

17 (iv) Apply federal and state cost finding standards;

18 or

19 (v) Assess the reasonableness, efficiency, and
20 adequacy of Medicaid payments; and

21 (2) Provide complete, correct, and timely information that the
22 department determines reasonably necessary to:

23 (A) Identify, document, verify, analyze, and audit all
24 facility costs, expenses by type, cost-finding and allocation methods, and
25 cost-related statistics;

26 (B) Identify, document, verify, analyze, and isolate:

27 (i) Reasonable and necessary allowable costs of
28 Medicaid covered direct care services and other reasonable and necessary
29 federally allowable costs; and

30 (ii) Unallowed costs, including all room and board
31 expenses, costs attributable to non-Medicaid residents or non-covered
32 services, and costs that would otherwise be disallowed or considered
33 unreasonable under Medicaid nursing facility cost finding principles;

34 (C) Assist the department in ascertaining and monitoring
35 the financial stability and solvency of assisted living facilities;

36 (D) Verify facility compliance with generally accepted

1 accounting principles and cost-reporting instructions of the department; and
2 (E) Facilitate independent audits consistent with
3 generally accepted auditing standards and federal and state cost finding
4 standards.

5 (e)(1) The department and a designated contractor of the department
6 may request corrections or additional information, including supporting
7 documentation.

8 (2) Facility responses shall be complete, correct, filed timely,
9 certified as true by the facility's authorized executive, and include a
10 preparer's statement if the information was prepared or reviewed by an
11 accountant or auditor.

12 (3) Responses to the department are due within ten (10) days of
13 the request, unless the department authorized additional time in writing.

14 (f)(1) Neither this subchapter nor the content of the cost reports,
15 individually or collectively, requires or implies that the Arkansas Medicaid
16 Program to reimburse for expenses or of cost-based or other payment
17 methodology.

18 (2) This subchapter does not limit the authority of the
19 department regarding assisted living facility licensing or Medicaid provider
20 certification, reimbursement, program integrity, or waiver program policy and
21 operations.

22
23 20-10-2403. Extensions.

24 (a) If an assisted living facility experiences difficulty in
25 completing their cost report by the due date, the assisted living facility
26 may request an extension from the Department of Human Services.

27 (b) An extension request shall be filed in writing with the department
28 before the due date and describe the difficulties affecting timely
29 completion.

30 (c) Extensions are at the discretion of the department and shall not
31 exceed sixty (60) days per facility per year.

32
33 20-10-2404. Review and auditing.

34 (a)(1) The Department of Human Services shall, directly or through a
35 qualified contractor, review or audit each cost report.

36 (2) This review or audit of each cost report may include desk

1 reviews, desk audits, and onsite financial audits of any assisted living
2 facility and the home office of any assisted living facility.

3 (3) In addition to independent audits conducted under subsection
4 (c) of this section, the department shall audit comprehensively and timely
5 the cost reports and financial reports and records of all assisted living
6 facilities, consistent with generally accepted auditing standards, according
7 to the following standards:

8 (A) At least fifty percent (50%) of all assisted living
9 facilities or assisted living facility owners filing a cost report for the
10 first time; and

11 (B) At least twenty-five percent (25%) of all assisted
12 living facilities with each facility receiving a comprehensive field audit at
13 least every four (4) years.

14 (b) An assisted living facility shall provide the following
15 organizations with full and complete access to inspect and copy all records
16 and data pertaining to the operations and finances of the facility, the
17 facility's home office, or multi-facility operation, including cost reports,
18 budgets, expenses, revenues, accounting and financial management practices,
19 audits, staffing, and contracted services:

20 (1) The department and designated contractors of the department;

21 (2) Any independent auditor designated by the department;

22 (3) The Office of Medicaid Inspector General;

23 (4) The office of the Attorney General;

24 (5) The United States Office of Inspector General;

25 (6) The United States Government Accountability Office; and

26 (7) The Centers for Medicare and Medicaid Services.

27 (c)(1) At any time, the department may order and enforce the
28 performance of a comprehensive independent financial audit of any assisted
29 living facility participating in Medicaid.

30 (2) Once ordered in writing by the department, the independent
31 audit shall be initiated within twenty (20) days of the order of the
32 department unless the department authorizes additional time in writing.

33 (3) The independent audit shall be:

34 A) Performed at the expense of the department;

35 (B) Conducted by a qualified audit firm that is procured by the
36 department, with the audit team led by a certified public accountant and

1 including other qualified professional staff as necessary;

2 (C) Completed consistent with a schedule provided by the
3 independent audit firm and procured by the department, with consultation with
4 the facility, and weekly written status reports to the department; and

5 (D)(i) Performed consistent with generally accepted
6 auditing standards and applicable federal and state cost-finding standards
7 identified by the department and include an audit of the accuracy and
8 completeness of the facility's cost reports.

9 (ii) If directed by the department, the scope of the
10 audit may include a forensic accounting examination.

11 (4) The audit firm and members of the audit team shall have no
12 conflicts of interest with the facility, the facility owners, facility
13 management or finance staff, or related parties.

14 (d)(1) The department shall have complete access to all work papers
15 and findings of the independent auditor.

16 (2) All work papers, reports, and findings shall be submitted to
17 the department no later than they are received by the facility.

18 (3) The independent auditor may provide a separate, confidential
19 report to the department, with a copy to the Office of Medicaid Inspector
20 General.

21
22 20-10-2405. Penalties and sanctions.

23 (a) The Department of Human Services may impose any sanction allowed
24 under this section and may suspend or limit new admissions of Medicaid
25 beneficiaries to the facility in the event of any of the following and
26 continued until the facility demonstrates full compliance to the satisfaction
27 of the department:

28 (1) The facility fails to file a complete and timely cost report
29 or fails to provide a complete and timely response to a request by the
30 department or the designated contractor of the department for corrections,
31 additional information, or supporting documentation;

32 (2) The facility obstructs or otherwise fails to fully cooperate
33 with any state or federal inspection and copying of facility records or data;

34 (3) The facility obstructs or otherwise fails to fully cooperate
35 with an independent audit ordered by the department; or

36 (4) The department determines, directly or based on findings of

1 a designated contractor of the department, an independent auditor, or the
2 Office of Medicaid Inspector General that:

3 (A) A reasonable cause to believe that the facility's cost
4 report or responses, or any records supporting the facility's cost report or
5 responses, are false, misleading, or otherwise erroneous exists;

6 (B) The facility lacks the necessary financial records and
7 other documentation to provide a complete and accurate cost report, verify
8 the correctness of information contained in the cost report, or support an
9 independent audit of the cost report and the facility's finances; or

10 (C) The facility lacks the necessary accounting, financial
11 management, recordkeeping, and reporting capabilities and practices to comply
12 with generally accepted accounting principles and the cost-reporting
13 instructions of the department.

14 (b) The department may impose and collect a monetary penalty of five
15 hundred dollars (\$500) per single violation on an assisted living facility in
16 the event of the following:

17 (1) The facility is thirty (30) or more days overdue in filing a
18 complete cost report or a complete response to a request by the department or
19 the designated contractor of the department for corrections, additional
20 information, or supporting documentation;

21 (2) The facility obstructs or otherwise fails to fully cooperate
22 with any state or federal inspection and copying of facility records or data;
23 or

24 (3) The facility obstructs or otherwise fails to cooperate with
25 an independent audit ordered by the department fully.

26 (c)(1) Compliance with the cost-reporting, auditing, and record
27 inspection requirements is a condition of Medicaid certification and Medicaid
28 payment for assisted living facilities.

29 (2) The department shall enforce assisted living facility
30 compliance with the requirements of this subchapter through Medicaid provider
31 decertification and exclusion from participation in the Arkansas Medicaid
32 Program.

33 (d)(1) For material, substantial, or repeated noncompliance with cost-
34 reporting, auditing, and record inspection requirements, the department may:

35 (A) Terminate the facility's Medicaid certification;

36 (B) Limit the number of Medicaid residents in the

1 facility; and

2 (C) Exclude the facility from Medicaid participation for
3 five (5) years.

4 (2) The department shall promptly terminate the facility's
5 Medicaid certification and exclude the facility and the facility's certifying
6 officer and responsible financial officers from participating in Medicaid for
7 a minimum period of five (5) years for:

8 (A) Filing of a false or misleading cost report or
9 response;

10 (B) Providing false or misleading records or other
11 documentation to support a cost report or response; or

12 (C) Providing false or misleading information to an
13 independent auditor or federal or state agency inspecting facility records.

14
15 */s/Eubanks*

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18 **APPROVED: 3/6/23**

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