

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas *As Engrossed: S3/7/01 S3/13/01 S3/16/01 S3/19/01 S3/20/01 S3/22/01 S3/26/01 S3/28/01*
2 *S3/30/01 H4/6/01*

3 83rd General Assembly
4 Regular Session, 2001

A Bill

SENATE BILL 815

5
6 By: Senators Mahony, T. Smith, Hill, Baker, Faris, Gullett, Argue, Horn, Whitaker, Fitch, J. Jeffress, P.
7 Malone, K. Smith, Riggs, Trusty, Wooldridge, Wilkinson, Webb, B. Walker, D. Malone
8 By: Representatives Lowery, Cook, M. Smith, Lewellen, Bradford, Bolin, Fite, House, Mack, Mathis,
9 Seawel, Ormond, Boyd, Borhauer, Green, Salmon, T. Roebuck, Bond, Dangeau, W. Walker,
10 Hickinbotham, Prater, Haak, Rodgers, Milum, Milligan, Jackson, Parks, Files, Clemons, Rackley, Bright,
11 G. Jeffress, Rankin, Glover, Carson, J. Elliott, Lendall, Scrimshire, White, Allison, Jacobs, Gillespie,
12 Wood, C. Johnson, Scroggin, Womack, Altes, Eason, Hausam, Holt, Creekmore, Adams, Broadway,
13 Hutchinson, Schall, Cowling, Pritchard, *Ledbetter, Gipson, Bledsoe, Judy*

For An Act To Be Entitled

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16 AN ACT TO DEFINE THE PARTNERSHIP BETWEEN THE
17 STATE AND COMMUNITIES FOR THE PROVISION OF AN
18 ARRAY OF COMMUNITY-BASED SERVICES FOR INDIVIDUALS
19 WITH DEVELOPMENTAL DISABILITIES; TO DEFINE THE
20 FUNDING MECHANISM FOR THOSE SERVICES; TO
21 *ESTABLISH A THRESHOLD FOR PRIOR AUTHORIZATION OF*
22 *SERVICES FOR COMMUNITY-BASED SERVICES; AND FOR*
23 *OTHER PURPOSES.*

Subtitle

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26 AN ACT TO DEFINE THE RELATIONSHIP
27 BETWEEN THE STATE AND COMMUNITIES.

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

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32 SECTION 1. The General Assembly finds that the State of Arkansas
33 contracts with community-based programs serving individuals with
34 developmental disabilities as quasi-governmental instrumentalities of the
35 state, to provide a service that the state would otherwise provide for this
36 population through state-operated programs and facilities.

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2 SECTION 2. (a)(1) To provide viable options for an array of
3 community-based services for individuals with developmental disabilities, the
4 Department of Human Services shall, subject to state and federal funding
5 restrictions, establish a reimbursement rate structure for contracting with
6 community programs licensed by Developmental Disabilities Services that will
7 cover costs of all federal and state mandates for which they are held
8 responsible by the Department of Human Services and for any additionally
9 required processes the Department of Human Services may elect to implement
10 for cost containment-management purposes over and above the established
11 reimbursement rates for costs of treatment services.

12 (2) By January 1, 2002, the Department of Human Services will
13 design and conduct a rate and cost of service review of the reasonable and
14 efficient prospective costs necessarily incurred to provide Medicaid and
15 State covered services within the community to individuals with developmental
16 disabilities. Subject to federal and state funding restrictions the
17 Department of Human Services will fund Medicaid services for persons with
18 developmental disabilities in accordance with findings contained in the
19 review, and provide state funds for those services to which the individuals
20 are entitled under federal and state laws that are not covered by the
21 Medicaid program. By June 30, 2002, the Department of Human Services will
22 adopt regulations and standards, approved pursuant to this act which clearly
23 define the state's responsibility to individuals eligible for services under
24 federal laws, including but not limited to Americans With Disabilities Act
25 (ADA) PL 99-457, PL 94-142, Rehabilitation Act of 1973, Section 504, and
26 state laws, including §20-48-101, 20-48-603 and 20-14-502, and more
27 specifically:

28 (A) The categories of services and service limits on each
29 category which will be provided through the Medicaid State Plan; and

30 (B) The categories of services and service limits which
31 will be provided for with state general revenue funds or funds that are
32 applicable for provider client services, or both; and

33 (3) There shall be a quarterly progress report to the Joint
34 Interim Committee on Public Health by the Department of Human Services on the
35 categories of services and respective service limits, service eligibility
36 guidelines for each service component, and the rate structure based on

1 prospective costs.

2 (4) Nothing in this act shall be construed to imply the adoption
3 of cost reimbursement methodology as opposed to a reasonable and necessary
4 rate structure based on prospective costs. However, in the event that the
5 Department of Human Services Division of Medical Services develops a new
6 funding mechanism for community-based services provided through the
7 University of Arkansas for Medical Sciences (UAMS) which is a full cost
8 reimbursement methodology with additional state matching funds provided by
9 existing revenues within that system:

10 (A) The new service model shall be developed to interface
11 with the existing community-based programs through interagency agreements
12 that enhance and broaden the level of care without duplicating services in
13 communities which already have an array of services for children, birth to
14 twenty-one (21); and

15 (B) The University of Arkansas for Medical Sciences will
16 staff twelve (12) regional clinics, provided the pediatric specialists are
17 available at the University of Arkansas for Medical Sciences. These will be
18 conducted in coordination with local providers, on a quarterly basis, to
19 provide diagnostic, evaluation, and consultation by the pediatric specialists
20 employed by the University of Arkansas for Medical Sciences to the local
21 professional staffs of community programs. The reimbursement for the costs
22 of conducting these Outreach Clinics must be fully funded by the cost
23 reimbursement methodology under any new funding model developed for the
24 University of Arkansas for part of any new funding model developed for the
25 University of Arkansas for Medical Sciences by the Department of Human
26 Services.

27 (b) Subject to state and federal funding restrictions the
28 reimbursement rates shall be revised annually with market basket rate
29 adjustments to provide resources to the community-based programs necessary to
30 provide persons choosing community-based services quality care assurance in a
31 safe, healthy environment.

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33 SECTION 3. (a) Eligibility for services and appropriate placement in
34 the least restrictive environment for individuals with developmental
35 disabilities under any of the service models included in the state's Medicaid
36 Plan with Health Care Financing Administration or for services covered from

1 state general revenue dollars shall be made by the Interdisciplinary Team,
2 composed in keeping with federal and state laws pertaining to individuals
3 with special needs. This section does not negate nor preclude the rights of
4 individuals with developmental disabilities under existing federal and state
5 laws.

6 (b) Subject to approval by the Health Care Financing Administration
7 the Department of Human Services will accept an Individualized Family Service
8 Plan or Individualized Program Plan developed in conformity with all
9 applicable state and federal laws as prior authorization for Medicaid covered
10 therapies provided to persons with developmental disabilities. Prior
11 authorization does not preclude post payment reviews or other utilization
12 control measures.

13 (c) For individuals with developmental disabilities whom the
14 diagnostic, evaluation and assessments conducted by the Interdisciplinary
15 Team, in conformity with all applicable federal and state laws, are found to
16 fall within the eligibility guidelines adopted pursuant to this act, and the
17 individual's Primary Care Physician, independent of the service provider,
18 serves as the "gatekeeper" and prescribes day treatment services, referred to
19 as developmental day treatment services under the present Developmental Day
20 Treatment Clinic Services model, prior approval is not required for up to
21 five (5) hours of daily services. Should the funding model for the day
22 treatment services be changed in the state's Medicaid Plan with Health Care
23 Financing Administration, the five (5) hours a day shall remain the "floor"
24 to afford those families who choose to keep their disabled child/adult in the
25 community thereby bearing a considerable responsibility for the care and
26 expenses related to the treatment and care.

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28 SECTION 4. (a) The conversion to the federally mandated Current
29 Procedural Terminology code system of reimbursement shall take into account
30 the intent of this law to provide sources of funding that covers the costs of
31 services to individuals who choose community-based options, within the
32 adopted and approved eligibility standard, including the prescribed treatment
33 services and all required compliance mandates from the federal and state
34 governments.

35 (b) In the event that it is evident that the Developmental Day
36 Treatment Clinic Services (DDTCS) codes will be excluded by the Health Care

1 Financing Administration (HCFA), the Department of Human Services Division of
2 Medical Services shall take all necessary steps to apply to the Health Care
3 Financing Administration for approval of a service model that will continue
4 to provide an array of community-based service options for children and
5 adults comparable to or greater than those under the present Developmental
6 Day Treatment Clinic Services Model.

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8 SECTION 5. EMERGENCY CLAUSE. It is found and determined by the
9 General Assembly that community programs are struggling to attain the
10 resources necessary to provide individuals with developmental disabilities
11 with the community-based services to which they are entitled by federal and
12 state mandates which they rightfully deserve; that the costs to the community
13 program which have accumulated over a twenty-five (25) year period of
14 unfunded mandates is shifting the service dollar to compliance processes
15 rather than to treatment of individuals; that the imposition of a rate
16 structure which will cover the costs of treatment services as well as
17 processes and procedures required by federal and state mandates will allow
18 community-based programs to provide quality treatment services and therefore,
19 enhance the level of safety and security for individuals choosing community-
20 based services. Therefore, an emergency is declared to exist and this act
21 being immediately necessary for the preservation of the public peace, health
22 and safety shall become effective on the date of its approval by the
23 Governor. If the bill is neither approved nor vetoed by the Governor, it
24 shall become effective on the expiration of the period of time during which
25 the Governor may veto the bill. If the bill is vetoed by the Governor and
26 the veto is overridden, it shall become effective on the date the last house
27 overrides the veto.

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30 /s/ Mahony, et al.
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