

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
89th General Assembly
Regular Session, 2013

As Engrossed: H4/1/13
A Bill

HOUSE BILL 2209

By: Representative H. Wilkins
By: Senator L. Chesterfield

For An Act To Be Entitled

AN ACT TO GOVERN THE REGULATORY COMPLIANCE OF CERTAIN
MEDICAID PROVIDERS; AND FOR OTHER PURPOSES.

Subtitle

TO GOVERN THE REGULATORY COMPLIANCE OF
CERTAIN MEDICAID PROVIDERS.

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

*SECTION 1. Arkansas Code § 20-46-701 is amended to read as follows:
20-46-701. Authority – Scope.*

(a) Except when otherwise specified in federal law or regulation or state law, this subchapter, § 9-28-401 et seq. and § 20-77-1701 et seq., shall be the exclusive state authority governing the survey or inspection process for psychiatric residential treatment facilities and outpatient mental health services programs.

(b) The scope of any survey or audit shall be limited to determining whether a facility is in compliance with applicable federal ~~and~~ or state regulations.

SECTION 2. Arkansas Code § 20-46-702(a)(4), concerning definitions for providers of indigent assistance, is amended to read as follows:

(4) “Program provider” means any psychiatric residential treatment facility for children or a provider of outpatient mental health services funded in whole or in part by a medical care program for indigents;



SECTION 3. Arkansas Code § 20-46-702(a)(9), concerning definitions for providers of indigent assistance, is amended to read as follows:

(9) "Survey" means any review, certification study, desk audit, Recovery Audit Program audit, inspection of care, or other process by which compliance with federal law ~~and~~ or regulations or state law or rules applicable to a program provider is determined;

SECTION 4. Arkansas Code § 20-46-702(a), concerning definitions for providers of indigent assistance, is amended to add an additional subdivision to read as follows:

(12) "Survey report" means a communication by a survey team or an individual member of a survey team that purports to state the findings compiled as a result of a survey.

SECTION 5. Arkansas Code § 20-46-703 is amended to read as follows:
20-46-703. Surveys of program providers.

(a) The survey team shall:

(1) State the precise facts that are alleged to constitute a violation of federal law or regulation or state law or rule;

(2) State the specific line item in federal or state law and in federal regulations or state rules that the facts stated under subdivision (a)(1) of this section are alleged to violate;

(3) State a suggested correction that if implemented would constitute compliance in the judgment of the reviewer;

~~(4)~~ (4) Conduct an exit conference ~~during~~ before the conclusion of every survey;

~~(5)~~ (5) Allow electronic signatures and dates and dictated dates to serve as service delivery documentation;

~~(6)~~ (6) To the extent possible, conduct patient interviews in a manner that does not disrupt patient care or suggest a particular response from the interviewee;

~~(7)~~ (7) Conduct follow-up surveys on an accelerated schedule only upon a finding that a program provider is not in substantial compliance with applicable laws and regulations; and

~~(8)~~ (8) Allow the program provider the option to submit to the surveyor within one (1) working day of an entrance interview a written

summary of incident and accident reports instead of the actual reports.

(B) The requirements of subdivision ~~(a)(5)(A)~~ (a)(8)(A) of this section shall not prevent the Department of Human Services from accessing all records related to the survey within any time frames established by federal law or regulation.

(b) A corrective action response to a survey report ~~shall be submitted~~ is due to the survey team ~~within~~ no sooner than thirty (30) days after the provider receives the survey report, but the time allowed for submitting the corrective action response shall be extended up to sixty (60) days upon request of the provider.

(c) A citation of an alleged deficiency in a survey report against a program provider constitutes an adverse action against the program provider, entitling the program provider to an administrative appeal of the citation under the Arkansas Administrative Procedure Act, § 25-15-201 et seq., § 20-77-107, and other applicable state laws or rules.

(d) The department and its contracted reviewers shall not publish:

(1) The contents of a survey report before the exhaustion of appeals of the survey report under this section; and

(2) At any time, a description or characterization of the results of a survey, including without limitation a color-coded scheme.

~~(e)~~(e) For purposes of compliance with the state Medicaid program, program providers shall be prohibited from reporting serious occurrences to another entity other than the department and, if applicable, to the Centers for Medicare & Medicaid Services.

~~(d) The Director of the Department of Human Services shall ensure that the department complies with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., and with § 20-77-107 in regard to all surveys of program providers.~~

(f) The department shall submit a quarterly report to the House Committee on Public Health, Welfare, and Labor and the Senate Committee on Public Health, Welfare, and Labor that shall contain without limitation:

(1) The number of program providers in operation during the quarter;

(2) The number of surveys conducted on program providers during the quarter;

(3) The number of requests for reconsideration submitted from

program providers that arise from the findings of survey reports during the quarter;

(4) The number and percentage of requests for reconsideration granted during the quarter;

(5) The number of administrative appeals requested during the quarter;

(6) The number and percentage of administrative appeals decided in favor of the program provider during the quarter; and

(7) The quarterly cost to the state of the completion of all survey-related activities.

/s/H. Wilkins