

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

State of Arkansas
91st General Assembly
Regular Session, 2017

As Engrossed: H3/16/17
A Bill

HOUSE BILL 1810

By: Representatives Watson, *Johnson*

For An Act To Be Entitled

AN ACT TO CLARIFY AND ESTABLISH AN APPROPRIATE
MEDICAID REIMBURSEMENT METHODOLOGY FOR SMALL
INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH
DEVELOPMENTAL DISABILITIES; TO DECLARE AN EMERGENCY;
AND FOR OTHER PURPOSES.

Subtitle

TO CLARIFY AND ESTABLISH AN APPROPRIATE
MEDICAID REIMBURSEMENT METHODOLOGY FOR
SMALL INTERMEDIATE CARE FACILITIES FOR
INDIVIDUALS WITH DEVELOPMENTAL
DISABILITIES; AND TO DECLARE AN
EMERGENCY.

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

SECTION 1. Arkansas Code Title 20, Chapter 48, Subchapter 9, is amended to add an additional section to read as follows:

20-48-905. Rate review.

(a) The General Assembly finds that:

(1) Historically, Medicaid reimbursement rates paid to intermediate care facilities for individuals with developmental disabilities were increased annually by an amount approximately equal to the annual increase in inflation or the annual increase in the per diem costs of the facility;

(2) When the provider tax was implemented for all classes of intermediate care facilities for individuals with developmental disabilities,



some of the funding from the tax was used for a one-time enhanced care addition to intermediate care facility for individuals with developmental disabilities rates and for other programs that benefit individuals with developmental disabilities and individuals in need of guardianship;

(3) Continuation of the historical rate increases based on inflation and per diem cost increases was not intended to be:

(A) Funded by the intermediate care facility for individuals with developmental disabilities provider tax; and

(B) Contingent on the amount of funds generated by the intermediate care facility for individuals with developmental disabilities provider tax;

(4) The one-time enhanced care addition to intermediate care facility for individuals with developmental disabilities rates was intended to provide funding for investments to improve the quality of care;

(5) Future increases to the intermediate care facility for individuals with developmental disabilities rates were not intended to be contingent on the amount of intermediate care facility for individuals with developmental disabilities provider tax generated, particularly given that not all of the intermediate care facility for individuals with developmental disabilities provider tax is used to fund intermediate care facility for individuals with developmental disabilities services;

(6)(A) Beginning in fiscal year 2015, the Department of Human Services stopped granting any reimbursement increases to intermediate care facilities for individuals with developmental disabilities that have fewer than sixteen (16) beds.

(B) This practice of not granting rate increases happened despite the fact that the reimbursement manual issued by the department states that an inflationary adjustment will be applied and implemented by state plan amendment; and

(7) This practice of not granting rate increases promotes larger intermediate care facilities for individuals with developmental disabilities that pay the provider tax and receive annual increases over smaller intermediate care facilities for individuals with developmental disabilities offering a community environment.

(b) The purpose of this section is to promote consistent treatment of all classes of intermediate care facilities for individuals with

developmental disabilities by requiring the department to provide an annual reimbursement increase to small intermediate care facilities for individuals with developmental disabilities that is:

- (1) Reasonable and adequate; and
- (2) Greater than zero (0).

(c) As used in this section, "smaller intermediate care facility for individuals with developmental disabilities" means an intermediate care facility for individuals with developmental disabilities that has fewer than sixteen (16) beds.

(d)(1) On or before July 1 of each year, the department shall apply an inflationary adjustment, as determined by the department to be reasonable and adequate, to the existing rate for smaller intermediate care facilities for individuals with developmental disabilities.

(2) The department shall request a state plan amendment to implement the inflationary adjustment.

(3) The amount of the inflationary adjustment shall be determined based on a review of:

- (A) Cost reports from the preceding calendar year; and
- (B) Increases in appropriate inflation indices.

(4) The inflationary adjustment shall not be determined to be zero percent (0%).

SECTION 2. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the Department of Human Services has been discretionally denying rate increases to intermediate care facilities for individuals with developmental disabilities that have fewer than sixteen (16) beds; that these rate denials run contrary to the purpose and intent of the reimbursement manual issued by the department; that the denial of rate increases threatens the ability to continue to serve individuals with developmental disabilities in small community settings; that the rate review and mandatory rate increase shall assist in providing access to services that individuals with developmental disabilities desperately need; and that this act is immediately necessary because the department needs adequate time to implement the rate increase that is required to maintain the service providers that are already providing services within the state. Therefore, an emergency is declared to exist, and this act being immediately

necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/Watson