

Title 20. Public Health and Welfare

Chapter IV. State Kidney Disease Commission, Department of Health

Subchapter A. Generally

Part 260. State Kidney Disease Commission Rules

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"INTRODUCTION

Pursuant to A.C.A. § 20-15-603 these Rules delineates operation and standards for the program administered by the Arkansas Kidney Disease Commission. Changes, additions, and deletions shall be made from time to time in order to insure the best possible services for clients with permanent kidney failure who are residents of the State of Arkansas. Rule changes shall only be considered during Commission meetings when a quorum is declared. A majority vote is required for any change. Promulgation of a rule revision is required for any Commission decision which affects patient qualification or services. No Rule, Rule amendment or Rule revision shall be effective until promulgation under the Arkansas Administrative Procedure Act at § 25-15-201 et seq."

"AUTHORITY

The Arkansas Kidney Disease Commission (AKDC) was established by the General Assembly of the State of Arkansas through Act 450 of 1971 to establish a program for the care and treatment of persons suffering from chronic renal disease. The legislation charged the AKDC to "provide financial assistance for persons suffering from chronic renal disease who require life-saving care and treatment to the extent as determined by the Commission."

Act 910 of 2019 authorizes the Secretary of the Arkansas Department of Health as the disbursing officer of funds appropriated by the Arkansas General Assembly and any other funds made available to the Commission for such purposes."

"CERTIFICATION

This will certify that the Arkansas Kidney Disease Commission Rules were adopted by the Arkansas Kidney Disease Commission at a regular session of said Commission held in Little Rock, Arkansas on the 17th day of March 2021.

Deborah Wooten
Chairmen
Arkansas Kidney Disease Commission"

Subpart 1. Generally

20 CAR § 260-101. Legislative findings and purpose.

(a) Legislative findings declared and found that one (1) of the major problems facing medicine and the public health and welfare is the lack of an adequate program to assist in the treatment and cure of persons suffering from chronic kidney disease.

(b) It is estimated that a number of citizens of this state annually are confronted with chronic kidney disease, requiring complicated and expensive treatment, which is often beyond the financial resources of such individuals.

(c) There is a critical shortage of adequate facilities within the state for the discovery, evaluation, diagnosis, treatment, and cure of individuals suffering from chronic kidney disease.

(d) In order to provide for the care and treatment of persons suffering from acute or chronic kidney disease, and in order to encourage and assist in the development of adequate treatment facilities for persons suffering from acute or chronic kidney disease, it is essential that the state develop a program of financial assistance to aid in defraying

a portion of the cost for the care and treatment of chronic renal disease to the extent that the individual suffering from such disease is unable to pay for such services on a continuing basis.

Authority. Arkansas Code § 20-15-603.

20 CAR § 260-102. State Kidney Disease Commission.

(a) **Powers and duties of the commission.** The State Kidney Disease Commission shall have the following functions, powers, and duties:

(1)(A) To establish a program to assist persons suffering from acute or chronic renal failure in obtaining care and treatment requiring dialysis.

(B) The program shall provide financial assistance for persons suffering from chronic renal diseases who require life-saving care and treatment for the renal disease to the extent, as determined by the commission, that a person is unable to pay for such services on a continuing basis without causing unjust and unusual hardship to himself or herself and his or her immediate family, including without limitation a drastic lowering of the standard of living;

(2) To develop standards for determining eligibility for assistance in defraying the cost of care and treatment of renal disease under this program;

(3) To cooperate with hospitals, private groups, organizations, and public agencies in the development of positive programs to bring about financial assistance and support of evaluation and treatment of patients suffering from chronic kidney disease;

(4) To cooperate with the national and state kidney foundations and with medical programs of the state and federal government for the purpose of obtaining the maximum amount of federal and private assistance possible in support of a kidney disease treatment program;

(5) To establish criteria and standards for evaluating the financial ability of persons suffering from chronic renal disease to pay for their own care, including the availability of third-party insurance coverage, for the purpose of establishing standards

for eligibility for financial assistance in defraying the cost of the care and treatment from funds appropriated to the commission for renal disease treatment purposes;

(6) To accept gifts, grants, and donations from private sources and the federal government and support from municipal and county governments to be used for the purposes of this part in defraying costs incurred by persons suffering from acute or chronic renal disease who are unable to meet the total cost of life-saving care and treatment for renal disease; and

(7) To accept gifts, grants, and donations from private sources and the federal government and support from municipal and county governments to be used to honor persons who have provided living kidney donations to Arkansans in need of kidney transplantation.

(b) Commission committees.

(1) The commission may establish ad hoc committees from time to time.

(2) The ad hoc committees shall review issues and make recommendation to the full commission.

Authority. Arkansas Code § 20-15-603.

20 CAR § 260-103. Chain of Life award.

(a) The State Kidney Disease Commission's Chain of Life award recognizes individuals who have made a living kidney donation to a current resident of Arkansas who is in need of kidney transplantation.

(b) Nominations for the award are received by the commission and presented to the Board of the State Kidney Disease Commission for approval.

(c) The commission shall not use state funds appropriated for program services but may accept gifts, grants, and donations from private sources and the federal government and support from municipal and county governments to maintain the award.

Authority. Arkansas Code § 20-15-603.

20 CAR § 260-104. Eligibility.

(a)(1) Persons suffering from chronic renal failure may be referred to the State Kidney Disease Commission.

(2) Referrals shall come from:

- (A) Clients themselves;
- (B) Physicians;
- (C) Social workers;
- (D) Hospital or kidney dialysis center personnel;
- (E) Pharmacists;
- (F) Rehabilitation counselors; and
- (G) Others, including individuals and agencies familiar with the person's

kidney disease.

(b) Eligibility requirements.

(1) Eligibility requirements shall be applied without regard to:

- (A) Sex;
- (B) Race;
- (C) Creed;
- (D) Color; or
- (E) National origin.

(2) With respect to age, no upper or lower limit shall be set as a guide to turn away a referral.

(c) Residency requirement.

(1) Clients must be a resident of Arkansas.

(2) To be eligible, an applicant must provide a copy of his or her driver's license or identification card issued by the State of Arkansas.

(d) Physician certification requirement. Certification by a nephrologist (or other physician) or advanced practice registered nurse is required confirming the applicant has a diagnosis of ESRD with an indication that the individual is in need of regular renal dialysis treatments or has been the recipient of a kidney transplant.

(e) Financial eligibility.

(1) A client's annual income may not exceed two hundred fifty percent (250%) of the federal poverty level percentage for the year in which they are applying for assistance.

(2)(A) The commission shall consider the available financial resources of the total household.

(B) Income sources to be considered include:

- (i) Wages;
- (ii) Business income;
- (iii) Social Security, Social Security Disability Insurance, and Supplemental Security Income benefits;
- (iv) Retirement income;
- (v) Veteran's benefits;
- (vi) Income from stocks, bonds, or other investments; and
- (vii) Other identifiable liquid assets.

(C)(i) If the applicant is a dependent, the resources of the parent or parents shall be determined.

(ii) The exception is if the applicant is a dependent and is receiving Supplemental Security Income benefits, he or she may be considered a family of one (1).

(f) Insurance eligibility.

(1) Clients with insurance must provide proof of insurance coverage.

(2) Individuals with or without insurance are not prohibited from receiving services on the basis of their insurance status.

(3) However, the commission shall be payor of last resort.

(g) Application for services.

(1) Individuals applying for services available through the program shall complete the commission's Initial Referral Application.

(2) The Initial Referral Application includes the required nephrologist or other health professional certification indicating the applicant has ESRD or has been the recipient of a kidney transplant.

(h) Certificate of eligibility/ineligibility.

(1) A certificate of eligibility/ineligibility (AKDC-10) shall be completed prior to the provision of services, or the refusal of services, as the case may be.

(2) The State Kidney Disease Commission Program Manager shall:

(A) Review the Initial Referral Application, applying the established financial needs and residential criteria and ensuring the applicant's physician has certified that the applicant meets the medical criteria; and

(B) Sign the Certificate of Eligibility/Ineligibility for each applicant, indicating the applicant's eligibility or ineligibility.

(i) Other resources/similar benefit.

(1) Applicants shall be required to apply and provide evidence of acceptance/denial from all applicable pharmaceutical company patient assistance programs.

(2) Any services that the applicant may receive or be eligible to receive from other sources shall be used first.

(3) The commission may only supplement these benefits.

(j) Copayment.

(1) The commission shall establish a copayment for services paid by a client of the program at the point of sale.

(2) The copayment amount is two dollars (\$2.00) for each medication each month.

Authority. Arkansas Code § 20-15-603.

Codification Notes. "ESRD" means end-stage renal disease.

20 CAR § 260-105. Effective date of service.

(a)(1) The effective date a client shall be eligible to receive paid for services provided by the State Kidney Disease Commission shall be established by the program.

(2) An applicant must be determined eligible prior to funds being authorized.

(3) The commission shall not authorize payment for any services provided prior to the effective date of service.

(b) Financial cap.

(1)(A) The commission may establish an annual limit on per-client expenditures prior to the beginning of the new state fiscal year, based on funds available and number of clients participating in the program in the prior year.

(B) This annual cap is subject to change based on increases or decreases in the number of patients in the programs and or changes in program funding.

(2) Exceptions may be made on a case-by-case basis as determined by the commission.

(3) During the course of a fiscal year, should expenditures for a client exceed the limit allowed, the case will be referred to the commission for review to determine a course of action.

(c) Termination of services.

(1) The commission will pay for services and medication prescribed up to the client's date of death.

(2) Eligibility for covered services will also be ended the day a client moves out of state or the last day of the month a client's course of dialysis is terminated unless the individual has received a kidney transplant.

(d) Annual review.

(1) Individuals determined eligible to receive commission services shall submit an eligibility renewal application annually to determine continued program eligibility.

(2) The review process will consist of a determination as to whether the individual continues to meet program medical, residential, and financial need eligibility criteria.

(3)(A) Clients who meet eligibility requirements will continue to receive commission services.

(B) Any client who no longer meets program eligibility requirements shall be issued a letter of termination of services effective thirty (30) days after the date of review.

(4) The commission shall not pay for services for patients who fail to renew within one and one-half (1 1/2) years of their last date of eligibility (year of eligibility, plus six-month grace period).

(5) Medications prescribed within a client's annual eligibility period (plus six-month grace period) shall be covered, even if the claim is received by the commission after the patient's eligibility has lapsed.

Authority. Arkansas Code § 20-15-603.

20 CAR § 260-106. Services.

(a)(1) The services provided by the State Kidney Disease Commission shall be dependent on the availability of funds.

(2) The commission may determine specific services to be funded by the program prior to the beginning of each new state fiscal year.

(3) Covered services may include:

- (A) Outpatient pharmaceutical drugs and nutritional supplements;
- (B) Pretransplant dental services;
- (C) Transportation;
- (D) Patient education; and
- (E) Referral.

(4) Specific services to the commission's clients, including those in need of continuing services, shall be provided based upon the availability of funds.

(5)(A) During the course of a fiscal year should it be determined that available funding is insufficient to fund services provided by the program at existing levels for the remaining portion of the fiscal year, the commission shall establish the manner in which services will be curtailed or, if required, terminated for the remainder of that fiscal year.

(B) Should the curtailing of services result, preference will be given to those in need of continuing services, as determined by the commission.

(b) Financial assistance from the commission may include:

(1)(A) Outpatient prescriptions.

(B) The commission may provide financial assistance for no more than three (3) outpatient prescriptions per month.

(C) Amount payable to pharmacy is the allowable amount in the formulary fee schedule, after insurance payment and less client copayment;

(2)(A) Immunosuppressant drugs.

(B) The commission may provide financial assistance for immunosuppressant drugs.

(C) A client copay for allowable drugs is required.

(D) The commission shall only participate in the purchase of immunosuppressant medications as a copayer.

(E) Program copayment for immunosuppressant drugs shall not exceed twenty percent (20%) of the Medicare allowable rate;

(3)(A) Nutritional supplements.

(B) The commission may provide for nutritional supplements if ordered by physician.

(C) Amount payable to pharmacy is the allowable amount in the formulary fee schedule, after insurance and less client copayment;

(4)(A) Transportation.

(B) The commission may provide for dialysis appointment transportation mileage reimbursement, at the state employee mileage reimbursement rate for the applicable year.

(C) Clients who prove they must take a taxi or other paid transportation service are eligible for transportation mileage reimbursement.

(D) Patients must first attempt to use personal or Medicaid transportation, if available, prior to engaging a taxi or other paid transportation.

(E) Evidence of efforts to use Medicaid transportation must be provided.

(F) Taxi or paid transportation receipt is required prior to mileage reimbursement; and

(5)(A) Dental.

(B) The commission may provide for dental care when a dental problem jeopardizes the health and treatment program outlined by the renal specialist and may be covered only for the purpose of kidney transplantation.

(C) Payment for services rendered will be prior approved and consistent with the established dental fee schedule herein attached as Appendix A.

(c) **Patient education.** The commission may partner with local, state, regional, and national agencies and organizations to educate its clients and the public at large regarding the importance of prevention and/or treatment of kidney disease.

(d) **Referral services.** The commission may assist clients diagnosed with ESRD with referral to other programs, including vocational rehabilitation.

(e) **Formulary.**

(1) The commission shall establish a formulary.

(2) The formulary will include nutritional supplements designed for kidney dialysis patients.

(3) The formulary and fee schedule may be updated periodically and is attached as Appendix A.

(f) **Payment for services to vendors.**

(1) The commission shall process payment for covered services to program clients when in receipt of a signed vendor statement or letter that includes:

(A) The client's name and other necessary identifiable information;

(B) A description of services provided;

(C) Date or dates of service provision; and

(D) Cost.

(2) Claims made for payment of prescription drugs or transportation reimbursement are to be submitted on the appropriate commission claim form or applicable online form if available.

(3) The commission shall not prepay for a service, only providing payment after the service has been rendered.

(4) Requests for payment for services rendered must be received by the program within one (1) calendar year of the date of service.

(5) The commission will not provide remittance for those requests for payment that exceed the one-year from date of service limit.

Authority. Arkansas Code § 20-15-603.

Codification Notes. "ESRD" means end-stage renal disease.

20 CAR § 260-107. Confidentiality, use, and release of client records and information.

(a)(1) The State Kidney Disease Commission shall maintain a case record for applicants and individuals determined eligible to receive services available through the program.

(2) Client information developed or received by the commission is the property of the program.

(3) Information contained in the case record shall only be used for:

- (A) Determining eligibility/ineligibility for the commission's services;
- (B) Providing payment for services rendered; or
- (C) Other program operations.

(4) The commission shall maintain personal information contained in the case record in a secure manner and treat such information with the highest degree of confidentiality.

(b)(1) The commission Program Manager is designated as the custodian of applicant and client case records.

(2) The Program Manager has the responsibility of ensuring such information is maintained in a safe and secure manner consistent with state and federal law, rule, or regulation.

(3) The Program Manager shall provide training to the commission staff regarding how applicant and client information will be developed, maintained, and shared with affected parties.

(4) The Program Manager is responsible for the destruction of all closed case files.

(c)(1) When requested in writing, the commission shall make available to the applicant or client or, if appropriate, the individual's representative, information contained in that person's case record.

(2) Should the applicant or client or, if appropriate, that individual's representative believe information contained in the case record to be inaccurate or misleading, a written request can be made to the program to amend such information.

(3) In the event another agency or organization requests personal information contained in the case record of a commission applicant or client, the program shall only release such information with written consent of the applicant or client or, if appropriate, that individual's representative.

(4) It is the responsibility of the commission and parties involved to respect the confidential nature of personal information and limit information exchanged to that minimally necessary.

(5) The commission shall release personal information contained in the case record in response to investigations in connection with law enforcement, fraud, and abuse, unless:

(A) Expressly prohibited by state and federal laws, rules, and regulations;
and

(B) In response to an order issued by a judge, magistrate, or other authorized judicial official.

Authority. Arkansas Code § 20-15-603.