

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: May 12, 2003.

**Thomas A. Scully,**

*Administrator, Centers for Medicare & Medicaid Services.*

[FR Doc. 03-12697 Filed 5-20-03; 8:45 am]

**BILLING CODE 4120-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

#### Notice of Hearing: Reconsideration of Disapproval of Arkansas (SPA) 02-17 State Plan Amendment

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Notice of hearing.

**SUMMARY:** This notice announces an administrative hearing on June 25, 2003, at 10 a.m., at the Centers for Medicare & Medicaid Services (CMS), Dallas Regional Office, 1301 Young Street, Room 1119; Dallas, Texas 75202.

*Closing Date:* Requests to participate in the hearing as a party must be received by the presiding officer by June 5, 2003.

**FOR FURTHER INFORMATION CONTACT:**

Kathleen Scully-Hayes, Presiding Officer CMS, 2520 Lord Baltimore Drive, Suite L, Baltimore, Maryland 21244-2670, Telephone: (410) 786-2055.

**SUPPLEMENTARY INFORMATION:** This notice announces an administrative hearing to reconsider the decision to disapprove Arkansas State Plan Amendment (SPA) 02-17, which was submitted to the Centers for Medicare & Medicaid Services (CMS) on July 29, 2002. This amendment proposes to provide supplemental payments to physicians and other allied health professionals who provide services through Faculty Group Practices associated with the University of Arkansas School of Medicine. The supplemental payment would be equal to the difference between the existing fee schedule rates and Faculty Group Practices' charges. CMS issued its initial determination disapproving Arkansas SPA 02-17 on March 6, 2003.

Arkansas timely requested reconsideration by letter dated April 14, 2003. At issue is whether the State has demonstrated that this SPA is consistent with the requirements of section 1902(a)(30)(A) of the Social Security Act (the Act). The CMS concluded that the information provided with this SPA was

insufficient to document consistency with economy, efficiency, and quality of care. Arkansas indicated that no other major payers in the State pay these Faculty Group Practices at these levels; indeed, Arkansas indicated that the five largest private third-party payers pay less than half of these levels. Arkansas provided no documentation to show that the Faculty Group Practices have higher costs than other providers of the same type in the State. In the light of evidence, CMS found that the State had not established that it was consistent with economy or efficiency for Medicaid to pay twice the rate paid by other third-party insurers for the same services. Moreover, the annualized payment methodology proposed by the State is not a customary method for paying physicians and other allied health professionals. The methodology would make it difficult to track payments for specific services and would complicate auditing processes. In the initial decision, CMS also cited the complicated nature of this payment scheme and difficulty in tracking and auditing payments for services as a reason why the proposed payment methodology was not consistent with section 1902(a)(30)(A) of the Act.

Section 1116 of the Act and 42 CFR part 430 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. The Centers for Medicare & Medicaid Services (CMS) is required to publish a copy of the notice to a state Medicaid agency that informs the agency of the time and place of the hearing and the issues to be considered. If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice. Any individual or group that wants to participate in the hearing as a party must petition the presiding officer within 15 days after publication of this notice, in accordance with the requirements contained at 42 CFR 430.76(b)(2). Any interested person or organization that wants to participate as *amicus curiae* must petition the presiding officer before the hearing begins in accordance with the requirements contained at 42 CFR 430.76(c). If the hearing is later rescheduled, the presiding officer will notify all participants.

The notice to Arkansas announcing an administrative hearing to reconsider the disapproval of the SPA reads as follows:

Mr. Kurt Knickrehm, Director  
Arkansas Department of Human Services  
Donaghey Plaza South  
PO Box 1437, Slot S401

Little Rock, Arkansas 72203-1437

Dear Mr. Knickrehm:

I am responding to your request for reconsideration of the decision to disapprove Arkansas State Plan Amendment (SPA) 02-17, which was submitted to the Centers for Medicare & Medicaid Services (CMS) on July 29, 2002. This amendment proposes to provide supplemental payments to physicians and other allied health professionals who provide services through Faculty Group Practices associated with the University of Arkansas School of Medicine. The supplemental payment would be equal to the difference between the existing fee schedule rates and Faculty Group Practices' charges. The CMS issued its initial determination disapproving Arkansas SPA 02-17 on March 6, 2003. Arkansas timely requested reconsideration by letter dated April 14, 2003.

At issue is whether the State has demonstrated that this SPA is consistent with the requirements of section 1902(a)(30)(A) of the Social Security Act. The CMS concluded that the information provided with this SPA was insufficient to document consistency with economy, efficiency and quality of care. Arkansas indicated that no other major payers in the State pay these Faculty Group Practices at these levels; indeed, Arkansas indicated that the five largest private third-party payers pay less than half of these levels. Arkansas provided no documentation to show that the Faculty Group Practices have higher costs than other providers of the same type in the State. In the light of evidence, CMS found that the State had not established that it was consistent with economy or efficiency for Medicaid to pay twice the rate paid by other third-party insurers for the same services. Moreover, the annualized payment methodology proposed by the State is not a customary method for paying physicians and other allied health professionals. The methodology would make it difficult to track payments for specific services and would complicate auditing processes. In the initial decision, CMS also cited the complicated nature of this payment scheme and difficulty in tracking and auditing payments for services as a reason why the proposed payment methodology was not consistent with section 1902(a)(30)(A).

This notice announces an administrative hearing on June 25, 2003, at 10 a.m., Centers for Medicare & Medicaid Services (CMS), Dallas Regional Office, 1301 Young Street, Room 1119; Dallas, Texas 75202.

If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties. The hearing will be governed by the procedures prescribed at 42 CFR, part 430.

I am designating Ms. Kathleen Scully-Hayes as the presiding officer. If these arrangements present any problems, please contact the presiding officer. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the presiding officer to indicate acceptability of the hearing date that has been scheduled and provide names of the individuals who will represent the State at the hearing. The presiding officer may be reached at (410) 786-2055.

Sincerely,

Thomas A. Scully.

(Sect. 1116 of the Social Security Act (42 U.S.C. section 1316); (42 CFR 430.18)) (Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: May 12, 2003.

**Thomas A. Scully,**

*Administrator, Centers for Medicare & Medicaid Services.*

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

#### State Grants for Election Assistance for Individuals With Disabilities (EAID)

**AGENCY:** Administration on Developmental Disabilities (ADD), Administration for Children and Families, Department of Health and Human Services.

**ACTION:** Notification of the Availability of Fiscal Year 2003 Funds under the Help America Vote Act, Public Law (Pub. L.) 107-252, title II subtitle D, part 2, section 261, Payments to States and Units of Local Governments to Assure Access for Individuals with Disabilities (42 U.S.C. 15421).

**SUMMARY:** The purposes of this notice are: (1) To set forth the requirements that must be met by a State seeking a payment under 42 U.S.C. 15421 of the Help America Vote Act of 2002 (HAVA); and (2) to secure assurances from such a State related to conditions prior to receiving a payment.

**EFFECTIVE DATE:** May 21, 2003.

**FOR FURTHER INFORMATION CONTACT:** Contact Diann Winford at (202) 690-5963, [dwinford@acf.hhs.gov](mailto:dwinford@acf.hhs.gov) or Carla Brown at (202) 690-8332, [crbrown@acf.hhs.gov](mailto:crbrown@acf.hhs.gov).

#### SUPPLEMENTARY INFORMATION:

##### Part I: Introduction

The Help America Vote Act (HAVA), signed into law by President George W. Bush on October 29, 2002, contains several provisions that will enable an applicant to establish, expand, and improve access to and participation by individuals with the full range of disabilities (*e.g.*, blindness or visual impairment, deafness or hearing impairment, mobility-related, dexterity-related, emotional or intellectual) in the election process. The Catalog of Federal Domestic Assistance Number for this announcement is: 93.617.

##### Background

On February 20, 2003, in Division (N)—“Emergency Relief and Offsets,” Title I Election Reform, Disabled Voters Services, the Miscellaneous Appropriations Act, 2003, Pub. L. 108-7, Congress appropriated \$13 million for States to operate the Election Assistance for Individuals with Disabilities (EAID) grant program. HAVA assigned responsibility for the EAID to the Secretary of Health and Human Services (the Secretary), who has assigned responsibility for carrying out this program to the Administration for Children and Families (ACF). Within ACF, the Administration on Developmental Disabilities (ADD) is responsible for the administration of the EAID grant program.

##### Eligible Applicants

As defined by section 901 of HAVA, States (including the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands) are eligible to apply for grants under the EAID program. Grants are not available to local units of government directly from the Federal Government in FY 2003 because Division (N)—“Emergency Relief and Offsets,” Title I Election Reform, Disabled Voters Services, the Miscellaneous Appropriations Act, 2003, Pub. L. 108-7, only appropriated funds for grants to States for FY 2003. Thus, while units of local government as well as States are eligible for funding under Section 261 of the Help America Vote Act, the annual appropriations statute did not make funds available for grants to local governments.

##### Availability and Distribution of Funds

Congress appropriated \$13,000,000 for payments to States for Federal fiscal year 2003. Payment amounts to States and Territories will be based on the relative size of the voting age population (*i.e.*, number of individuals 18 years of age or older as reported in the 2000 U.S. Census) of those States and Territories requesting payment, with the exception that no State or Territory applying for funds shall receive a payment of less than \$100,000. See Table I for the amount reserved for each State and Territory, assuming all 55 States and Territories submit applications. If fewer than 55 States and Territories submit applications, those States and Territories applying for payment will receive a proportionately higher amount than that listed on Table I.

Any payment distributed shall remain available until expended.

In order to receive a payment a State must meet all of the requirements in

Part II of this Notice. State governments receiving funds under this announcement will need to collaborate with local chief election officials and local units of government to determine where and how to expend funds.

The Federal Government reserves the right to audit expenditure of funds received under this announcement pursuant to section 902 of the Help America Vote Act, 42 U.S.C. 15542 and 45 CFR 92.26, where applicable.

##### Use of Allotments

Section 261 of HAVA provides that funds be made available to:

- a. Make polling places, including the path of travel, entrances, exits, and voting areas of each polling facility, accessible to individuals with the full range of disabilities (*e.g.*, blindness or visual impairment, deafness or hearing impairment, mobility-related, dexterity-related, emotional, or intellectual).
- b. Provide the same opportunity for access and participation (including privacy and independence) to individuals with the full range of disabilities.
- c. Train election officials, poll workers, and election volunteers on how best to promote the access and participation of individuals with the full range of disabilities in elections for Federal office.
- d. Provide individuals with the full range of disabilities with information about the accessibility of polling places.

##### Part II: Application Requirements

All of the following conditions must be met by an applicant seeking a payment under 42 U.S.C. 15421 of the Help America Vote Act of 2002. An applicant must agree to these conditions in writing prior to receiving a payment by submitting an application. The conditions are to ensure that a payment will be used in compliance with HAVA. Payments must be used to pay for the activities described under Part I, Use of Allotments.

##### Conditions

1. Some portion of the grant must be used for each of the following activities.
  - a. Make polling places, including the path of travel, entrances, exits, and voting areas of each polling facility, accessible to individuals with the full range of disabilities.
  - b. Provide the same opportunity for access and participation (including privacy and independence) to individuals with the full range of disabilities as for other voters.
  - c. Train election officials, poll workers, and election volunteers on how best to promote the access and