



Arkansas Department of Human Services

Behavioral Health Independently Licensed Practitioners Certification Manual



www.arkansas.gov/dhs/dhs

ARKANSAS DEPARTMENT OF HUMAN SERVICES

Independently Licensed Practitioner

Provider Certification Rules

I. PURPOSE:

- A. To assure that Outpatient Behavioral Health Services (“OBHS”) care and services provided by certified Independently Licensed Practitioners comply with applicable laws, which require, among other things, that all care reimbursed by the Arkansas Medical Assistance Program (“Medicaid”) must be provided efficiently, economically, only when medically necessary, and is of a quality that meets professionally recognized standards of health care.
- B. The requirements and obligations imposed by §§ I-XIII of this rule are substantive, not procedural.

II. SCOPE:

- A. Current Independently Licensed Practitioner certification under this policy is a condition of Medicaid provider enrollment.
- B. Division of Behavioral Health Services (“DHS”) Independently Licensed Practitioner certification must be obtained for each site before application for Medicaid provider enrollment. An applicant may submit one application for multiple sites, but DHS will review each site separately and take separate certification action for each site.

III. DEFINITIONS:

- A. “Adverse license action” means any action by a licensing authority that is related to client care, any act or omission warranting exclusion under DHS Policy 1088, or that imposes any restriction on the licensee’s practice privileges. The action is deemed to exist when the licensing entity imposes the adverse action except as provided in Ark. Code Ann. § 25-15-211 (c).
- B. “Applicant” means an Independently Licensed Practitioner that is seeking DHS certification as an Independently Licensed Practitioner.
- C. “Certification” means a written designation, issued by DHS, declaring that the provider has demonstrated compliance as declared within and defined by this rule.
- D. “Client” means any person for whom an Independently Licensed Practitioner furnishes, or has agreed or undertaken to furnish, Counseling Level Outpatient Behavioral Health services.
- E. “Client Information System” means a comprehensive, integrated system of clinical, administrative, and financial records that provides information necessary and useful to deliver client services. Information may be maintained electronically, in hard copy, or both.
- F. “Compliance” means conformance with:
 - 1. Applicable state and federal laws, rules, and regulations including, without limitation:

- a. Titles XIX and XXI of the Social Security Act and implementing regulations;
 - b. Other federal laws and regulations governing the delivery of health care funded in whole or in part by federal funds, for example, 42 U.S.C. § 1320c-5;
 - c. All state laws and rules applicable to Medicaid generally and to an Independently Licensed Practitioner services specifically;
 - d. Title VI of the Civil Rights Act of 1964 as amended, and implementing regulations;
 - e. The Americans With Disabilities Act, as amended, and implementing regulations;
 - f. The Health Insurance Portability and Accountability Act (“HIPAA”), as amended and implementing regulations.
- G. “Contemporaneous” means by the end of the performing provider’s first work period following the provision of care of services to be documented, or as provided in the Outpatient Behavioral Health Services manual, whichever is longer.
- H. “Coordinated Management Plan” means a plan that the provider develops and carries out to assure compliance and quality improvement.
- I. “Corrective Action Plan” (CAP) means a document that describes both short- term remedial steps to achieve compliance and permanent practices and procedures to sustain compliance.
- J. “Cultural Competency” means the ability to communicate and interact effectively with people of different cultures, including people with disabilities and atypical lifestyles.
- K. “DHS” means the Arkansas Department of Human Services Division of Behavioral Health Services.
- L. “Deficiency” means an item or area of noncompliance.
- M. “DHS” means the Arkansas Department of Human Services.
- N. “Emergency an Independently Licensed Practitioner services” means nonscheduled an Independently Licensed Practitioner services delivered under circumstances where a prudent layperson with an average knowledge of behavioral health care would reasonably believe that an Independently Licensed Practitioner services are immediately necessary to prevent death or serious impairment of health.
- O. “Independently Licensed Practitioner” is an individual that is licensed to engage in private/independent practice by the appropriate State Board. The following licensure can qualify as Independently Licensed Practitioners:
- 1. Licensed Certified Social Worker (LCSW)
 - 2. Licensed Marital and Family Therapist (LMFT)

3. Licensed Psychologist (LP)
 4. Licensed Psychological Examiner – Independent (LPEI)
 5. Licensed Professional Counselor (LPC)
- P. “Mobile care” means a face-to-face intervention with the client at a place other than a certified site operated by the provider. Mobile care must be:
1. Either clinically indicated in an emergent situation or necessary for the client to have access to care in accordance with the care plan;
 2. Delivered in a clinically appropriate setting; and
 3. Delivered where Medicaid billing is permitted if delivered to a Medicaid eligible client.
- Q. “NPDB” means the United States Department of Health and Human Services, Health Resources and Services Administration National Provider Data Bank.
- R. “Performing provider” means an Independently Licensed Practitioner who personally delivers a care or service directly to a client.
- S. “Professionally recognized standard of care” means that degree of skill and learning commonly applied under all the circumstances in the community by the average prudent reputable member of the profession. Conformity with Substance Abuse and Mental Health Services Administration (SAMHSA) evidence-based practice models is evidence of compliance with professionally recognized standards of care.
- T. “Provider” means an Independently Licensed Practitioner that is certified by DHS and enrolled by DMS to provide Outpatient Behavioral Health Services.
- U. “Reviewer” means a person employed or engaged by:
1. DHS or a division or office thereof;
 2. An entity that contracts with DHS or a division or office thereof.
- V. “Site” means a distinct place of business dedicated to the delivery of Outpatient Behavioral Health Services. Each site where an Independently Licensed Practitioner performs services at must be certified by the Division of Behavioral Health Services. Colocation within an office or clinic of a physician or psychologist is allowed for an Independently Licensed Practitioner. However, an Independently Licensed Practitioner site cannot be an adjunct to a school, a day care facility, or a long-term care facility. Each site shall be a bona fide an Independently Licensed Practitioner site.
- W. “Site relocation” means closing an existing site and opening a new site.
- X. “Site transfer” means moving existing staff, program, and clients from one physical

location to a second location.

- Y. "Supervise" as used in this rule means to direct, inspect, observe, and evaluate performance.
- Z. "Supervision documentation" means written records of the time, date, subject(s), and duration of supervisory contact maintained in the provider's official records.

IV. COMPLIANCE TIMELINE:

- A. All Independently Licensed Practitioner sites must receive an on-site inspection in order to obtain DHS certification as an Independently Licensed Practitioner site.
- B. DHS may authorize temporary compliance exceptions for Independently Licensed Practitioners, if deemed necessary by DHS.

V. APPLICATION FOR DHS INDEPENDENTLY LICENSED PRACTITIONER CERTIFICATION:

- A. Applicants must complete form DMS-633, which can be found at the following website: <http://humanservices.arkansas.gov/dhs/Documents/LMHP%20Form%20633.pdf>
- B. Applicants must submit the completed application forms and all required attachments for each proposed site to:

Department of Human Services
Division of Provider Services and Quality Assurance
ATTN: Licensure and Certification
P.O. Box 1437 S-530
Little Rock, AR 72203

- C. Each applicant must be an Independently Licensed Practitioner:
 - 1. Whose primary purpose is the delivery of a continuum of outpatient behavioral health services in a free standing independent clinic;
 - 2. That is independent of any DHS certified Behavioral Health Agency.
- D. Independently Licensed Practitioner certification is not transferable or assignable.
- E. The privileges of an Independently Licensed Practitioners certification are limited to the certified site.
- F. Providers may file Medicaid claims only for Outpatient Behavioral Health Services delivered by an Independently Licensed Practitioner.
- G. Applications must be made in the name used to identify the business entity to the Secretary of State and for tax purposes.

- H. The applicant must attach the Independently Licensed Practitioner family involvement policy to each application.

VI. APPLICATION REVIEW PROCESS:

A. Timeline:

1. DHS will review Independently Licensed Practitioner application forms and materials within ninety (90) calendar days after DHS receives a complete application package. (DHS will return incomplete applications to senders without review.)
2. For approved applications, a site survey will be scheduled within forty-five (45) calendar days of the approval date.
3. DHS will mail a survey report to the applicant within twenty-five (25) calendar days of the site visit. Providers having deficiencies on survey reports must submit an approvable corrective action plan to DHS within thirty-five (35) calendar days after the date of a survey report.
4. DHS will accept or reject each corrective action plan in writing within twenty (20) calendar days after receipt.
5. Within thirty (30) calendar days after DHS approves a corrective action plan, the applicant must document implementation of the plan and correction of the deficiencies listed in the survey report. Applicants who are unable, despite the exercise of reasonable diligence, to correct deficiencies within the time permitted may obtain up to ten (10) additional days based on a showing of good cause.
6. DHS will furnish site-specific certificates via postal or electronic mail within ten (10) calendar days of issuing a site certification.

- B. Survey Components: Each site survey will ensure that the site is in compliance with facility environment requirements, location in Section <000.000> of this certification manual. The site survey will also ensure that the Independently Licensed Practitioner complies with policy requirements and record keeping requirements.

C. Determinations:

1. Application approved.
2. Application returned for additional information.
3. Application denied. DHS will state the reasons for denial in a written response to the applicant.

VII. DHS Access to Applicants/Providers:

- A. DHS may contact applicants and providers at any time;
- B. DHS may make unannounced visits to applicants/providers.

- C. Applicants/providers shall provide DHS prompt direct access to applicant/provider documents and to applicant/provider staff and contractors.
- D. DHS reserves the right to ask any questions or request any additional information related to certification.

VIII. ADDITIONAL CERTIFICATION REQUIREMENTS:

A. Care and Services must:

- 1. Comply with all state and federal laws, rules, and regulations applicable to the furnishing of health care funded in whole or in part by federal funds; to all state laws and policies applicable to Arkansas Medicaid generally, and to Outpatient Behavioral Health Services specifically, and to all applicable Department of Human Services (“DHS”) policies including, without limitation, DHS Participant Exclusion Policy § 1088.0.0. The Participant Exclusion Policy is available online at <https://dhsshare.arkansas.gov/DHS%20Policies/Forms/By%20Policy.aspx>
- 2. Conform to professionally recognized behavioral health rehabilitative treatment models.
- 3. Be established by contemporaneous documentation that is accurate and demonstrates compliance. Documentation will be deemed to be contemporaneous if recorded by the end of the performing provider’s first work period following the provision of the care or services to be documented, or as provided in the Outpatient Behavioral Health Services manual, whichever is longer.

B. Applicants and Independently Licensed Practitioners must:

- 1. Be a legal entity in good standing;
- 2. Maintain all required business licenses;
- 3. Adopt a mission statement to establish goals and guide activities;
- 4. Maintain a current organizational chart that identifies administrative and clinical chains of command.

C. Applicants/providers must establish and comply with operating policy that at a minimum implements credible practices and standards for:

- 1. Compliance;
- 2. Cultural competence;
- 3. Provision of services, including referral services, for clients that are indigent, have no source of third party payment, or both, including:
 - a. Procedures to follow when a client is rejected for lack of a third-party payment source or when a client is discharged for nonpayment of care.

- b. Coordinated referral plans for clients that the provider lacks the capacity to provide medically necessary Outpatient Behavioral Health Services. Coordinated referral plans must:
 - i. Identify in the client record the medically necessary Outpatient Behavioral Health Services that the provider cannot or will not furnish;
 - ii. State the reason(s) in the client record that the provider cannot or will not furnish the care;
 - iii. Provide quality-control processes that assure compliance with care, discharge, and transition plans.

IX. REQUIREMENTS FOR CERTIFICATION

- A. Independently Licensed Practitioner may not furnish Outpatient Behavioral Health Services during any time the professional's license is subject to adverse license action.
- B. Applicants/providers may not employ/engage a covered health care practitioner after learning that the practitioner:
 - 1. Is excluded from Medicare, Medicaid, or both;
 - 2. Is debarred under Ark. Code Ann. § 19-11-245;
 - 3. Is excluded under DHS Policy 1088; or
 - 4. Was subject to a final determination that the provider failed to comply with professionally recognized standards of care, conduct, or both. For purposes of this subsection, "final determination" means a final court or administrative adjudication, or the result of an alternative dispute resolution process such as arbitration or mediation.
- C. Independently Licensed Practitioner must maintain copies of disclosure forms signed by the client, or by the client's parent or guardian before Outpatient Behavioral Health Services are delivered except in emergencies. Such forms must at a minimum:
 - 1. Disclose that the services to be provided are Outpatient Behavioral Health Services;
 - 2. Explain Outpatient Behavioral Health Services eligibility, SED and SMI criteria;
 - 3. Contain a brief description of the Independently Licensed Practitioner services;
 - 4. Explain that all Outpatient Behavioral Health Services care must be medically necessary;
 - 5. Disclose that third party (e.g., Medicaid or insurance) Outpatient Behavioral Health Service payments may be denied based on the third party payer's policies or rules;

6. Identify and define any services to be offered or provided in addition to those offered by the Independently Licensed Practitioner, state whether there will be a charge for such services, and if so, document payment arrangements;
 7. Notify that services may be discontinued by the client at any time;
 8. Offer to provide copies of Independently Licensed Practitioner and Outpatient Behavioral Health Services rules;
 9. Provide and explain contact information for making complaints to the provider regarding care delivery, discrimination, or any other dissatisfaction with care provided by the Independently Licensed Practitioner;
 10. Provide and explain contact information for making complaints to state and federal agencies that enforce compliance under § III(G)(1).
- D. Outpatient Behavioral Health Services maintained by the Independently Licensed Practitioner must include:
1. Outpatient Services, including individual and family therapy at a minimum.
 2. Ability to provide Pharmacologic Management at the certified site or the agreement of collaboration with a physician to provide Pharmacologic Management for clients of the Independently Licensed Practitioner.
 3. Ability to refer clients to other practitioners or agencies for Outpatient Behavioral Health Services.
- E. Providers must tailor all Outpatient Behavioral Health Services care to individual client need. If client records contain entries that are materially identical, DHS and the Division of Medical Services will, by rebuttable presumption, that this requirement is not met.
- F. Outpatient Behavioral Health Services for individuals under age eighteen (18): Providers must establish and implement policies for family identification and engagement in treatment for persons under age eighteen (18), including strategies for identifying and overcoming barriers to family involvement.
- G. Emergency Response Services: Applicants/providers must establish, implement, and maintain a site-specific emergency response plan, which must include:
1. A 24-hour emergency telephone number;
 2. The applicant/provider must:
 - a. Provide the 24-hour emergency telephone number to all clients;
 - b. Post the 24-hour emergency number on all public entries to each site;
 - c. Include the 24-hour emergency phone number on answering machine greetings;

- d. Identify local law enforcement and medical facilities within a 50-mile radius that may be emergency responders to client emergencies.
3. Direct access to a mental health professional within fifteen (15) minutes of an emergency/crisis call and face-to-face crisis assessment within two (2) hours;
4. Response strategies based upon:
 - a. Time and place of occurrence;
 - b. Individual's status (client/non-client);
 - c. Contact source (family, law enforcement, health care provider, etc.).
5. Requirements for a face-to-face response to requests for emergency intervention received from a hospital or law enforcement agency regarding a current client.
6. All face-to-face emergency responses shall be:
 - a. Available 24 hours a day, 7 days a week;
 - b. Made by a mental health professional within two (2) hours of request (unless a different time frame is within clinical standards guidelines and mutually agreed upon by the requesting party and the MHP responding to the call).
7. Emergency services training requirements to ensure that emergency service are age-appropriate and comply with accreditation requirements. Providers shall maintain documentation of all emergency service training in each trainee's personnel file.
8. Requirements for clinical review by the clinical supervisor or emergency services director within 24 hours of each after-hours emergency intervention with such additional reporting as may be required by the provider's policy.
9. Requirements for documentation of all crisis calls, responses, collaborations, and outcomes;
10. Requirements that emergency responses not vary based on the client's funding source. If a client is eligible for inpatient behavioral health care funded through the community mental health centers and the provider is not a community mental health center with access to these funds, the provider must:
 - a. Determine whether the safest, least restrictive alternative is psychiatric hospitalization; and
 - b. Contact the appropriate community mental health center (CMHC) for consult and to request the CMHC to access local acute care funds for those over 21.
11. The above crisis response requirements can be addressed through an agreement with another provider (i.e., Behavioral Health Agency, Independently Licensed

Practitioner). Crisis response plans must be discussed with clients and must be available for review.

- O. Each applicant/provider must establish and maintain procedures, competence, and capacity:
 - 1. For assessment and individualized care planning and delivery;
 - 2. For discharge planning integral to treatment;
 - 3. For mobile care;
 - 4. To assure that each mental health professional makes timely clinical disposition decisions;
 - 5. To make timely referrals to other services;
 - 6. To refer for inpatient services or less restrictive alternative;
- P. Each applicant/provider must establish, maintain, and document a quality improvement program, to include:
 - 1. Evidence based practices;
 - 2. Requirements for informing all clients and clients' responsible parties of the client's rights while accessing services.
 - 3. Regular (at least quarterly) quality assurance meetings that include:

X. SITE REQUIREMENTS:

- A. All Independently Licensed Practitioner sites must be located inside the State of Arkansas;
- B. The Independently Licensed Practitioner site shall obtain an annual fire and safety inspection from the State Fire Marshall or local authorities which documents approval for continued occupancy.
- C. All Independently Licensed Practitioner site staff shall know the exact location, contents, and use of first aid supply kits and fire fighting equipment and fire detection systems. All fire fighting equipment shall be annually maintained in appropriately designated areas within the facility.
- D. The Independently Licensed Practitioner site shall post written plans and diagrams noting emergency evacuation routes in case of fire, and shelter locations in case of severe weather. All exits must be clearly marked.
- E. The Independently Licensed Practitioner site shall be maintained in a manner, which provides a safe environment for clients, personnel, and visitors.

- F. The Independently Licensed Practitioner site telephone number(s) and actual hours of operation shall be posted at all public entrances.
- G. The Independently Licensed Practitioner site shall establish policies for maintaining client records, including policies designating where the original records are stored.
- H. Each Independently Licensed Practitioner site shall maintain an organized medical record keeping system to collect and document information appropriate to the treatment processes. This system shall be organized; easily retrievable, usable medical records stored under confidential conditions and with planned retention and disposition.

XI. SITE RELOCATION, OPENING, AND CLOSING (Note: temporary service disruptions caused by inclement weather or power outages are not “closings.”)

A. Planned Closings:

1. Upon deciding to close a site either temporarily or permanently, the Independently Licensed Practitioner immediately must provide written notice to clients and to the Department of Human Services, Division of Behavioral Health Services.
2. Notice of site closure must state the site closure date;
3. If site closure is permanent, the site certification expires at 12:00 a.m. the day following the closure date stated in the notice;
4. If site closing is temporary, and is for reasons unrelated to adverse governmental action, DHS may suspend the site certification for up to one (1) year if the Independently Licensed Practitioner maintains possession and control of the site. If the site is not operating and in compliance within the time specified in the site certification suspension, the site certification expires at 12:00 a.m. the day after the site certification suspension ends.

B. Unplanned Closings:

1. If an Independently Licensed Practitioner must involuntarily close a site due to, for example, fire, natural disaster, or adverse governmental action, the provider must immediately notify clients and families, DHS, the Division of Medical Services, the Medicaid fiscal agent, and the accrediting organization of the closure and the reason(s) for the closure.
2. Site certification expires in accordance with any pending regulatory action, or, if no regulatory action is pending, at 12:00 a.m. the day following permanent closure.

C. All Closings:

1. Independently Licensed Practitioner must assure and document continuity of care

for all clients who receive Outpatient Behavioral Health Services at the site;

2. Notice of Closure and Continuing Care Options:
 - a. Independently Licensed Practitioner must assure and document that clients and families receive actual notice of the closure, the closure date, and any information and instructions necessary for the client to obtain transition services;
 - b. After documenting that actual notice to a specific client was impossible despite the exercise of due diligence, Independently Licensed Practitioners may satisfy the client notice requirement by mailing a notice containing the information described in subsection (a), above, to the last known address provided by the client; and
 - c. Before closing, Independently Licensed Practitioner must post a public notice at the site entry.
3. An acceptable transition plan is described below:

Transition Plan:

1. Provide clients/families with the referral information and have them sign a transfer of records form/release of information to enable records to be transferred to the provider of their choice.
2. Transfer records to the designated provider.

4. Designate a records retrieval process as specified in Section I of the Arkansas Medicaid Outpatient Behavioral Health Services Provider Policy Manual § 142.300.
5. Submit a reporting of transfer to DHS (Attn: Policy & Certification Office) including a list of client names and the disposition of each referral. See example below:

Name	Referred to:	Records Transfer Status:	RX Needs Met By:
Johnny	OP Provider Name	to be delivered 4/30/20XX	Provided 1 month RX
Mary	Private Provider Name	Delivered 4/28/20XX	No Meds
Judy	Declined Referral	XX	
6. DHS may require additional information regarding documentation of client transfers to ensure that client needs are addressed and met.

A site closing Form is available at: www.arkansas.gov/dhs/dhs See appendix # 9

D. New Sites: Providers may apply for a new site by completing the new site Form available at www.arkansas.gov/dhs/dhs

See appendix # 10 DHS Form # 5 – (Adding Site)

E. Site Transfer:

1. At least forty-five (45) calendar days before a proposed transfer of a certified site, the provider must apply to DHS to transfer site certification.
2. The provider must notify clients and families at least thirty (30) calendar days before the transfer;
3. DHS requires an on-site survey prior to allowance of service at the new site. The Division of Medical Services does not require a new Medicaid provider number. The moving or transferring site form is available at: www.arkansas.gov/dhs/dhs

See appendix # 9 – DHS Form # 4 (Closing and Moving Sites)

F. Site Relocation: The provider must follow the rules for closing the original site, and the rules for opening a new site.

XII. PROVIDER RE-CERTIFICATION:

A. The term of DHS site certification is continuous for 3 years from the date of Certification as long as the site is not transferred and the Independently Licensed Practitioner maintains appropriate Licensure. If an Independently Licensed Practitioner loses appropriate licensure, the site that they operate in will lose certification.

B. Providers must furnish DHS a copy of:

1. An application for provider and site recertification:
 - a. DHS must receive provider and site recertification applications at least fifteen (15) business days before the DHS Independently Licensed Practitioner certification expiration date;
 - b. The Re-Certification form with required documentation is available at www.arkansas.gov/dhs/dhs

See Appendix # 11 DHS Form 3 (Re-certification)

C. If DHS has not recertified the provider and site(s) before the certification expiration date, certification is void beginning 12:00 a.m. the next day.

XIII. MAINTAINING DHS INDEPENDENTLY LICNESED PRACTITIONER CERTIFICATION:

A. Providers must:

1. Maintain compliance;

2. Assure that DHS certification information is current, and to that end must notify DHS within thirty (30) calendar days of any change affecting the accuracy of the provider's certification records;
3. Display the Independently Licensed Practitioner certificate for each site at a prominent public location within the site

B. Annual Reports:

1. Providers must furnish annual reports to DHS before July 1 of each year that the provider has been in operation for the preceding twelve (12) months.
1. Annual report shall be prepared by completing forms provided by DHS. The annual report form is available at www.arkansas.gov/dhs/dhs and at Appendix # 12 DHS Form # 6

XIV. NONCOMPLIANCE

A. Failure to comply with this rule may result in one or more of the following:

1. Submission and implementation of an acceptable corrective action plan as a condition of retaining Independently Licensed Practitioner certification;
2. Suspension of Independently Licensed Practitioner certification for either a fixed period or until the provider meets all conditions specified in the suspension notice;
3. Termination of Independently Licensed Practitioner certification.

XV. APPEAL PROCESS

- A. If DHS denies, suspends, or revokes any Independently Licensed Practitioner certification (takes adverse action), the affected proposed provider or provider may appeal the DHS adverse action. Notice of adverse action shall comply with Ark. Code Ann. §§ 20-77-1701-1705, and §§1708-1713. Appeals must be submitted in writing to the DHS Director. The provider has thirty (30) calendar days from the date of the notice of adverse action to appeal. An appeal request received within thirty-five (35) calendar days of the date of the notice will be deemed timely. The appeal must state with particularity the error or errors asserted to have been made by DHS in denying certification, and cite the legal authority for each assertion of error. The provider may elect to continue Medicaid billing under the Outpatient Behavioral Health Services program during the appeals process. If the appeal is denied, the provider must return all monies received for Independently Licensed Practitioner services provided during the appeals process.
- B. Within thirty (30) calendar days after receiving an appeal the DHS Director shall: (1) designate a person who did not participate in reviewing the application or in the appealed-from adverse decision to hear the appeal; (2) set a date for the appeal hearing; (3) notify the appellant in writing of the date, time, and place of the hearing. The hearing shall be set within sixty (60) calendar days of the date DHS receives the request

for appeal, unless a party to the appeal requests and receives a continuance for good cause.

- C. DHS shall tape record each hearing.
- D. The hearing official shall issue the decision within forty-five (45) calendar days of the date that the hearing record is completed and closed. The hearing official shall issue the decision in a written document that contains findings of fact, conclusions of law, and the decision. The findings, conclusions, and decision shall be mailed to the appellant except that if the appellant is represented by counsel, a copy of the findings, conclusions, and decision shall also be mailed to the appellant's counsel. The decision is the final agency determination under the Administrative Procedure Act.
- E. Delays caused by the appealing party shall not count against any deadline. Failure to issue a decision within the time required is not a decision on the merits and shall not alter the rights or status of any party to the appeal, except that any party may pursue legal process to compel the hearing official to render a decision.
- F. Except to the extent that they are inconsistent with this policy, the appeal procedures in the Arkansas Medicaid Outpatient Behavioral Health Services Provider Manual are incorporated by reference and shall control.