

ABBREVIATED NOTICE FOR PUBLIC COMMENT PERIOD  
FOR PROPOSED TEFRA SECTION 1115 DEMONSTRATION PROJECT

Pursuant to 42 C.F.R. § 431.408, the Director of the Division of Medical Services (DMS) of the Department of Human Services (DHS) issues the following abbreviated notice for the Section 1115 Demonstration Project waiver for the TEFRA program.

The Tax Equity and Fiscal Responsibility Act (TEFRA) of 1982 gave individual states the option to provide health care benefits to children living with disabilities whose family income was too high to qualify for traditional Medicaid. Prior to 2002, Arkansas opted to place eligible disabled children in traditional Medicaid by assigning them to a new aid category within its Medicaid State Plan. While this arrangement allowed the children to remain in their homes, it ultimately placed an unsustainable financial burden on the State during a time when budget limitations were becoming more restrictive. To address the financial viability of the program, the State chose to use the flexibility available within a Section 1115 demonstration waiver to develop and implement a sliding scale premium fee structure based on the family's income, effectively passing a portion of the cost to the eligible child's family.

Today the TEFRA program allows children who require an institutional level of care to remain in their homes and receive the treatment they need in a process that is cost effective and sustainable. Families with annual incomes at or below 150% of the federal poverty level (FPL) are exempted from the premium requirement, and program eligibility is determined solely on the assets and resources of the child. The State's current objective is to continue providing medical services to disabled children eligible for Medicaid under the TEFRA-like 1115 demonstration waiver.

To be eligible for the TEFRA-like demonstration, a child must meet the requirements for medical necessity, appropriateness of care, and financial need. During the current demonstration period, enrollment started at just under 5,000 TEFRA enrollees and peaked at just under 6,000 enrollees by June of 2021.

Individuals enrolled in the TEFRA-like demonstration waiver receive the full range of State Medicaid benefits and services. Services provided under the TEFRA-like demonstration waiver are delivered through the State's existing network of Medicaid providers.

The TEFRA-like demonstration waiver allows the State to require a sliding-scale premium for eligible children based upon the income of the custodial parent(s). A monthly premium can be assessed only if the family income is above 150% of the FPL and more than \$25,000. There are no co-payments charged for services to TEFRA children, and a family's total annual out-of-pocket cost sharing cannot exceed 5% of the family's gross income. Most clients (between 60% and 70% each year of the demonstration) pay premiums between \$20 and \$182 per month. In the 2021 TEFRA Beneficiary Survey, just 7% of respondents said the premiums were "a big financial burden." The other 93% said it was only a small financial burden or not a burden at all. The premium payments continue to provide an important offset to the cost of providing this care under the TEFRA program.

During the current demonstration period, the Arkansas TEFRA-like program has consistently operated under the budget neutrality levels set by the program's Special Terms and Conditions. The total expenditures have increased 5% on average each year during the period, while the number of member months increased an average of 4% each year.

Arkansas proposes extending the current TEFRA demonstration with an expected 4.1% annual increase in member months. The per member per month cost will not exceed a 1% annual increase.

The state proposes to continue the TEFRA demonstration with only the following minor changes:

- Enhance the TEFRA program's evaluation methodology by expanding the comparison population, exploring data from the state's All Payer Claims Database and adding a longitudinal analysis.
- Allowing clients with long-term or chronic conditions to obtain a medical redetermination every three years, rather than every year.

The TEFRA full notice is available for review at the Department of Human Services (DHS) Office of Rules Promulgation, 2nd floor Donaghey Plaza South Building, 7th and Main Streets, P. O. Box 1437, Slot S295, Little Rock, Arkansas 72203-1437. You may also access and download the full notice and this notice on the DHS website at <https://humanservices.arkansas.gov/rules/arkansas-tefra-waiver/>


Public comments may be submitted in writing at the above mailing address or at the following email address: [ORP@dhs.arkansas.gov](mailto:ORP@dhs.arkansas.gov). All public comments must be received by DHS no later than June 20, 2022. Please note that public comments submitted in response to this notice are considered public documents. A public comment, including the commenter's name and any personal information contained within the public comment, will be made publicly available.

Two public hearings will be held for public comment:

- 1) The *Task Force on Autism* will meet in Room B of the Mac Building, 1 Capitol Mall, Little Rock, AR 72201 on May 24, 2022, at 1:30 PM. Comments may be submitted at the hearing by the public by sign-up with the Task Force on Autism procedures. If you would like the electronic link, please send request to ORP at [ORP@dhs.arkansas.gov](mailto:ORP@dhs.arkansas.gov).
- 2) A second public hearing by remote access through a Zoom webinar will be held on June 2, 2022, at 2:30 p.m. Public comments may be submitted at the hearing. Individuals can access this public hearing at <https://us02web.zoom.us/j/83750606618>. The webinar ID is 837 5060 6618. If you would like the electronic link, "one-tap" mobile information, listening only dial-in phone numbers, or international phone numbers, please contact ORP at [ORP@dhs.arkansas.gov](mailto:ORP@dhs.arkansas.gov).

If you need this material in a different format, such as large print, contact the Office of Rules Promulgation at 501-534-4138.

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Division of Medical Services