

**QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS  
WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE**

**DEPARTMENT/AGENCY** Arkansas Insurance Department  
**DIVISION** Legal Division  
**DIVISION DIRECTOR** Bill Lacy, General Counsel  
**CONTACT PERSON** Booth Rand, Managing Attorney  
**ADDRESS** 1200 West Third Street, Little Rock, Arkansas 72201-1904  
**PHONE NO.** 501-371-2820    **FAX NO.** 501-371-2618    **E-MAIL** booth.rand@arkansas.gov  
**NAME OF PRESENTER AT COMMITTEE MEETING** Booth Rand, Managing Attorney  
**PRESENTER E-MAIL** booth.rand@arkansas.gov

**INSTRUCTIONS**

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

**Donna K. Davis**  
**Administrative Rules Review Section**  
**Arkansas Legislative Council**  
**Bureau of Legislative Research**  
**One Capitol Mall, 5<sup>th</sup> Floor**  
**Little Rock, AR 72201**

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1. What is the short title of this rule? Rule 109: Orthotic and Prosthetic Reimbursement
  2. What is the subject of the proposed rule? Reimbursement rates for orthotic and prosthetic coverage in fully insured health benefit plans
  3. Is this rule required to comply with a federal statute, rule, or regulation? Yes  No   
If yes, please provide the federal rule, regulation, and/or statute citation. \_\_\_\_\_
  4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes  No   
If yes, what is the effective date of the emergency rule? \_\_\_\_\_
  - When does the emergency rule expire? \_\_\_\_\_

Will this emergency rule be promulgated under the permanent provisions  
of the Administrative Procedure Act? Yes  No

5. Is this a new rule? Yes  No

If yes, please provide a brief summary explaining the regulation. See attached Summary. The proposed rule raises reimbursement rates for eligible charges for orthotic and prosthetic coverages to 80% of current CMS allowable rates. The current law ties such rates to 80% of 2009 CMS levels.

Does this repeal an existing rule? Yes  No

If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does. N/A

Is this an amendment to an existing rule? Yes  No

If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. Ark. Code Ann. Section 23-99-417(e)

7. What is the purpose of this proposed rule? Why is it necessary? The purpose of the proposed Rule is to bring up to date reimbursement for coverage for orthotic and prosthetic services to 80% of current CMS allowable levels. Currently, the reimbursement for such services is tied to 2009 levels which are not current today.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b). <http://www.insurance.arkansas.gov/prop-rules.htm>

9. Will a public hearing be held on this proposed rule? Yes  No

If yes, please complete the following:

Date: January 14, 2015

Time: 9:30 A.M.

Arkansas Insurance Department, 1200  
West Third Street, Little Rock,

Place: Arkansas

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)  
After the hearing ends on January 14, 2015 unless the Commissioner decides to keep the record open longer to receive comments.

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

March 1, 2015, however we may change this to later in the spring of 2015 or summer.

12. Do you expect this rule to be controversial? Yes  No

Out of abundance of caution I am answering yes due to the fact that it may raise insurer reimbursement to conform to 80% of current and now higher CMS allowable rates from 2009, and insurers typically protest or complain about any cost increases, however we believe any adjustment here to not be significant

If yes, please explain. significant

13. Please give the names of persons, groups, or organizations that you expect to comment on these rules?  
Please provide their position (for or against) if known.

We do not know of these persons or groups at this time, but will update this information in public comment summaries after the public hearing on January 14, 2015.

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## **FINANCIAL IMPACT STATEMENT**

### **PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT** Arkansas Insurance Department  
**DIVISION** Legal Division  
**PERSON COMPLETING THIS STATEMENT** Booth Rand, Managing Attorney  
**TELEPHONE NO.** 501-519-0484 **FAX NO.** 501-371-2618 **EMAIL:** booth.rand@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

**SHORT TITLE OF THIS RULE** Rule 109: Orthotic and Prosthetic Reimbursement

1. Does this proposed, amended, or repealed rule have a financial impact? Yes  No
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule? Yes  No
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes  No

If an agency is proposing a more costly rule, please state the following:

- (a) How the additional benefits of the more costly rule justify its additional cost;

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- (b) The reason for adoption of the more costly rule;

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- (c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;

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- (d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.

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4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

- (a) What is the cost to implement the federal rule or regulation?

#### **Current Fiscal Year**

General Revenue N/A  
Federal Funds N/A  
Cash Funds N/A  
Special Revenue N/A  
Other (Identify) N/A

#### **Next Fiscal Year**

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

Total \_\_\_\_\_ Total \_\_\_\_\_

- (b) What is the additional cost of the state rule?

**Current Fiscal Year**

General Revenue	N/A
Federal Funds	N/A
Cash Funds	N/A
Special Revenue	N/A
Other (Identify)	N/A
Total	N/A

**Next Fiscal Year**

General Revenue	_____
Federal Funds	_____
Cash Funds	_____
Special Revenue	_____
Other (Identify)	_____
Total	_____

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

**Current Fiscal Year**

\$ Unknown \_\_\_\_\_

We do not know right now what the exact cost impact to insurers and health benefit plans this reimbursement adjustment will create but we do not believe it significant and will update this information as soon as available.

**Next Fiscal Year**

\$ \_\_\_\_\_

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

**Current Fiscal Year**

\$ None \_\_\_\_\_

**Next Fiscal Year**

\$ \_\_\_\_\_

We already review these mandates with current staffing

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes  No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;

- (3) a description of the factual evidence that:
  - (a) justifies the agency's need for the proposed rule; and
  - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
  - (a) the rule is achieving the statutory objectives;
  - (b) the benefits of the rule continue to justify its costs; and
  - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.