

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Early and Periodic Screening, Diagnosis and Treatment
School-Based Nursing Services
(LAC 50:XV.9501)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XV.9501 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950) et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated a Rule which adopted provisions to establish reimbursement and coverage for school-based nursing services rendered to all children enrolled in Louisiana schools (*Louisiana Register*, Volume 39, Number 10).

The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) recently issued guidance which removed the requirement that school-based nursing services be included on the individualized education plan (IEP) to be reimbursed by Medicaid.

As a result of the CMS guidance, the department promulgated an Emergency Rule to amend the provisions governing school-based nursing services covered in the EPSDT Program to remove the IEP requirement (*Louisiana Register*, Volume 41, Number 6). This

proposed Rule is being promulgated to continue the provisions of the July 1, 2015 Emergency Rule.

Title 50
PUBLIC HEALTH-MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 5. Early and Periodic Screening,
Diagnosis, and Treatment

Chapter 95. School-Based Nursing Services

§9501. General Provisions

A. - B. ...

C. School-based nursing services shall be covered for all recipients in the school system.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:2760 (October 2013), amended LR: 42

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty

in relation to individual or community asset development as described in R.S. 49:973.

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, June 29, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH

Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

Person

Preparing

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Address: Baton Rouge, LA

Rule Title: Early and Periodic Screening

Diagnosis and Treatment

School-Based Nursing Services

Date Rule Takes Effect: July 1, 2015

SUMMARY

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. The following summary statements, based on the attached worksheets, will be published in the Louisiana Register with the proposed agency rule.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic costs of \$2,701,855 for FY 15-16, \$3,369,082 for FY 16-17 and \$3,352,120 for FY 17-18; however, the state match shall be funded through an intergovernmental transfer of non-state funds from local governmental entities to the department to secure federal match to fund the increase in payments. It is anticipated that \$324 (\$162 SGF and \$162 FED) will be expended in FY 15-16 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.17 percent in FY 15-16, 62.26 percent in FY 16-17 and 62.45 percent for FY 17-18.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$4,440,136 for FY 15-16, \$5,558,002 for FY 16-17 and \$5,574,964 for FY 17-18. It is anticipated that \$162 will be expended in FY 15-16 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.17 percent in FY 15-16, 62.26 percent in FY 16-17 and 62.45 percent in FY 17-18.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

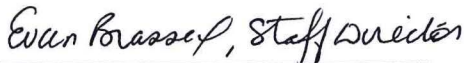
This proposed Rule continues the provisions of the July 1, 2015 Emergency Rule which amended the provisions governing school-based nursing services covered in the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program to remove the individualized education plan (IEP) requirement. It is anticipated that implementation of this proposed rule will increase programmatic expenditures for school-based nursing services by approximately \$7,141,667 for FY 15-16, \$8,927,084 for FY 16-17 and \$8,927,084 for FY 17-18.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition and employment.



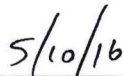
Signature of Agency Head
or Designee



Legislative Fiscal Officer
or Designee

Jen Steele,
Interim Medicaid Director

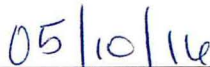
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Agency Head or Designee



Date of Signature



DHH/BHSF Budget Head



Date of Signature

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberations on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

This proposed Rule continues the provisions of the July 1, 2015 Emergency Rule which amended the provisions governing school-based nursing services covered in the EPSDT Program to remove the IEP requirement.

- B. Summarize the circumstances that require this action. If the action is required by federal regulations, attach a copy of the applicable regulation.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated a Rule which adopted provisions to establish reimbursement and coverage for school-based nursing services rendered to all children enrolled in Louisiana schools (Louisiana Register, Volume 39, Number 10).

The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) recently issued guidance which removed the requirement that school-based nursing services be included on the individualized education plan (IEP) to be reimbursed by Medicaid.

As a result of the CMS guidance, the department promulgated an Emergency Rule to amend the provisions governing school-based nursing services covered in the EPSDT Program to remove the IEP requirement (Louisiana Register, Volume 41, Number 6). This proposed Rule is being promulgated to continue the provisions of the July 1, 2015 Emergency Rule.

- C. Compliance with Act 11 of the 1986 First Extraordinary Session.

- (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

Yes. This proposed rule will result in an increase in program expenditures for school-based nursing services by approximately \$7,141,991 for FY 15-16, \$8,927,084 for FY 16-17 and \$8,927,084 for FY 17-18. In FY 15-16, \$324 is included for the state's administrative expense for promulgation of this proposed rule and the final rule.

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

- (a) If yes, attach documentation.
(b) If no, provide justification as to why this rule change should be published at this time.

Act 16 of the 2015 Regular Session of the Louisiana Legislature allocated funds to the Medical Vendor Program for payments to providers and thereby authorizes the expenditure of these funds. This rule change should be published at this time to ensure the Department's administration of the Medicaid Program is compliant with federal regulations which removed the IEP requirement for nursing services in the EPSDT Program.

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET

I. A. COST OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase or (decrease) in cost to implement the proposed action?

COST	FY 15-16	FY 16-17	FY 17-18
PERSONAL SERVICES			
OPERATING EXPENSES	\$324	\$0	\$0
PROFESSIONAL SERVICES			
OTHER CHARGES	\$7,141,667	\$8,927,084	\$8,927,084
REPAIR & CONSTR.			
POSITIONS (#)			
TOTAL	\$7,141,991	\$8,927,084	\$8,927,084

2. Provide a narrative explanation of the costs or savings shown in "A.1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

The expenses reflected above are the estimated increases in program expenditures for school-based nursing services. In FY 15-16, \$324 is included for the state's administrative expense for promulgation of this proposed rule and the final rule.

3. Sources of funding for implementing the proposed rule or rule change.

Source	FY 15-16	FY 16-17	FY 17-18
STATE GENERAL FUND	\$0		
SELF-GENERATED			
FEDERAL FUND	\$4,440,136	\$5,558,002	\$5,574,964
OTHER (Specify)	\$2,701,855	\$3,369,082	\$3,352,120
Total	\$7,141,991	\$8,927,084	\$8,927,084

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

Yes, sufficient funds are available to implement this rule.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THIS PROPOSED ACTION.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustment in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

This proposed rule has no known impact on local governmental units.

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET

2. Indicate the sources of funding of the local governmental unit that will be affected by these costs or savings.

There is no known impact on the sources of local governmental unit funding.

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

- A. What increase or (decrease) in revenues can be expected from the proposed action?

REVENUE INCREASE/DECREASE	FY 15-16	FY 16-17	FY 17-18
STATE GENERAL FUND			
AGENCY SELF-GENERATED	\$2,701,855	\$3,369,082	\$3,352,120
RESTRICTED FUNDS*			
FEDERAL FUNDS	\$4,440,136	\$5,558,002	\$5,574,964
LOCAL FUNDS			
Total	\$7,141,991	\$8,927,084	\$8,927,084

*Specify the particular fund being impacted

- B. Provide a narrative explanation of each increase or decrease in revenue shown in "A". Describe all data, assumptions, and methods used in calculating these increases or decreases.

The amounts reflected above are the estimated increases in the federal share of program expenditures for school-based nursing services. In FY 15-16, \$162 is included for the federal expense for promulgation of this proposed rule and the final rule.

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS

- A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effects on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.)

This proposed Rule continues the provisions of the July 1, 2015 Emergency Rule which amended the provisions governing school-based nursing services covered in the EPSDT Program to remove the IEP requirement.

- B. Also, provide an estimate of any revenue impact resulting from this rule or rule change to these groups.

It is anticipated that implementation of this proposed rule will increase programmatic expenditures for school-based nursing services by approximately \$7,141,667 for FY 15-16, \$8,927,084 for FY 16-17 and \$8,927,084 for FY 17-18.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

It is anticipated that the implementation of this proposed rule will not have an effect on competition and employment.