The Louisiana Department of Health (LDH) has prepared this report on funding for in-home services in accordance with Senate Resolution No. 6 of the 2016 Regular Louisiana Legislative session. Senate Resolution 6 charges LDH with evaluating and reporting on potential funding solutions for in-home support providers. The resolution requests LDH provide annual data beginning in 2008 on rate reductions for in-home support providers versus nursing home providers and any unfunded mandates charged to this provider group. The resolution further requires LDH identify realistic funding strategies and provide a detailed plan and timeline for implementation to ensure sustainability of in-home services.

BACKGROUND

The Centers for Medicare & Medicaid Services (CMS) defines "personal care" as non-skilled, personal care, which includes assistance with daily living activities. For purposes of this report, in-home services are understood to mean those services licensed in Louisiana under the Personal Care Attendant (PCA) module of the Home and Community-Based Services (HCBS) license.

Medicaid PCA services are provided to eligible people under four HCBS waivers and two Medicaid state plan programs.

The Medicaid state plan programs are Long Term Personal Care Services Program and Early and Periodic Screening, Diagnosis and Treatment. These PCA services are financed through a combination of state general fund (SGF) appropriations and federal matching funds provided through CMS's federal financial participation (FFP). Unlike other Medicaid services, such as nursing homes and intermediate care facilities, PCA services currently have no other funding sources or mechanisms available.

The four HCBS waivers are the New Opportunities Waiver (NOW), Children's Choice Waiver (CCW), Residential Options Waiver (ROW), and Community Choices Waiver (OAAS-CCW). LDH's Office for Citizens with Developmental Disabilities (OCDD) operates the first three waivers, and LDH's Office of Aging and Adult Services (OAAS) operates the fourth waiver. Currently, there are 16,020 opportunities (slots) in these waivers that may provide PCA services in the home of the participant.

FUNDING EVALUATION AND RECOMMENDATIONS

As required by Senate Resolution No. 6, LDH has evaluated funding sources for PCA services. The evaluation begins with a review of rate reductions of PCA service providers versus rate reductions to institutional nursing homes since 2008.

The following table lists the service rates that were effective on July 1, 2008.

PERSONAL CARE ATTENDANT RATES ON JULY 1, 2008

PCA SERVICE DESCRIPTION	07/01/2008 RATE BY UNIT OF SERVICE (QTR HR)	07/01/2008 HOURLY RATE
IFS-DAY 1 PERSON	$4.00	$16.00
IFS-DAY 2 PERSONS	$2.88	$23.04
IFS-DAY 3 PERSONS	$2.50	$30.00
IFS-NIGHT 1 PERSON	$2.25	$9.00
IFS-NIGHT 2 PERSONS	$1.57	$12.56
IFS-NIGHT 3 PERSONS	$1.34	$16.08
FAMILY SUPPORT - 1 PERSON	$3.75	$15.00
FAMILY SUPPORT - 2 PERSON	$2.69	$21.52
COMPANION CARE	$2.50	$10.00
LONG TERM PERSONAL CARE	$3.50	$14.00
EPSDT PERSONAL CARE	$2.51	$10.04

The first of a series of rate reductions for PCA services began in February of 2009. The following chart lists these rate reductions by percentage:

PERSONAL CARE SERVICES RATE REDUCTIONS SINCE STATE FISCAL YEAR 2008-2009

Waiver	Date of Reduction	%	Service
NOW	2/20/2009	3.50%	All IFS Services
NOW	8/4/2009	3.11%	IFS – Day 1 Person
NOW	8/1/2010	2.00%	IFS – Day 1 Person
NOW	7/1/2012	1.50%	IFS – Day 1 Person
CCW	1/22/2010	4.75%	Family Support All Services
CCW	8/1/2010	2.00%	Family Support All Services
ROW	8/1/2010	2.00%	CLS All Services
ROW	7/1/2012	1.50%	CLS All Services
EDA	8/4/2009	3.60%	Companion Care
OAAS – CCW (replaced EDA)	7/1/2012	1.41%	Personal Assistance Services
State Plan LT-PCS	2/1/2009	3.43%	LT-PCS
State Plan LT-PCS	8/4/2009	4.75%	LT-PCS
State Plan LT-PCS	8/1/2010	4.66%	LT-PCS
State Plan LT-PCS	4/1/2011	5.86%	LT-PCS
State Plan LT-PCS	7/1/2012	1.38%	LT-PCS

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PERSONAL CARE ATTENDANT RATES PER UNIT OF SERVICE CREATED BY RATE REDUCTIONS

GROUP	SERVICE DESCRIPTION	7/1/2008 RATE	02/01/2009 RATE CUT	02/20/2009 RATE CUT	07/1/2009 RATE CUT	08/4/2009 RATE CUT	01/22/2010 RATE CUT	08/01/2010 RATE CUT	04/01/2011 RATE CUT	07/01/2012 RATE CUT
HCBS-NOW	Individual and Family Support Day - One Person	$4.00		$3.86		$3.74		$3.67		$3.61
HCBS-NOW	Individual and Family Support Day - Two Persons	$2.88		$2.78		$2.78		$2.72		$2.72
HCBS-NOW	Individual and Family Support Day - Three Persons	$2.50		$2.41		$2.41		$2.36		$2.36
HCBS-NOW	Individual and Family Support Night - One Person	$2.25		$2.17		$2.17		$2.17		$2.17
HCBS-NOW	Individual and Family Support Night - Two Persons	$1.57		$1.52		$1.52		$1.52		$1.52
HCBS-NOW	Individual and Family Support Night - Three Persons	$1.34		$1.29		$1.29		$1.29		$1.29
HCBS-CCW	Family Support	$3.75					$3.57	$3.50		
HCBS-CCW	Family Support - 2 Children	$2.69					$2.56	$2.51		
HCBS-ROW	Community Living Supports - 1 Person	$3.74						$3.67		$3.61
HCBS-ROW	Community Living Supports - 2 Persons	$3.00						$2.94		$2.90
HCBS-ROW	Community Living Supports - 3 Persons	$2.50						$2.45		$2.41
HCBS-EDA	Companion Care	$2.50			$2.41					
HCBS-OAAS-CCW	Personal Assistance Services - 1 Person	$2.85						$2.83		$2.79
HCBS-OAAS-CCW	Personal Assistance Services - 2 Persons	$2.31								
HCBS-OAAS-CCW	Personal Assistance Services - 3 Persons	$2.02								
STATE-PLAN	Long Term Personal Care Services	$3.50	$3.38			$3.22		$3.07	$2.89	$2.85
STATE-PLAN	EPSDT Personal Care Services	$2.51								

In comparison, nursing facility rates have not been reduced to the same degree as PCA services. Because of mandatory bi-annual rebasing of their rates, nursing home rates have experienced a steady increase.

Historical Statewide Average Nursing Home Daily Rate Including Provider Fee

Jul-08	Jul-09	Jul-10	Jul-11	Sept-12 *	Jul-13	Jul-14	Jul-15	Jul-16
$130.88	$133.87	$144.19	$148.24	$152.12	$161.70	$165.56	$166.77	$172.83

UNFUNDED MANDATES ON PROVIDERS

LDH has identified four mandates that have been placed on the providers of personal care services that may have an effect on their costs and sustainability: 1) the Affordable Care Act's (ACA) mandate requiring that personal care service providers with 50 or more employees offer health insurance to 95 percent of its full time employees; 2) medication administration training costs; 3) the United States Department of Labor (DOL) service definition change that requires that PCA providers adhere to Wage and Hour Overtime Rules for their workers; and 4) an increase in the cost of required criminal background checks for PCA workers.

1. ACA requires that employers with more than 50 employees be assessed a fee of $2,000 per full-time employee (30+ employees) if they do not offer coverage and have at least one employee who receives a premium credit through a Healthcare Exchange. Employers with 50+ employees, who offer coverage but have at least one employee who receives a premium credit through the Exchange will be required to pay the lesser of $3,000 for each employee who receives a premium credit or $2,000 for each full-time employee (30+ employees). Data obtained from Statistical Resources, Inc. for August 2016, indicates during a 4-week time period (08/01/16-08/28/16), there were 283 providers who had 50 or more workers providing care. Of those agencies, 19 had 50+ workers averaging 40 or more hours per week. These 19 agencies are subject to the maximum penalty if they do not offer employer-sponsored health insurance coverage to their employees.

   As of this date, LDH does not have any verifiable data on the impact of ACA on individual PCA agencies or on the collective cost to the provider system. Based on information obtained from the Louisiana Exchange on Healthcare.gov, employers could pay up to $2,000 a month per employee for health insurance coverage.

2. The Nurse Practice Act restricted PCA workers to administer required medication to personal care service program participants without mandated training. An exception to the Nurse Practice Act was created, and requires PCA providers use licensed nursing services or provide extensive training to direct support personnel in order to administer medications. The burden of the cost for these nursing services and the training would be borne by the PCA provider. Again, LDH does not have verifiable data about the impact of this mandate.

3. The Department of Labor Overtime Rule, which went into effect on October 13, 2015, makes direct care workers employed by agencies and other third-party employers entitled to receive the federal minimum wage and over-time pay. LDH recognized the possible

fiscal impact of this rule on PCA service providers and requested an additional appropriation to help with the burden of the rule. To date, the department has been unsuccessful in acquiring the additional appropriation. Providers of PCA services are subject to the same penalties as all other employers who violate federal wage and hour laws. LDH made overtime requests in fiscal year 2014-2015 in the amount of $57,107,842 and for fiscal year 2015-2016 in the amount of $55,582,573 all of which remained unfunded.

4. Louisiana state law (La RS 40:1300.51, et seq.) requires annual criminal background checks for each direct support worker employed and for each applicant under consideration for employment. There is an average of over 35,000 direct support workers providing personal care services weekly, and the cost for providers to comply is substantial. The cost of this service to providers in some cases has doubled over the last several years due to increased charges for this service by vendors. This cost is currently borne by providers out of their current reimbursement rate. As of this date, LDH does not have any verifiable data on the impact of increased cost of background checks to specific providers.

Though the impact of these mandates is difficult to quantify due to lack of data, it is true that there has been no additional funding appropriated to increase reimbursement rates and ease the impact of these additional costs.

LDH RECOMMENDATIONS

As required by this resolution, LDH recommends the following funding solutions:

PROPOSAL 1

LDH's first priority is to move PCA reimbursement to a cost-based reimbursement methodology. Though funding of rates produced through such a methodology are subject to legislative appropriation, over time a cost-based methodology provides a robust mechanism for dealing with new costs and mandates. The additional expenses incurred by providers may be reflected in cost reports and factored into the periodic rebasing of rates.

In 2013, as a step toward achieving this goal, HCBS providers began submitting cost reports to LDH. These reports capture both the direct-care and indirect cost components of providing PCA services. LDH has worked with an independent actuary/consultant who has developed both the methodology and initial payment rates using cost report data submitted by HCBS providers.

The rate methodology was issued as a final rule in June 2016. If appropriated, the new rates would increase PCA reimbursement in the majority of HCBS programs that provide this service. Future rebasing would move HCBS reimbursement to a footing reflective of actual costs and better insure service sustainability. It should be noted that LDH is not currently appropriated the level of funding required to support providing any rate increase to HCBS providers as outlined in the current rule.

PROPOSAL 2

LDH recommends increased funding to mitigate the overtime burden of providers. As part of fiscal year 2017-2018 budget package, LDH will request additional funding to increase the rate of all PCA services. This rate increase, if funded, would take effect July 1, 2017.

PROPOSAL 3

LDH recommends exploring the feasibility of extending a general state tax to include HCBS services as a mechanism to generate additional revenue that could then be dedicated to the enhancement of HCBS provider rates. This approach is sometimes referred to as a "non-healthcare related provider tax" because revenue generated from the taxing of the healthcare service must constitute less than 85% of the total revenue generated by the tax. This concept has been implemented in Maine and in Kentucky. Revenue generated through this approach is not eligible for federal match unless CMS approves the arrangement.

APPENDIX – Community Stakeholder Meeting Summary

The following list of stakeholders participated in the session on September 7, 2016:

Mark Thomas, Assistant Secretary OCDD
Tiffany Dickerson, OCDD
Paul Rhorer, OCDD
Kelly Monroe, ARC of Louisiana
Bernard Brown, OCDD
Jackie Blaney, Provider
Robin Wagner, OAAS
Charles Ayles, OCDD
Barry Meyer, Provider
Kevin Hayes, Consultant
Matt Rovira, Provider
Laura Brackin, Consultant
Kim Sullivan, LDH Legal
Jeanne LeVelle, Medicaid
Troy Brown, Provider

At this session, the following list of possible funding solutions were developed and discussed:

Fees collected for training:
The training fee proposal would require the state to provide training to direct support personnel in the HCBS programs. The state would charge a fee for this training and the fees would be used as a source of revenue for rate enhancement. Since this training is not mandated, participation would be optional and costs to the state for implementation would be unpredictable and could be cost prohibitive.

Fees collected for use of Electronic Visit Verification (EVV) System:
A fee collected on an EVV system will require the state to be the owner of the system and charge providers a fee for their use of that system. This fee would be collected and used as state match for rate enhancement. This proposal is not consistent with previous discussions with providers regarding EVV implementation. This does not take into consideration existing EVV systems purchased and utilized by providers. Further exploration of this idea involving LDH and provider stakeholders is required to determine feasibility.

Locally collected revenue for state match:
This proposal involves donations of revenue generated at the local level for the provision of health care services. Our research indicates that 42 CFR 433.53 allows public funds to be used for the state's share in claiming federal financial participation (FFP). Although funds raised by public entities may be utilized as a portion of the state share of Medicaid, LDH has concerns about the disparities in services between parishes where local funds are available versus parishes where no funds are available.

Extension of broad-based consumer taxes to include HCBS Services:
This suggestion is included in the proposal as part of LDH recommendations.

Rebalancing:
Rebalancing is a concept that emphasizes the transition of people and funding from institutional based services to community-based services. It is assumed in most instances that the average cost of community-based services is lower than the average cost of institutional based services and dollars saved through rebalancing could be used to increase HCBS provider rates.

Even where savings are realized, this does not translate into budgetary savings that can be used to fund rate increases. One reason for this is "backfill." For example, a person is transitioned into the community, yet another person is admitted to an institution creating a new cost, which more than offsets the savings associated with the transition. Another reason this does not translate into an offset of savings may be due to rebasing and inflationary adjustments for some institutional based services.

MLTSS:
Managed Long Term Services and Supports (MLTSS) as a concept involves the moving of services, including long-term supports and services, to a capitated rate system with care managed by a managed care organization (MCO). Projections for the OAAS population demonstrated modest SGF savings for MLTSS after the initial year. Some savings achieved through continued rebalancing at rates similar to those being realized under fee-for service, with additional savings realized through avoidable hospitalizations and reduced use of emergent care.

As a result, MLTSS will generate new federal revenue, which would go towards assuring the budget neutrality of MLTSS. However, a portion could be used to increase HCBS provider rates and/or serve the over 40,000 individuals on waiver waiting lists. Although MLTSS generates additional revenue, there is no guarantee the financial environment would allow these funds to be used for HCBS provider rates.

Background Check:
Currently, criminal background checks are required on all direct support workers providing care in HCBS. This proposal would make it optional for criminal background checks to be completed through Louisiana State Police. The State Police would have to transfer the amount collected minus their costs to LDH to be utilized for providing a SGF match rate for the enhancement to PCA rates. This proposal was not feasible due to the minimal amount of dollars it would generate.

Provider Fee
In order for LDH to draw down FFP using provider fees as state financial participation, they must be uniform, broad based, and not present a hold harmless. LDH could collect a provider fee for any services or items not listed in 42 CFR 433.56 upon which the state has enacted a licensing or certification fee. The state has enacted a licensing fee for providers of PCA services, which includes Medicaid HCBS providers. The aggregate amount of the provider fee cannot exceed the state's estimated cost of operating the licensing or certification program. LDH does not believe that such a fee would generate sufficient funding to address rate issues or justify the administrative burden of implementation.