

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Medicaid Eligibility Medically Needy Program (LAC 50:III.2313)

The Department of Health, Bureau of Health Services Financing hereby repeals and replaces all of the Rules governing the Medically Needy Program, and adopts LAC 50:III.2313 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule in order to reinstate the Title XIX Medically Needy Program (MNP) and to establish coverage restrictions (*Louisiana Register*, Volume 24, Number 5). All behavioral health services were restricted from coverage under the Medically Needy Program.

In February 2012, the department adopted provisions in the Medicaid Program to restructure the existing behavioral health services delivery system into a comprehensive service delivery model called the Louisiana Behavioral Health Partnership (LBHP).

Certain recipients enrolled in the Medically Needy Program, whose Medicaid eligibility was based solely on the provisions of §1915(i) of Title XIX of the Social Security Act, were eligible to only receive behavioral health services. These recipients had difficulties accessing behavioral health services through the LBHP due to the service restrictions currently in place in the Medically Needy Program.

Therefore, the department promulgated an Emergency Rule which revised the provisions governing the Medically Needy Program in order to include behavioral health coverage for MNP recipients that qualified for the program under the provisions of §1915(i) of Title XIX of the Social Security Act. This Emergency Rule also repealed and replaced all of the Rules governing the Medically Needy Program in order to repromulgate these provisions in a clear and concise manner for inclusion in the *Louisiana Administrative Code* in a codified format (*Louisiana Register*, Volume 38, Number 12).

The department promulgated an Emergency Rule which amended the provisions governing the Medically Needy Program to further clarify the provisions governing covered services (*Louisiana Register*, Volume 39, Number 4). The department promulgated an Emergency Rule which amended the provisions of the April 20, 2013 Emergency Rule in order to further clarify these provisions (*Louisiana Register*, Volume 40, Number 1). The department

subsequently promulgated an Emergency Rule which amended the provisions of the January 20, 2014 Emergency Rule in order to further clarify these provisions (*Louisiana Register*, Volume 41, Number 8). The department promulgated an Emergency Rule to amend the provisions of the August 20, 2015 Emergency Rule in order to further clarify the provisions governing allowable medical expenses for spend-down MNP coverage (*Louisiana Register*, Volume 41, Number 9).

In January 2016, the department terminated behavioral health services rendered to adults under the 1915(i) State Plan authority. Hence, the Department of Health, Bureau of Health Services Financing has now determined that it is necessary to amend the provisions of the September 20, 2015 Emergency Rule governing the Medically Needy Program in order to remove references to behavioral health services provided through the Louisiana Behavioral Health Partnership to recipients that qualified for the program under the 1915(i) State Plan authority.

This action is being taken to promote the health and welfare of MNP recipients who are in need of services, and to assure their continued access to these services, as well as to ensure that these provisions are promulgated in a clear and concise manner for inclusion in the *Louisiana Administrative Code*.

Effective August 1, 2016, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the September 20, 2015 Emergency Rule governing the Medically Needy Program as a result of the termination of behavioral health services rendered to MNP recipients under the 1915(i) State Plan authority.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 3. Eligibility Groups and Factors

Chapter 23. Eligibility Groups and Medicaid Programs

§2313. Medically Needy Program

A. The Medically Needy Program (MNP) provides Medicaid coverage when an individual's or family's income and/or resources are sufficient to meet basic needs in a categorical assistance program, but not sufficient to meet medical needs according to the MNP standards.

1. The income standard used in the MNP is the federal medically needy income eligibility standard (MNIES).

2. Resources are not applicable to modified adjusted gross income (MAGI) related MNP cases.

3. MNP eligibility cannot be considered prior to establishing income ineligibility in a categorically related assistance group.

B. MNP Eligibility Groups

1. Regular Medically Needy

- a. Prior to the implementation of the MAGI income standards, parents who met all of the parent and caretaker relative (PCR) group categorical requirements and whose income was at or below the MNIES were eligible to receive regular MNP benefits. With the implementation of the MAGI-based methodology for determining income and household composition and the conversion of net income standards to MAGI equivalent income standards, individuals who would have been eligible for the regular Medically Needy Program are now eligible to receive Medicaid benefits under the parent and caretaker relative eligibility group. Regular medically needy coverage is only applicable to individuals included in the MAGI-related category of assistance.

- b. Individuals in the non-MAGI [formerly aged (A-), blind (B-), or disability (D-)] related assistance groups cannot receive Regular MNP.

- c. The certification period for Regular MNP cannot exceed six months.

2. Spend-Down Medically Needy

- a. Spend-Down MNP is considered after establishing financial ineligibility in categorically related Medicaid programs and excess income remains. Allowable medical bills/expenses incurred by the income unit, including skilled

nursing facility coinsurance expenses, are used to reduce (spend-down) the income to the allowable MNP limits.

b. The following individuals may be considered for spend-down MNP:

i. individuals who meet all of the parent and caretaker relative group requirements;

ii. non-institutionalized individuals (non-MAGI related); and

iii. institutionalized individuals or couples (non-MAGI related) with Medicare co-insurance whose income has been spent down.

c. The certification period for spend-down MNP begins no earlier than the spend-down date and shall not exceed three months.

3. Long Term Care (LTC) Spend-Down MNP

a. Individuals residing in Medicaid LTC facilities, not on Medicare-coinsurance with resources within the limits, but whose income exceeds the special income limits (three times the current federal benefit rate), are eligible for LTC Spend-Down MNP.

~~4. Louisiana Behavioral Health Partnership (LBHP)
1915(i) MNP~~

~~a. The LBHP Medically Needy Program is
considered only for the individuals who meet the level of need~~

~~requirements of §1915 of Title XIX of the Social Security Act, and who have been determined to be ineligible for other full Medicaid programs, including the regular MNP and spend-down MNP.~~

~~_____ b. LBHP 1915(i) MNP recipients are only eligible to receive behavioral health services through the LBHP. They do not qualify for other Medicaid covered services.~~

~~_____ c. The certification period for LBHP 1915(i) regular MNP recipients cannot exceed six months. For the LBHP 1915(i) spend-down MNP, the certification period begins no earlier than the spend-down date and shall not exceed three months.~~ B.4. - B.4.c. Repealed.

C. The following services are covered in the Medically Needy Program ~~for non-1915(i) recipients:~~

1. inpatient and outpatient hospital services;
2. intermediate care facilities for persons with intellectual disabilities (ICF/ID) services;
3. intermediate care and skilled nursing facility (ICF and SNF) services;
4. physician services, including medical/surgical services by a dentist;
5. nurse midwife services;
6. certified registered nurse anesthetist (CRNA) and anesthesiologist services;
7. laboratory and x-ray services;

8. prescription drugs;
9. Early and Periodic Screening, Diagnosis and Treatment (EPSDT) services;
10. rural health clinic services;
11. hemodialysis clinic services;
12. ambulatory surgical center services;
13. prenatal clinic services;
14. federally qualified health center services;
15. family planning services;
16. durable medical equipment;
17. rehabilitation services (physical therapy, occupational therapy, speech therapy);
18. nurse practitioner services;
19. medical transportation services (emergency and non-emergency);
20. home health services for individuals needing skilled nursing services;
21. chiropractic services;
22. optometry services;
23. podiatry services;
24. radiation therapy; and
25. behavioral health services.

~~D. The following behavioral health services are covered for LBHP 1915(i) MNP recipients:~~

- ~~1. inpatient and outpatient hospital services;~~
 - ~~2. emergency medical services;~~
 - ~~3. physician/psychiatrist services;~~
 - ~~4. treatment by a licensed mental health professional;~~
 - ~~5. community psychiatric support and treatment;~~
 - ~~6. psychosocial rehabilitation;~~
 - ~~7. crisis intervention;~~
 - ~~8. case conference [1915(b) services]; and~~
 - ~~9. treatment planning [1915(b) services].~~ D. - D.9.
- Repealed.

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, Bureau of Health Services Financing, LR 42:

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 Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH

Secretary