



State of Louisiana

Louisiana Department of Health
Office of the Secretary

To: The Honorable John Bel Edwards, Governor, State of Louisiana (Via Email)
The Honorable Jeff Landry, Attorney General, Louisiana Department of Justice (apa.submission@ag.louisiana.gov)
The Honorable Patrick Page Cortez, President, Louisiana Senate (apa.senatepresident@legis.la.gov)
The Honorable Clay Schexnayder, Speaker, Louisiana House of Representatives (apa.housepeaker@legis.la.gov)
Catherine Brindley, Editor, *Louisiana Register* (reg.submission@la.gov)
Senate Health and Welfare Committee (apa.s-h&w@legis.la.gov)
House Health and Welfare Committee (apa.h-hw@legis.la.gov)

From: Dr. Courtney N. Phillips, Secretary, Louisiana Department of Health
Dr. Courtney N. Phillips

Date: February 10, 2022

Re: **Justification of Promulgation of Emergency Rule
Outpatient Hospital Services – Payment for Outpatient Surgery Services
COVID-19 Laboratory Testing (LAC 50:V.5301)**

MEMORANDUM

In accordance with the Administrative Procedure Act (La. R.S. 40:950 *et seq.*) as amended, the Louisiana Department of Health is submitting the following emergency rule that amends Outpatient Hospital Services – Payments for Outpatient Surgery Services COVID-19 Laboratory Testing (LAC 50.V.5301).

Should you have any questions or require additional information regarding this matter, please do not hesitate to contact Debbie Gough, at Debbie.Gough@la.gov, and Andrew Perilloux at Andrew.Perilloux@la.gov.

Attachments: Emergency Rule – Outpatient Hospital Services – Payment for Outpatient Surgery Services COVID-19 Laboratory Testing (LAC 50.V.5301)

Cc: Kelly Zimmerman, LDH Interim Medicaid Deputy Director
Patrick Gillies, LDH Medicaid Director
Veronica Dent, LDH Medicaid Program Manager
Bethany Blackson, LDH Legislative Liaison
Catherine Brindley, *Louisiana Register* Editor, Office of the State Register

DECLARATION OF EMERGENCY

**Department of Health
Bureau of Health Services Financing**

**Outpatient Hospital Services
Payment for Outpatient Surgery Services
COVID-19 Laboratory Testing
(LAC 50:V.5301)**

The Department of Health, Bureau of Health Services Financing adopts LAC 50:V.5301 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. 49:953.1 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, Bureau of Health Services Financing proposes to amend the provisions governing outpatient hospital services in order to provide reimbursement for laboratory testing for Coronavirus Disease 2019 (COVID-19) separately from outpatient hospital surgery fee schedule payments.

It is anticipated that this Emergency Rule will result in programmatic costs in the Medicaid Program of approximately \$37,073 for State Fiscal Year 2021-2022. This action is being taken to promote the health and welfare of Medicaid recipients by providing additional funding for COVID-19 testing.

Effective February 10, 2022, the Department of Health, Bureau of Health Services Financing amends the provisions governing outpatient hospital services in order to provide reimbursement for laboratory testing for COVID-19 separately from outpatient hospital surgery fee schedule payments.

Title 50

**PUBLIC HEALTH-MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 5. Outpatient Hospital Services**

Chapter 53. Outpatient Surgery

Subchapter A. General Provisions

§5301. Payment for Outpatient Surgery Services

A. Payment for outpatient surgery services is a flat rate in accordance with the published fee schedule. The flat rate payment covers all services provided during the outpatient surgical admission. There shall be no cost settlement for outpatient surgery services except for the specific hospital types identified in Subchapter B of this Chapter.

1. Effective for dates of service on or after February 10, 2022, the Medicaid Program shall provide reimbursement for Coronavirus Disease 2019 laboratory testing in addition to the outpatient surgery fee schedule flat fee reimbursement amount.

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 48:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Patrick Gillies, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Mr. Gillies 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.

Dr. Courtney N. Phillips

Secretary

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