

DECLARATION OF EMERGENCY

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

**Nursing Facilities
Reimbursement Methodology
Leave of Absence Days
(LAC 50:II.10147 and 20021)**

The Department of Health, Bureau of Health Services Financing amends LAC 50:II.10147 and repeals §20021 in the Medical Assistance Program as authorized by R.S. 36:254, pursuant to Title XIX of the Social Security Act, and as directed by Act 3 of the 2017 Second Extraordinary Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." 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.

As a result of a budgetary shortfall in state fiscal year 2018-2019, the department has determined that it is necessary to promulgate an Emergency Rule to amend the provisions governing

the reimbursement methodology for nursing facility services in order to eliminate payments for leave of absence days for patients who are on leave due to hospitalization or visits to home and/or family members. This action is being taken to avoid a budget deficit in the Medical Assistance Program. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$2,972,805 for state fiscal year 2018-2019.

Effective July 1, 2018, the Department of Health, Bureau of Health Services Financing amends the reimbursement methodology for nursing facility services to repeal the provisions governing leave of absence days.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE **Part II. Nursing Facilities** **Subpart 3. Standards for Payment**

Subchapter F. Vendor Payments

§10147. General Provisions

A. - C. ...

D. Temporary Absence Due to Evacuation. When local conditions require evacuation of residents in nursing facilities, the following payment procedures apply:

1. When the resident is evacuated for less than 24 hours, the monthly vendor payment to the facility is not interrupted.

2. When the staff is sent with the resident(s) to the evacuation site, the monthly vendor payment to the facility is not interrupted.

a. - b. Repealed.

NOTE: Repealed.

3. When the resident is evacuated to a family member or friend's home, at the facility's request, the facility shall submit a claim for a day of service or leave day, and patient liability shall not be collected.

4. When the resident goes home at the family's request or on their own initiative, a leave day shall be charged.

5. When the resident is admitted to the hospital for the purpose of evacuation of the nursing facility, Medicaid payment shall not be made for the hospital charges.

NOTE: Repealed.

6. - 7. Repealed.

E. Resident Deposits. A facility shall neither require nor accept an advance deposit from a resident whose Medicaid eligibility has been established.

EXCEPTION: A facility may require an advance deposit for the current month only on the part of the total payment which is the resident's liability.

1. If advance deposits or payments are required upon admission from the resident(s) or resident's legal representative or sponsor, when Medicaid eligibility has not been established, then such deposits shall be refunded or credited to the individual upon receipt of vendor payment.

2. Credit on the facility's books in lieu of a refund to the resident or resident's legal representative or sponsor is acceptable within the following limitations:

a. Such credit shall not exceed an amount equal to the resident's liability for 60 days following the date the resident was determined eligible for Medicaid.

b. Any deposit exceeding such an amount shall be refunded within five working days to the resident or resident's legal representative or sponsor.

3. - 5. Repealed.

F. Refunds to Bureau of Health Services Financing (BHSF) Medicaid Program

EXCEPTION: Repealed.

1. A Non-Participating Facility. Vendor payments made for the services performed while a facility is in a non-participating status shall be refunded to the Department of Health, Office of Management and Finance. The refund shall be made payable to the Bureau of Health Services Financing Medicaid Program.

2. A Participating Facility. A currently participating Medicaid facility shall correct billing or payment errors by the use of appropriate adjustment/void or resident liability (PLI) adjustment form

a. - b. Repealed.

G. Refunds to Residents. Advance payments for a resident's liability (applicable income) shall be refunded promptly if he/she leaves the facility before the end of the month. This requirement shall also apply if the resident has not yet been certified. The facility shall adhere to the following procedures for the refunds.

1. The proportionate amount for the remaining days of the month shall be refunded to the resident or the resident's legal representative or sponsor no later than the end of the month following discharge.

2. No penalty shall be charged to the resident or resident's legal representative or sponsor even if the circumstances surrounding the discharge occurred as follows:

a. without prior notice;
b. within the initial month; and
c. within some other "minimum stay" period established by the facility.

3. Proof of refund of the unused portion of the applicable income shall be furnished to the BHSF Medicaid Program upon request.

H. - H.3. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:34 (January 1996), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

Subpart 5. Reimbursement

§20021. Leave of Absence Days

[Formerly LAC 50:VII.1321]

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 and Hospitals, Bureau of Health Services Financing, LR 35:1899 (September 2009), amended LR 41:133 (January 2015), repealed by the Department of Health, Bureau of Health Services Financing, LR 44:

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 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