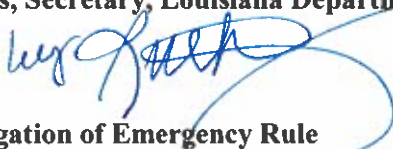




State of Louisiana
Louisiana Department of Health
Office of the Secretary

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.housespeaker@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

Date: November 18, 2022 

Re: Justification of Promulgation of Emergency Rule
Home and Community-Based Services Waivers – Community Choices Waiver – Home Delivered Meals and Assistive Technology Services (LAC 50:XXI.Chapter 83 and 9501)

MEMORANDUM

In accordance with the Administrative Procedure Act (La. R.S. 49:950 *et seq.*) as amended, the Louisiana Department of Health is submitting the following emergency rule that amends Home and Community-Based Services Waivers – Community Choices Waiver – Home Delivered Meals and Assistive Technology Services (LAC 50:XXI.Chapter 83 and 9501).

Should you have any questions or require additional information regarding this matter, please do not hesitate to contact Layne Janet at Layne.Janet@la.gov.

Attachments: Emergency Rule – Home and Community-Based Services Waivers – Community Choices Waiver – Home Delivered Meals and Assistive Technology Services (LAC 50:XXI.Chapter 83 and 9501)

Cc: Melinda Richard, LDH OAAS Assistant Secretary
Kirsten Clebert, LDH OAAS Policy Division Director
Tara A. LeBlanc, LDH Medicaid Director
Dr. Shannon Bibbins, LDH Deputy 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
and
Office of Aging and Adult Services**

**Home and Community-Based Services Waivers
Community Choices Waiver
Home Delivered Meals and Assistive Technology Services
(LAC 50:XXI.Chapter 83 and 9501)**

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services amend LAC 50:XXI.Chapter 83 and §9501 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. 49:962, and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever comes first.

The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) authorized funding under section 9817 of the American Rescue Plan Act of 2021 (ARPA) to expand and enhance services provided to home and community-based services waiver participants in the Medicaid program.

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services amend the provisions governing the Community Choices Waiver (CCW) in order

to add medically tailored meals and assistive technology as covered services, as authorized under section 9817 of ARPA.

This action is being taken to promote the health and welfare of CCW participants by providing access to medically tailored meals and assistive technology services. It is estimated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately \$1,012,630 for state fiscal year 2022-2023.

Effective November 18, 2022, the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services amend the provisions governing the CCW in order to add medically tailored meals and assistive technology as covered services.

Title 50
PUBLIC HEALTH-MEDICAL ASSISTANCE
Part XXI. Home and Community-Based Services Waivers
Subpart 7. Community Choices Waiver

Chapter 83. Covered Services

§8307. Personal Assistance Services

A. - C. ...

D. PAS may be provided through the "a.m." and "p.m." delivery option defined as follows:

1. ...

2. a minimum of one hour and a maximum of two hours

of PAS provided to assist the participant at the end of his/her

day, referred to as the "p.m." portion of this PAS delivery method; and

3. - 4. ...

5. "a.m. and p.m." PAS cannot be "shared";

D.6. - K. ...

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 and the Office of Aging and Adult Services, LR 37:3519 (December 2011), amended LR 39:320 (February 2013), LR 39:1778 (July 2013), LR 40:791 (April 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:1898 (October 2018), LR 47:885 (July 2021), LR 48:

§8317. Home Delivered Meals

A. - C. ...

D. Medically tailored meals (MTMs) may be delivered to participants with chronic conditions when discharging from the hospital and/or nursing facility. In addition, participants will receive nutritional guidance to support healthy food choices for their third meal and snacks.

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 and the Office of Aging and Adult Services, LR 37:3522 (December 2011), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 48:

§8331. Assistive Technology

A. Assistive technology services include the following:

1. an item, piece of equipment or product system, acquired commercially, that is used to increase, maintain or improve functional capabilities of participants; and

2. the assistance provided to the participant in the acquisition, set up and use of an assistive technology device:

a. evaluating to determine if an assistive technology device is appropriate for the participant;

b. purchasing the most appropriate assistive technology device for the participant; and

c. costs associated with the delivery, set up, and training.

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 and the Office of Aging and Adult Services, LR 48:

Chapter 95. Reimbursement

§9501. Reimbursement and Rate Requirements

A. - A.6. ...

B. The following services shall be reimbursed at the authorized rate or approved amount of the assessment, inspection, installation/fitting, maintenance, repairs, adaptation, device, equipment, or supply item and when the service has been prior authorized by the plan of care:

1. - 5. ...

6. monitored in-home caregiving (MIHC) assessment;

and

7. certain nursing, and skilled maintenance therapy procedures; and

8. assistive technology.

C. - H. ...

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 and the Office of Aging and Adult Services, LR 37:3525 (December 2011), amended LR 39:322 (February 2013), LR 39:508, 508 (March 2013), repromulgated LR 39:1048 (April 2013), amended LR 39:1779 (July 2013), LR 40:793 (April 2014), LR 42:897 (June 2016), amended by the Department of Health, Bureau of Health Services Financing

and the Office of Aging and Adult Services, LR 44:1902 (October 2018), LR 47:886 (July 2021), 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 Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc 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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