

DECLARATION OF EMERGENCY

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

**Laboratory and Radiology Services
Termination of Coverage for Proton Beam Radiation Therapy
(LAC 50:XIX.4334)**

The Department of Health, Bureau of Health Services Financing amends LAC 50:XIX.4334 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, Bureau of Health Services Financing currently provides Medicaid coverage and reimbursement for proton beam radiation therapy services under the laboratory and radiology benefit. Proton beam radiation is a type of external radiation therapy utilized in the treatment of malignant and benign tumors and arteriovenous malformations. National best practice standards indicate that the therapy is most appropriate for treatment of tumors in individuals who are under the age of 21.

As the Medicaid Program continues to look for cost containment measures to ensure fiscal responsibility, we also strive to ensure Medicaid recipients receive the most appropriate, quality services. Therefore, it is imperative that our coverage policies align with best practice standards which is a fiscally sound approach to health care service delivery.

Hence, the Department proposes to amend the provisions governing laboratory and radiology services to terminate coverage and reimbursement of proton beam radiation therapy for recipients 21 years of age and older. The services will continue to be available for recipients under the age of 21 when deemed medically necessary.

This action is being taken to avoid a budget deficit in the Medical Assistance Program, and to align the Department's coverage policies with national best practice standards. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$32,647 for state fiscal year 2017-18.

Effective September 21, 2017, the Department of Health, Bureau of Health Services Financing amends the provisions governing laboratory and radiology services to terminate coverage and reimbursement for proton beam

radiation therapy rendered to recipients 21 years of age and older.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XIX. Other Healthcare Services
Subpart 3. Laboratory and Radiology Services

Chapter 43. Billing and Reimbursement

Subchapter B. Reimbursement

§4334. Radiology Services

A. - K.3. ...

L. Effective for dates of service on or after September 21, 2017, the Medicaid Program terminates coverage and reimbursement for proton beam radiation therapy (PBRT) for recipients 21 years of age and older.

1. For recipients under the age of 21, coverage and reimbursement shall be provided when PBRT services are deemed medically necessary.

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 30:1026 (May 2004), amended LR 35:1898 (September 2009), amended LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:3029 (October 2011), LR 39:1284 (May 2013), LR 41:540

(March 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

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