

NOTICE OF INTENT

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

**Medicaid Eligibility
Disregard of Accumulated Resources
(LAC 50:III.10703)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:III.10703 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

In response to the Coronavirus Disease 2019 (COVID-19) public health emergency, the Families First Coronavirus Response Act of 2020, section 6008, allowed for continuous enrollment of individuals in the Medical Assistance Program (Medicaid). The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing financial eligibility for Medicaid in order to disregard resources accumulated from March 18, 2020 through March 31, 2023 that would otherwise have been paid toward the cost of a beneficiary's home and community-based services waiver or institutional services. These resources will continue to be disregarded through the twelfth month following the first full redetermination of the beneficiary's eligibility conducted after March 31, 2023.

Title 50
PUBLIC HEALTH-GENERAL
Part III. Eligibility
Subpart 5. Financial Eligibility

Chapter 107. Resources

§10703. General Provisions

A. - D. ...

E. Resources accumulated from March 18, 2020 through March 31, 2023, that, but for the continuous enrollment provision at section 6008(b)(3) of the Families First Coronavirus Response Act, would have been paid toward the cost of a beneficiary's home and community-based services waiver or institutional services based on the application of post-eligibility treatment of income, will be disregarded through the twelfth month following the first full redetermination of the beneficiary's eligibility conducted after March 31, 2023.

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 35:1899 (September 2009), amended LR 36:2867 (December 2010), LR 41:949 (May 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 45:1772 (December 2019), LR 46:1393 (October 2020), LR 49:

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.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by providing time for the beneficiary to reduce accumulated resources and maintain Medicaid eligibility.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by enabling families to use resources accumulated during the continuous coverage period on necessities other than healthcare.

Small Business Analysis

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

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 proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on May 30, 2023.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary

ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on May 10, 2023. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on May 25, 2023 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after May 10, 2023. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Stephen R. Russo

LDH Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

Person
Preparing
Statement: Veronica Dent Dept.: Health

Phone: 342-3238 Office: Bureau of Health Services Financing

Return
Address: P.O. Box 91030 Rule
Title: Medicaid Eligibility

Baton Rouge, LA Disregard of Accumulated Resources

Date Rule
Takes Effect: July 20, 2023

SUMMARY
(Use complete sentences)

In accordance with Section 961 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this proposed rule will result in an indeterminable cost to the state for FY 22-23, FY 23-24, and FY 24-25 by applying a disregard for certain accumulated resources for a twelve month period following the first redetermination conducted after the end of the public health emergency. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

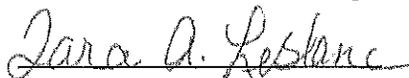
Implementation of this proposed rule will result in an indeterminable impact on revenue collections for FY 22-23, FY 23-24, and FY 24-25 by applying a disregard for certain accumulated resources for a twelve month period following the first redetermination conducted after the end of the public health emergency. It is anticipated that \$270 will be collected in FY 22-23 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS (Summary)

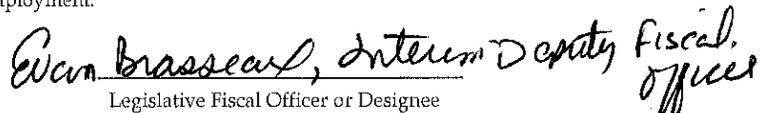
This proposed rule amends the provisions governing financial eligibility for the Medical Assistance Program (Medicaid) in order to disregard resources accumulated by beneficiaries from March 18, 2020 through March 31, 2023 that, but for the continuous enrollment provision at Section 60008(b)(3) of the Families First Coronavirus Act, would have been paid toward the cost of a beneficiary's home and community-based services waiver or institutional services. These resources will continue to be disregarded through the twelfth month following the first full redetermination of the beneficiary's eligibility conducted after March 31, 2023. Implementation of this proposed rule will allow these beneficiaries time to reduce resources accumulated during the continuous coverage period and maintain Medicaid eligibility. Providers will benefit from implementation of this proposed rule because they will continue to receive Medicaid reimbursement for services provided to individuals that would no longer be eligible if these resources were considered. This proposed rule will result in an indeterminable cost to the Medicaid program for FY 22-23, FY 23-24, and FY 24-25.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.


Signature of Agency Head or Designee

Tara A. LeBlanc, Medicaid Executive Director
Typed Name & Title of Agency Head or Designee
04/05/2023
Date of Signature


Legislative Fiscal Officer or Designee

4/6/23
Date of Signature

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

This proposed rule amends the provisions governing financial eligibility for the Medical Assistance Program (Medicaid) in order to disregard resources accumulated by beneficiaries from March 18, 2020 through March 31, 2023 that, but for the continuous enrollment provision at Section 60008(b)(3) of the Families First Coronavirus Act, would have been paid toward the cost of a beneficiary's home and community-based services waiver or institutional services. These resources will continue to be disregarded through the twelfth month following the first full redetermination of the beneficiary's eligibility conducted after March 31, 2023.

- B. Summarize the circumstances, which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

In response to the Coronavirus Disease 2019 (COVID-19) public health emergency, the Families First Coronavirus Response Act of 2020, section 6008, allowed for continuous enrollment of individuals in the Medical Assistance Program (Medicaid). The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing financial eligibility for Medicaid in order to disregard resources accumulated from March 18, 2020 through March 31, 2023 that would otherwise have been paid toward the cost of a beneficiary's home and community-based services waiver or institutional services. These resources will continue to be disregarded through the twelfth month following the first full redetermination of the beneficiary's eligibility conducted after March 31, 2023.

- C. Compliance with Act 11 of the 1986 First Extraordinary Session

- (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

Implementation of this proposed rule will result in an indeterminable cost to the state for FY 22-23, FY 23-24, and FY 24-25 by applying a disregard for certain accumulated resources for a twelve month period following the first redetermination conducted after the end of the public health emergency. In FY 22-23, \$540 is included for the state's administrative expense for promulgation of this proposed rule and final rule.

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) _____ Yes. If yes, attach documentation.

(b) _____ NO. If no, provide justification as to why this rule change should be published at this time

**FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET**

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

COSTS	FY 23	FY 24	FY 25
Personal Services			
Operating Expenses	Increase	Increase	Increase
Professional Services			
Other Charges			
Equipment			
Major Repairs & Constr.			
TOTAL	Increase	Increase	Increase
POSITIONS (#)			

2. Provide a narrative explanation of the costs or savings shown in "A. 1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

Implementation of this proposed rule will result in an indeterminable cost to the state for FY 22-23, FY 23-24, and FY 24-25 by applying a disregard for certain accumulated resources for a twelve month period following the first redetermination conducted after the end of the public health emergency. In FY 22-23, \$540 will be spent for the state's administrative expense for promulgation of this proposed rule and the final rule.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 23	FY 24	FY 25
State General Fund	Increase	Increase	Increase
Agency Self-Generated			
Dedicated			
Federal Funds	Increase	Increase	Increase
Other (Specify)			
TOTAL	Increase	Increase	Increase

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

Yes, sufficient funds are available to implement this rule. Implementation of this proposed rule will result in an indeterminable cost to the state for FY 22-23, FY 23-24, and FY 24-25 by applying a disregard for certain accumulated resources for a twelve month period following the first redetermination conducted after the end of the public health emergency.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

This proposed rule has no known impact on local government units.

2. Indicate the sources of funding of the local governmental unit, which will be affected by these costs or savings.

There is no known impact on the sources of local governmental unit funding.

**FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET**

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

REVENUE INCREASE/DECREASE	FY 23	FY 24	FY 25
State General Fund			
Agency Self-Generated			
Dedicated Funds*			
Federal Funds	Increase	Increase	Increase
Local Funds			
TOTAL	Increase	Increase	Increase

*Specify the particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

Implementation of this proposed rule will result in an indeterminable impact on revenue collections for FY 22-23, FY 23-24, and FY 24-25 by applying a disregard for certain accumulated resources for a twelve month period following the first redetermination conducted after the end of the public health emergency. In FY 22-23, \$270 will be collected for the federal share of the administrative expense for promulgation of this proposed rule and the final rule.

**FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET**

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS

- A. What persons, small businesses, or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

This proposed rule amends the provisions governing financial eligibility for the Medical Assistance Program (Medicaid) in order to disregard resources accumulated by beneficiaries from March 18, 2020 through March 31, 2023 that, but for the continuous enrollment provision at Section 60008(b)(3) of the Families First Coronavirus Act, would have been paid toward the cost of a beneficiary's home and community-based services waiver or institutional services. These resources will continue to be disregarded through the twelfth month following the first full redetermination of the beneficiary's eligibility conducted after March 31, 2023. Implementation of this proposed rule will allow these beneficiaries time to reduce resources accumulated during the continuous coverage period and maintain Medicaid eligibility.

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

Providers will benefit from implementation of this proposed rule because they will continue to receive Medicaid reimbursement for services provided to individuals that would no longer be eligible if these resources were considered. This proposed rule will result in an indeterminable cost to the Medicaid program for FY 22-23, FY 23-24, and FY 24-25.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

This rule has no known effect on competition and employment.