

NOTICE OF INTENT

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

**Early and Periodic Screening, Diagnosis and Treatment
Dental Services
(LAC 50:XV.6905)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XV.6905 in the Medical Assistance Program 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.

Louisiana Medicaid currently utilizes the Full Medicaid Pricing program in order to establish dental rates and provide additional funds to dental providers. The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) has ended this program, resulting in a potential loss of reimbursement to dental providers. In compliance with CMS requirements, the Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing dental services in the Early and Periodic Screening, Diagnosis and Treatment Program to align the reimbursement rates to the Louisiana Medicaid fee schedule in order to maintain or enhance funding to dental providers

(*Louisiana Register*, Volume 49, Number 4). This proposed Rule continues the provisions of the March 10, 2023 Emergency Rule.

Title 50
PUBLIC HEALTH-MEDICAL ASSISTANCE
Part III. Eligibility

Chapter 69. Dental Services

§6905. Reimbursement

A. - K.1.b.

L. Effective for dates of service on or after July 1, 2023, the reimbursement rates for EPSDT dental services shall be reimbursed based on the Louisiana Medicaid fee schedule. All rates in the fee schedule are published on the Medicaid provider website at www.lamedicaid.com.

1. Implementation of these rates is subject to approval by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

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, Office of the Secretary, Bureau of Health Services Financing, LR 31:81 (January 2005), repromulgated LR 31:1589 (July 2005), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:316 (February 2013), LR 40:1006 (May 2014), amended by the

Department of Health, Bureau of Health Services Financing, 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 no impact on family functioning, stability and autonomy as described in R.S. 49:972.

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 no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

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 a positive impact on small businesses by ensuring that providers continue to receive Medicaid reimbursement for the provision of EPSDT dental services.

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, but may reduce the total direct and indirect cost to the provider to provide the same level of service, and may enhance the provider's ability to provide the same level of service as described in HCR 170 since this proposed Rule increases payments to providers for the services they already render.

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. 49:961(B)(1) 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: PO Box 91030 Rule
Baton Rouge, LA Title Early and Periodic Screening,
Diagnosis and Treatment
Dental Services

Date Rule
Takes Effect: March 10, 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)

It is anticipated that implementation of this proposed rule will increase state costs by approximately \$270 for FY 22-23, \$13,459,488 for FY 23-24 and \$13,459,488 for FY 24-25. 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)

It is anticipated that implementation of this proposed rule will increase revenue collections from interagency transfer of funds from Louisiana State University by approximately \$358,832 for FY 23-24 and \$358,832 for FY 24-25. In addition, this proposed rule will increase federal revenue collections by approximately \$270 for SFY 22-23, \$33,364,116 for FY 23-24, and \$33,364,116 for FY 24-25. 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 continues the provisions of the March 10, 2023 Emergency Rule, which amended the provisions governing dental services in the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program to align the reimbursement rates to the Louisiana Medicaid fee schedule in order to maintain or enhance funding to dental providers. Louisiana Medicaid currently utilizes the Full Medicaid Pricing program in order to establish dental rates and provide additional funds to dental providers. The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) has ended this program, resulting in a potential loss of reimbursement to dental providers. Providers will benefit from this proposed rule since they will continue to receive Medicaid reimbursement for the provision of EPSDT dental services. This proposed rule will ensure that Medicaid beneficiaries continue to have access to EPSDT dental services. It is anticipated that this proposed rule will increase expenditures in the Medicaid program by approximately \$47,182,437 for FY 23-24 and \$47,182,437 for FY 24-25.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Signature of Agency Head or Designee

Ewan Brassfield, Interim Deputy Fiscal Officer
Legislative Fiscal Officer or Designee

Tara A. LeBlanc, Medicaid Executive Director
Typed Name & Title of Agency Head or Designee

04/05/2023
Date of Signature

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 continues the provisions of the March 10, 2023 Emergency Rule, which amended the provisions governing dental services in the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program to align the reimbursement rates to the Louisiana Medicaid fee schedule in order to maintain or enhance funding to dental providers.

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

Louisiana Medicaid currently utilizes the Full Medicaid Pricing program in order to establish dental rates and provide additional funds to dental providers. The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) has ended this program, resulting in a potential loss of reimbursement to dental providers. In compliance with CMS requirements, the Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing dental services in the Early and Periodic Screening, Diagnosis and Treatment Program to align the reimbursement rates to the Louisiana Medicaid fee schedule in order to maintain or enhance funding to dental providers (*Louisiana Register*, Volume 49, Number 4). This proposed Rule continues the provisions of the March 10, 2023 Emergency Rule.

- 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.

Yes. It is anticipated that implementation of this proposed rule will result in programmatic costs to the Medicaid program by approximately \$540 for FY 22-23, \$47,182,437 for FY 23-24, and \$47,182,437 for FY 24-25. In FY 22-23, \$540 is included for the state's administrative expense for promulgation of this proposed rule and the 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) X NO. If no, provide justification as to why this rule change should be published at this time

Act 199 of the 2022 Regular Session of the Louisiana Legislature allocated funds to the Medical Vendor Program for payments to providers and the operation of the Medicaid Program, and thereby, authorizes the expenditure of these funds. Implementation of this proposed rule will ensure that dental providers continue to receive Medicaid reimbursement for the provision of EPSDT dental services.

**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	\$540	\$0	\$0
Professional Services			
Other Charges	\$0	\$47,182,437	\$47,182,437
Equipment			
Major Repairs & Constr.			
TOTAL	\$540	\$47,182,437	\$47,182,437
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.

In FY 22-23, \$540 will be spent for the state's administrative expense for promulgation of this proposed rule and final rule.

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

SOURCE	FY 23	FY 24	FY 25
State General Fund	\$270	\$13,459,488	\$13,459,488
Agency Self-Generated			
Dedicated			
Federal Funds	\$270	\$33,364,116	\$33,364,116
Other (interagency transfer)		\$358,832	\$358,832
TOTAL	\$540	\$47,182,437	\$47,182,437

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.

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 governmental 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 government 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	\$0	\$358,832	\$358,832
Dedicated Funds*			
Federal Funds	\$270	\$33,364,116	33,364,116
Local Funds			
TOTAL	\$270	\$33,722,949	\$33,722,949

*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.

The amounts reflected above are the estimated increases in revenue collections from interagency transfer of funds from Louisiana State University and federal revenue collections. 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 continues the provisions of the March 10, 2023 Emergency Rule, which amended the provisions governing dental services in the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program to align the reimbursement rates to the Louisiana Medicaid fee schedule in order to maintain or enhance funding to dental providers. Louisiana Medicaid currently utilizes the Full Medicaid Pricing program in order to establish dental rates and provide additional funds to dental providers. The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) has ended this program, resulting in a potential loss of reimbursement to dental providers. Providers will benefit from this proposed rule since they will continue to receive Medicaid reimbursement for the provision of EPSDT dental services. This proposed rule will ensure that Medicaid beneficiaries continue to have access to (EPSDT) dental services.

- 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.

It is anticipated that this proposed rule will increase expenditures in the Medicaid program by approximately \$47,182,437 for FY 23-24 and \$47,182,437 for 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.