

**NOTICE OF INTENT**

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

**Pharmacy Benefit Management Program  
Excluded Drugs  
(LAC 50:XXIX.107)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XXIX.107 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.

The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) recommended that the Department of Health, Bureau of Health Services Financing clarify language in the Medicaid State Plan relating to drugs excluded from coverage under the Medical Assistance Program by removing references to specific drugs and including the information in the provider manual. The department proposes to amend the provisions governing the Pharmacy Benefit Management Program in order to align the language in the *Louisiana Administrative Code* relative to drugs excluded from Medicaid coverage with the CMS-approved State Plan amendment.

**Title 50  
PUBLIC HEALTH—MEDICAL ASSISTANCE  
Part XXIX. Pharmacy**

**Chapter 1. General Provisions**

**§107. Prior Authorization**

A. - C.3. ...

D. Drugs Excluded from Coverage. As provided by §1927(d)(2) of the Social Security Act, the following drugs are excluded from program coverage:

1. select ~~agents~~covered outpatient drugs when used for anorexia, weight loss, or weight gain,~~except Orlistat (Xenical®)~~as determined by the department;

2. select ~~agents~~covered outpatient drugs when used to promote fertility,~~except vaginal progesterone when used for high-risk pregnancy to prevent premature births~~as determined by the department;

3. select ~~agents~~covered outpatient drugs when used for symptomatic relief of cough and cold,~~except prescription antihistamine and antihistamine/decongestant combination products~~as determined by the department;

4. select prescription ~~vitamins~~vitamin and mineral ~~products, except:~~covered outpatient drugs as determined by the department; and

- ~~a. prenatal vitamins;~~
- ~~b. fluoride preparations;~~
- ~~c. vitamin A injection;~~
- ~~d. vitamin B injection;~~

- ~~e. vitamin D (prescription only);~~
- ~~f. vitamin K (prescription only);~~
- ~~g. vitamin B12 injection;~~
- ~~h. folic acid (prescription only);~~
- ~~i. niacin (prescription only);~~
- ~~j. vitamin B6 injection;~~
- ~~k. vitamin B1 injection;~~
- ~~l. multivitamin (prescription only);~~
- ~~m. magnesium injections;~~
- ~~n. calcium injection; and~~
- ~~o. urinary PH modifiers (phosphorus, specifically K Phos Neutral and Phospha Neutral); and~~ a. - o.

Repealed.

D.5. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and the 1995-96 General Appropriate Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1053 (June 2006), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1180 (June 2017), LR 43:1553 (August 2017), LR 45:665 (May 2019), LR 46:33 (January 2020), LR 48:1582 (June 2022), LR 49:2106 (December 2023), LR 50:

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 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 Kimberly Sullivan, JD, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Sullivan, JD, 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, 2024.

#### **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, 2024. 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 30, 2024 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, 2024. 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.

Ralph L. Abraham, M.D.

Secretary