

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Bureau of Health Services Financing  
and  
Office of Behavioral Health**

**Home and Community-Based Behavioral Health Services Waiver  
(LAC 50:XXXIII.Chapters 81-85)**

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend LAC 50:XXXIII.Chapters 81-85 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 Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health currently provide behavioral health services to Medicaid eligible children diagnosed with mental illness or a serious emotional disturbance through the Home and Community-Based Services (HCBS) Waiver as part of the coordinated behavioral health services system under the Medicaid Program.

The department now proposes to amend the provisions governing home and community-based behavioral health services to: 1) narrow the statewide management organization's scope of service administration to coordinated system of care (CSOC) services only; 2) delegate provider certification functions to

managed care organizations if the department so chooses; and 3) revise the provisions governing the recipient qualifications and the services covered under the waiver.

## Title 50

### PUBLIC HEALTH-MEDICAL ASSISTANCE

#### Part XXXIII. Behavioral Health Services

#### Subpart 9. Home and Community-Based Services Waiver

### Chapter 81. General Provisions

#### §8101. Introduction

A. The Medicaid Program hereby adopts provisions to provide coverage under the Medicaid State Plan for behavioral health services rendered to children with mental illness and severe emotional disturbances (SED) by establishing a home and community-based services (HCBS) waiver. This HCBS waiver shall be administered under the authority of the Department of Health and Hospitals, ~~Office of Behavioral Health~~ in collaboration with ~~a Statewide Management Organization (SMO)~~ the coordinated system of care (CSoC) contractor, which shall be responsible for the necessary operational and administrative functions to ensure adequate service coordination and delivery.

B. - C. ...

D. Local wraparound agencies will be the locus of treatment planning for the provision of all services. Wraparound agencies are the care management agencies for the day-to-day operations of the waiver in the parishes they serve. The

wraparound agencies shall enter into a contract with the ~~PIHP/SMO~~CSoC contractor and are responsible for the treatment planning for the HCBS waiver in their areas, in accordance with 42 CFR 438.208(c).

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 38:366 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

**§8103. Recipient Qualifications**

A. The target population for the Home and Community-Based Behavioral Health Services Waiver program shall be Medicaid recipients who:

1. ...
2. have ~~an a~~ Axis I qualifying mental health diagnosis;
3. are identified as seriously emotionally disturbed (SED), which applies to youth under the age of 18 or seriously mentally ill (SMI) which applies to youth ages 18-21;
4. - B. ...

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 38:366 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

**Chapter 83. Services**

**§8301. General Provisions**

A. - C. ...

1. The agency or individual who has the decision making authority for a child or adolescent in state custody must ~~request and~~ approve the provision of services to the recipient.

D. Children who are in need of behavioral health services shall be served within the context of the family and not as an isolated unit. ~~Services shall be appropriate for:~~

1. ~~age;~~ Services shall be:

a. delivered in a culturally and linguistically competent manner; and

b. respectful of the individual receiving services.

2. ~~development;~~ Services shall be appropriate to children and youth of diverse racial, ethnic, religious, sexual, and gender identities and other cultural and linguistic groups.

3. ~~education; and~~ Services shall also be appropriate for:

a. age;

b. development; and

c. education.

4. ~~culture~~ Repealed.

E. - G.1.f. ...

2. The family member must become an employee of the provider agency or contract with the ~~PIHP/SMO~~ CSoc contractor and must meet the same standards as direct support staff that are not related to the individual.

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 38:367 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

**§8303. Service Plan Development**

A. ~~Each individual that receives home and community-based behavioral health services shall have a plan of care (POC) developed within 30 days of intake.~~ The wraparound facilitator is

responsible for convening the child and family team to develop the initial waiver specific plan of care within 30 days of receipt of referral from the managed care organization.

B. If new to the ~~PIHP/SMO~~provider-system, the recipient will be receiving services based upon the preliminary plan of care (POC) while the wraparound process is being completed.

C. ...

D. The wraparound agency will facilitate development and implementation of a transition plan for each recipient beginning at the age of 15 years old, as he/she approaches adulthood.

E. ...

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 38:367 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

**§8305. Covered Services**

A. The following behavioral health services shall be provided in the HCBS waiver program:

1. ~~case management~~short-term respite care;
2. ~~medical, psychiatric and psychosocial evaluations and assessments~~independent living/skills building;

3. ~~short term respite care~~youth support and training; and
4. ~~independent living/skills building~~parent support and training.
5. - 7. ...

B. Service Limitations

1. ...
3. ~~Crisis stabilization services shall be pre-approved for the duration of seven days per episode for up to 30 days per calendar year. This limit may be exceeded when deemed medically necessary~~Repealed.

C. Service Exclusions. The following services shall be excluded from Medicaid reimbursement:

1. - 2. ...
3. any services or components in which the basic nature of which are to supplant housekeeping, homemaking, or basic services for the convenience of an individual receiving ~~substance abuse~~ services; and
4. ~~the cost of room and board associated with short-term respite care~~ services rendered in an institution for mental disease; ~~and~~.
5. ~~services rendered in an institution for mental disease~~Repealed.

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 38:367 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

**Chapter 85. Provider Participation**

**§8501. Provider Responsibilities**

A. Each provider of home and community-based behavioral health waiver services shall enter into a contract with the ~~Statewide Management Organization~~ CSOC contractor in order to receive reimbursement for Medicaid covered services.

B. - C. ...

D. Anyone providing behavioral health services must be certified by the department, or its designee, in addition to operating within their scope of practice license. To be certified or recertified, providers shall meet the provisions of this Rule, the provider manual and the appropriate statutes. The provider shall create and maintain documents to substantiate that all requirements are met.

E. Providers shall maintain case records that include, at a minimum:

1. a copy of the ~~treatment plan~~, of care;



2. - 5. ...

6. the goals of the ~~treatment~~ plan of care.

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 38:368 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

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.

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.

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.

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.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to [MedicaidPolicy@la.gov](mailto:MedicaidPolicy@la.gov). Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, September 24, 2015 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Kathy H. Kliebert

Secretary

