NOTICE OF INTENT

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

Therapeutic Group Homes
Behavioral Health Integration
(LAC 50:XXXIII.Chapters 121-127)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend LAC 50:XXXIII.Chapters 121-127 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 adopted provisions to implement a coordinated behavioral health services system under the Medicaid Program to provide behavioral health services to children with emotional/behavioral disorders in therapeutic group homes (TGHs) (*Louisiana Register*, Volume 38, Number 2).

The department now proposes to amend the provisions governing TGHs in order to: 1) allow an Office of Behavioral Health appointed designee to certify providers; 2) revise the terminology to be consistent with current program operations; and 3) revise

the reimbursement methodology to establish capitation payments to managed care organizations for children's services other than the coordinated system of care (CSoC) services. For children/youth enrolled in CSoC, the non-risk payments shall be continued and payments made to a CSoC contractor.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE
Part XXXIII. Behavioral Health Services
Subpart 13. Therapeutic Group Homes

Chapter 121. General Provisions

§12101. Introduction

A. The Medicaid Program hereby adopts provisions to provide coverage under the Medicaid State Plan for behavioral health services rendered to children and youth in a therapeutic group home (TGH). These services 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)~~managed care organizations (MCOs) and 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. The CSoC contractor shall only manage specialized behavioral health services for children/youth enrolled in the CSoC program.

B. The specialized behavioral health services rendered shall be those services medically necessary to reduce the disability resulting from the illness and to restore the individual to his/her best possible functioning level in the community.

C. A therapeutic group home provides a community-based residential service in a home-like setting of no greater than ~~eight~~ 10 beds under the supervision and program oversight of a psychiatrist or psychologist.

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 38:427 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

§12103. Recipient Qualifications

A. …

B. Qualifying children and adolescents with an identified mental health or substance ~~abuse~~ use diagnosis shall be eligible to receive behavioral health services rendered by a TGH.

C. – C.3. …

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 38:427 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

Chapter 123. Services

§12301. General Provisions

A. – C.1. …

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.

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 38:428 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

§12303. Covered Services

A. – B.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;

4. – 6. …

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 38:428 (February 2012), amended by the Department of Health and

Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

Chapter 125. Provider Participation

§12501. Provider Responsibilities

A. Each provider of TGH services shall enter into a contract with ~~the Statewide Management Organization~~one or more of the MCOs and the CSoC contractor for youth enrolled in the CSoC program in order to receive reimbursement for Medicaid covered services. Providers shall meet the provisions of this Rule, the provider manual, and the appropriate statutes.

B. All services shall be delivered in accordance with federal and state laws and regulations, ~~licensing regulations,~~ the provisions of this Rule, the provider manual, and other notices or directives issued by the department. The provider shall create and maintain documents to substantiate that all requirements are met.

C. ~~Providers of TGH services shall ensure that all services are authorized and any~~Any services that exceed established limitations beyond the initial authorization ~~are~~ must be approved for re-authorization prior to service delivery.

D. Anyone providing TGH services must be certified by the department, or its designee, in addition to operating within their scope of practice license.

E. TGH facilities shall be accredited by an approved accrediting body and maintain such accreditation. Denial, loss of or any negative change in accreditation status must be reported to ~~the SMO~~their contracted MCOs and the CSoC contractor for youth enrolled in the CSoC program in writing within the time limit established by the department.

F. Providers of TGH services shall be required to perform screening and assessment services upon admission and within the timeframe established by the department thereafter to track progress and revise the treatment plan to address any lack of progress and to monitor for current medical problems and concomitant substance ~~abuse~~ use issues.

G. ~~Annually, TGH facilities shall submit documentation demonstrating compliance with fidelity monitoring for at least two evidence-based practices (EBP) and/or one level of American Society of Addiction Medicine (ASAM) criteria. The Office of Behavioral Health (OBH) shall approve the auditing body providing the EBP/ASAM fidelity monitoring.~~A TGH must ensure that youth are receiving appropriate therapeutic care to address assessed needs on the child's treatment plan.

1. Therapeutic care may include treatment by TGH staff, as well as community providers.

2. Treatment provided in the TGH or in the community should incorporate research-based approaches appropriate to the child's needs, whenever possible.

H. For TGH facilities that provide care for sexually deviant behaviors, substance abuse, or dually diagnosed individuals, the facility shall submit documentation to their contracted MCOs and the CSoC contractor for youth enrolled in the CSoC program regarding the appropriateness of the research-based, trauma-informed programming and training, as well as compliance with ASAM level of care being provided.

I. A TGH must incorporate at least ~~two~~ one research-based ~~approaches~~ approach pertinent to the sub-populations of TGH clients to be served by the specific program. The specific research-based ~~models~~ model to be used should be incorporated into the program description. The research-based models must be approved by OBH.

J. A TGH must provide the minimum amount of active treatment hours established by the department, and performed by qualified staff per week for each child, consistent with each child's ~~treatment~~ plan of care and meeting assessed needs.

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 38:428 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

Chapter 127. Reimbursement

§12701. ~~Reimbursement Methodology~~General Provisions

A. ~~Reimbursement for covered TGH services shall be based upon an interim Medicaid per diem payment.~~For recipients enrolled with the CSoC contractor, reimbursement for services shall be based upon the established Medicaid fee schedule for specialized behavioral health services. For recipients enrolled in one of the MCOs, the department or its fiscal intermediary shall make monthly capitation payments to the MCOs. The capitation rates paid to the MCOs shall be actuarially sound rates and the MCOs will determine the rates paid to its contracted providers. No payment shall be less than the minimum Medicaid rate.

1. ~~The interim Medicaid per diem payment~~Reimbursement for covered TGH services shall be inclusive of, but not limited to:

a. – d. …

2. Allowable and non-allowable costs components, as defined by the department~~, shall be outlined in the TGH provider manual and other departmental guides~~.

B. All in-state Medicaid participating TGH providers are required to file an annual Medicaid cost report according to the department's specifications and departmental guides and manuals. ~~The cost report period shall correspond to a calendar year basis of January 1 through December 31.~~

C. ~~Services provided by psychologists and licensed mental health practitioners shall be billed separately and reimbursed according to the established Medicaid fee schedule for the services rendered~~Costs reports must be submitted annually. The due date for filing annual cost reports is the last day of the fifth month following the facility's fiscal year end. Separate cost reports must be filed for the facilities central/home office when costs of that entity are reported on the facilities cost report. If the facility experiences unavoidable difficulties in preparing the cost report by the prescribed due date, a filing extension may be requested. A filing extension must be submitted to Medicaid prior to the cost report due date.

1. Facilities filing a reasonable extension request will be granted an additional 30 days to file their cost report.

D. Services provided by psychologists and licensed mental health practitioners shall be billed to the MCO or CSoC contractor separately.

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 38:429 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

§12703. ~~In-State Privately Owned and Operated Therapeutic Group Homes~~Reimbursement Methodology (Reserved)

~~A. In-State privately owned and operated therapeutic group homes shall be reimbursed for covered TGH services through a modeled interim Medicaid per diem reimbursement rate using estimated allowable cost for the TGH covered services and staffing requirements.~~

~~B. Retroactive Adjustments to the Interim Rates. Interim payments to in-state privately owned and operated TGH facilities shall be subject to retroactive rate adjustments according to the following criteria:~~

~~1. The facility's allowable per diem cost will be determined from the Medicaid cost report submitted. The provider~~

~~will receive a retroactive rate adjustment equal to 50 percent of the difference between the actual Medicaid allowable per diem cost and the interim Medicaid per diem reimbursement rate for each covered TGH patient day.~~

~~2. The payment adjustment will not recognize provider allowable cost beyond the threshold of 125 percent of the initial Medicaid per diem reimbursement rate paid during each fiscal year.~~

~~3. Providers who have disclaimed cost reports or are non-filers will be subject to the modification of the payment adjustment as deemed appropriate by the department.~~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 38:429 (February 2012), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR:41

§12705. In-State ~~Publicly Owned and Operated~~ Therapeutic Group Homes

A. In-State publicly and privately owned and operated therapeutic group homes shall be reimbursed according to the MCO or CSoC contractor established rate within their contract ~~for all reasonable and necessary cost of operation. These facilities shall~~

~~receive the interim Medicaid per diem payment established for the in-state privately owned and operated TGH facilities according to the provisions of §12703.A~~.

B. ~~The interim payment to in-state publicly owned and operated TGH facilities will be subject to retroactive cost settlement in accordance with Medicare allowable cost principles outlined in the Centers for Medicare and Medicaid Service's Provider Reimbursement Manual Publication 15-1~~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 38:429 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR:41

§12707. Out-of-State Therapeutic Group Homes

A. Out-of-State therapeutic group homes shall be reimbursed ~~the lesser of their specific in-state TGH Medicaid per diem reimbursement rate, or 95 percent of the Louisiana interim Medicaid per diem reimbursement rate calculated according to the provisions of §12703.A.~~for their services according to the rate established by the MCO or CSoC contractor.

B. Payments to out-of-state TGH facilities that provide covered services shall not be subject to ~~retroactive cost adjustments or~~ TGH cost reporting requirements.

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 38:429 (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. 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