

**NOTICE OF INTENT**

**Department of Health  
Bureau of Health Services Financing  
and  
Office of Aging and Adult Services**

**Nursing Facilities - Standards for Payment  
Level of Care Pathways  
(LAC 50:II.10156)**

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to amend LAC 50:II.10156 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 Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amended the provisions governing level of care pathways in order to clarify the provisions of the June 20, 2013 Rule which amended the provisions governing the standards for payment for nursing facilities to clarify level of care determinations (*Louisiana Register*, Volume 41, Number 7). The department now proposes to amend the provisions governing level of care pathways in order to further clarify these provisions.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE  
Part II. Medical Assistance Program**

Subpart 3. Standards for Payment

Chapter 101. Standards for Payment for Nursing Facilities

Subchapter G. Levels of Care

§10156. Level of Care Pathways

A. - C.4. ...

D. Activities of Daily Living Pathway

1. - 3.e. ...

f. toileting—includes getting on and off the toilet, wiping, arranging clothing, etc.;

D.3.g. - E.1.c. ...

2. In order for an individual to be approved under the Cognitive Performance Pathway, the individual must have any one of the conditions noted ~~in a. through m.~~ below:

a. - b. ...

c. have a ~~short term~~ memory problem and ~~daily decision making~~ is ~~severely impaired~~ sometimes understood (e.g., ~~never or rarely makes decisions~~ the individual's ability is limited to making concrete requests);

d. have a short term memory problem and is ~~sometimes rarely or never~~ understood ~~(e.g., the individual's ability is limited to making concrete requests)~~;

e. ~~have a short term memory problem and is rarely or never~~ be moderately impaired in daily decision making (e.g., the individual's decisions are consistently poor or

unsafe, cues or supervision is required at all times) and the individual is usually understood (e.g., the individual has difficulty finding words or finishing thoughts and prompting may be required);

f. be moderately impaired in daily decision making (e.g., the individual's decisions are consistently poor or unsafe, cues or supervision is required at all times) and the individual is ~~usually~~ sometimes understood, (e.g., ~~the individual has difficulty finding words or finishing thoughts and prompting may be required~~ his/her ability is limited to making concrete requests);

g. be moderately impaired in daily decision making (e.g., the individual's decisions are consistently poor or unsafe, cues or supervision is required at all times) and the individual is ~~sometimes~~ rarely or never understood ~~(e.g., his/her ability is limited to making concrete requests);~~

h. be ~~moderately~~ minimally impaired in daily decision making (e.g., the ~~individual's~~ individual has some difficulty in new situations or his/her decisions are ~~consistently~~ poor ~~or unsafe,~~ and requires cues ~~or~~ and supervision ~~is required at all times~~ in specific situations only) and the individual is ~~rarely or never~~ sometimes understood (e.g., the individual's ability is limited to making concrete requests); or

i. be ~~severely~~ minimally impaired in daily decision making, (e.g., the individual has some difficulty in new situations or his/her decisions are poor, cues and supervision are required in specific situations only) ~~never or rarely makes decisions. The~~ and the individual ~~has difficulty finding words or finishing thoughts and prompting may be required~~ is rarely or never understood;

~~j. be severely impaired in daily decision making (e.g., never or rarely makes decisions) and the individual is sometimes understood (e.g., his/her ability is limited to making concrete requests);~~

~~k. be severely impaired in daily decision making, never or rarely makes decisions, and the individual is rarely or never understood;~~

~~l. be minimally impaired in daily decision making (e.g., the individual has some difficulty in new situations or his/her decisions are poor and requires cues and supervision in specific situations only) and the individual is sometimes understood (e.g., the individual's ability is limited to making concrete requests); or~~

~~m. be minimally impaired in daily decision making (e.g., the individual has some difficulty in new situations or his/her decisions are poor, cues and supervision~~

~~are required in specific situations only) and the individual is rarely or never understood~~j. - m. Repealed.

F. Physician Involvement Pathway

1. ...

2. ~~Physician visits and physician orders will be~~ The following are investigated for this pathway. ~~Consideration will be given to the physician visits in the last 14 days, excluding emergency room exams, and physician orders in the last 14 days, excluding order renewals without change or hospital inpatient visits.:~~

a. physician visits occurring during the 14 day look back period(excluding emergency room exams); and

b. physician orders issued during the 14 day look-back period (excluding order renewals without change and hospital inpatient visits).

3. In order for an individual to be approved under the physician involvement pathway, the individual must have ~~1 day of doctor visits and at least 4 new order changes within the last 14 days or:~~

a. ~~at least 2~~ one days of doctor visits and at least 24 new order changes within the ~~last 14 days~~ look-back period; and or

b. ~~supporting documentation for the specific condition(s) identified and deemed applicable by OAAS.~~

~~Acceptable documentation may include:~~ at least 2 days of doctor visits and at least 2 new order changes during the 14 day look-back period.

- ~~i. a copy of the physician's orders;~~
  - ~~ii. the home health care plans documenting the diagnosis, treatments and conditions within the designated time frames; or~~
  - ~~iii. the appropriate form designated by OAAS to document the individual's medical status and condition.~~
- iii. Repealed.

4. ~~This pathway is approved for limited stay/length of service as deemed appropriate by OAAS.~~ Supporting documentation is required and must include:

- a. a copy of the physician's orders; or
- b. the home health care plans documenting the diagnosis, treatments and conditions within the designated time frames; or
- c. the appropriate form designated by OAAS to document the individual's medical status and condition.

5. This pathway is approved for limited stay/length of service as deemed appropriate by OAAS.

G. Treatments and Conditions Pathway

1. The intent of this pathway is to identify individuals with unstable medical conditions that may be

affecting ~~his/her~~ a person's ability to care for himself/herself.

~~The following treatments and conditions shall be investigated for this pathway:~~

- ~~a. stage 3-4 pressure sores in the last 14 days;~~
  - ~~b. intravenous feedings in the last 7 days;~~
  - ~~c. intravenous medications in the last 14 days;~~
  - ~~d. daily tracheostomy care and ventilator/respiratory suctioning in the last 14 days;~~
  - ~~e. pneumonia in the last 14 days and the individual's associated IADL or ADL needs or restorative nursing care needs;~~
  - ~~f. daily respiratory therapy provided by a qualified professional in the last 14 days;~~
  - ~~g. daily insulin injections with two or more order changes in the last 14 days;~~
  - ~~i. supporting documentation shall be required for the daily insulin usage and the required order changes; and~~
  - ~~h. peritoneal or hemodialysis in the last 14 days.~~
- a. - h. Repealed.

2. ~~In order for an individual to be approved under the treatments and conditions~~ The following are investigated for this pathway, ~~the individual must have:~~

~~a. any one of the conditions listed in §10156.C.1.a-h~~stage 3-4 pressure sores during the 14 day look-back period; and

~~b. supporting documentation for the specific condition(s) identified and deemed applicable by OAAS.~~

~~Acceptable documentation may include:~~intravenous feedings during the 7 day look-back period;

~~i. a copy of the physician's orders;~~

~~ii. the home health care plans documenting the diagnosis, treatments and conditions within the designated time frames; or~~

~~iii. the appropriate form designated by OAAS to document the individual's medical status and condition.~~i. -  
iii. Repealed.

c. intravenous medications during the 14 day look-back period;

d. daily tracheostomy care and ventilator/respiratory suctioning during the 14 day look-back period;

e. pneumonia during the 14 day look-back period and the individual had associated need for assistance with IADLs, ADLs, or restorative nursing care;

f. daily respiratory therapy provided by a qualified professional during the 14 day look-back period;



g. daily insulin injections with two or more order changes during the 14 day look-back period; or

h. peritoneal or hemodialysis during the 14 day look-back period.

3. ~~This~~ In order for an individual to be approved under the treatments and conditions pathway, is approved for limited stay/length of service as deemed appropriate by OAAS. the individual must have:

a. any one of the conditions listed in G.2.a-h above; and

b. supporting documentation for the specific condition(s) identified. Acceptable documentation must include:

i. a copy of the physician's orders; or

ii. the home health care plans documenting the diagnosis, treatments and conditions within the designated time frames; or

iii. the appropriate form designated by OAAS to document the individual's medical status and condition.

4. This pathway is approved for limited stay/length of service as deemed appropriate by OAAS.

#### H. Skilled Rehabilitation Therapies Pathway

1. The intent of this pathway is to identify individuals who have received, or are scheduled to receive, ~~at least 45 minutes of~~ physical therapy, occupational therapy, or

speech therapy ~~in the last seven days or within seven days from the date the LOC assessment is completed.~~

2. In order for an individual to be approved under ~~the skilled rehabilitation therapies~~this pathway, the individual must ~~have~~:

a. have received at least 45 minutes of active physical therapy, occupational therapy, and/or speech therapy during the ~~last seven days~~day look-back period; or

b. be scheduled to receive at least 45 minutes of active physical therapy, occupational therapy, and/or speech therapy scheduled ~~for~~during the ~~next seven days~~day look-forward period. ~~as specified in the applicable~~

~~screening/assessment tool and supporting documentation for the specific condition(s) identified and deemed applicable by OAAS. Acceptable documentation may include:~~

~~i. a copy of the physician's orders for the scheduled therapy;~~

~~ii. the home health care plan notes indicating the therapy received during the required look-back period;~~

~~iii. progress notes indicating the physical, occupational, and/or speech therapy received or scheduled;~~

~~iv. nursing facility or hospital discharge plans indicating the therapy received for the required look-back~~

~~period or therapy scheduled for the required look forward period; or~~

~~v. the appropriate form designated by OAAS to document the individual's medical status and condition.~~

v. Repealed.

3. ~~This pathway is approved for limited stay/length of service as deemed appropriate by OAAS.~~ Supporting documentation of the therapy received/scheduled during the look-back/look-forward period, is required and must include:

a. a copy of the physician's orders for the received/scheduled therapy;

b. the home health care plan notes indicating the received/scheduled therapy;

c. progress notes indicating the physical, occupational, and/or speech therapy received;

d. nursing facility or hospital discharge plans indicating the therapy received/scheduled; or

e. the appropriate form designated by OAAS to document the individual's medical status and condition.

4. This pathway is approved for limited stay/length of service as deemed appropriate by OAAS.

I. Behavior Pathway

1. The intent of this pathway is to identify individuals who have experienced repetitive behavioral

challenges which have impacted his/her ability to function in the community during the specified screening/assessment look-back period. ~~The behavior challenges may include:~~

~~a. wandering;~~

~~b. verbally or physically abusive behavior;~~

~~c. socially inappropriate behavior; or~~

~~d. delusions or hallucinations.~~ a. - d.

Repealed

2. ~~In order for an individual to be approved under the behavior~~ The following are investigated for this pathway, ~~the individual must have:~~

a. ~~exhibited any one of the following behaviors four to six days of the screening tool's seven day look back period, but less than daily:~~ wandering;

~~i. wandering;~~

~~ii. verbally abusive;~~

~~iii. physically abusive;~~

~~iv. socially inappropriate or disruptive;~~

~~i. - iv.~~ Repealed.

b. ~~exhibited any one of the following behaviors daily during the screening tool's seven day look back period:~~ verbally or physically abusive behavior;

~~i. wandering;~~

~~ii. verbally abusive;~~

~~iii. physically abusive;~~

~~iv. socially inappropriate or disruptive;~~

~~or~~ i. - iv. Repealed.

c. ~~experienced delusions or hallucinations within the screening tool's seven day look-back period that impacted his/her ability to live independently in the community~~ socially inappropriate behavior; or ~~and~~

d. ~~exhibited any one of the following behaviors during the assessment tool's three day look back period and behavior(s) were not easily altered;~~ delusions or hallucinations.

~~i. wandering;~~

~~ii. verbally abusive;~~

~~iii. physically abusive;~~

~~iv. socially inappropriate or disruptive;~~

~~or~~

~~c. experienced delusions or hallucinations within the assessment tool's three day look back period that impacted his/her ability to live independently in the community.~~ d.i. - e. Repealed.

3. In order for an individual to be approved under the behavior pathway, the individual must have either:

a. exhibited any one of the following behaviors four or more days of the screening tool's seven day look-back period:

i. wandering;

ii. verbally abusive;

iii. physically abusive; or

iv. socially inappropriate or disruptive;

or

b. exhibited any one of the following behaviors during the assessment tool's three day look-back period and behavior(s) were not easily altered:

i. wandering;

ii. verbally abusive;

iii. physically abusive; or

iv. socially inappropriate or disruptive;

or

c. experienced delusions or hallucinations that impacted his/her ability to live independently in the community within the specific screening/assessment tool's look-back period.

J. Service Dependency Pathway

1. The intent of this pathway is to identify individuals who are currently in a nursing facility or receiving services through the ~~adult~~Adult ~~day~~Day ~~health~~Health ~~care~~Care ~~waiver~~Waiver, the ~~community~~Community ~~choices~~Choices ~~waiver~~Waiver, ~~program~~Program of ~~all~~All ~~inclusive~~Inclusive

~~care~~ Care for the ~~elderly~~ Elderly (PACE) or receiving long-term personal care services.

2. - 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 and the Office of Aging and Adult Services, LR 37:342 (January 2011), amended LR 39:1471 (June 2013), LR 41:1289 (July 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 43:

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 or 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 Jen Steele, 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. Steele is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, September 28, 2017 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.

Rebekah E. Gee MD, MPH

Secretary