

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Dental Benefits Prepaid Ambulatory Health Plan Independent Review Process for Provider Claims (LAC 50:I.2117)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:I.2117 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.

Act 284 of the 2018 Regular Session of the Louisiana Legislature directed the Department of Health, Bureau of Health Services Financing to establish a process for review of dental provider claims submitted to Medicaid dental benefit plan managers (DBPMs) when claim payment determinations are adverse to providers and the DBPM's appeal and reconsideration process has been exhausted. This legislation further directed the department to: 1) establish a panel for the selection of the independent dental claims reviewers; 2) provide for claims review procedures and fees for claims review services; and 3) related matters.

In compliance with the provisions of Act 284, the department proposes to amend the Rule governing the dental benefits prepaid ambulatory health plan in order to adopt

provisions for the independent process for the review of DBPM provider claims payment determinations that are adverse to dental providers.

Title 50
PUBLIC HEALTH - MEDICAL ASSISTANCE
Part 1. Administration
Subpart 3. Managed Care for Physical and Behavioral Health
Chapter 21. Dental Benefits Prepaid Ambulatory Health Plan
§2117. Independent Review Process for Dental Provider Claims

A. Right of Dentist Providers to Independent Review of Claims

1. Pursuant to Act 284 of the 2018 Regular Session of the Louisiana Legislature, for adverse determinations related to dental claims filed on or after November 20, 2018, a dentist/dental provider shall have a right to an independent review of the adverse action of the DBPM.

2. For purposes of these provisions, adverse determinations shall refer to dental claims submitted by healthcare providers for payment for dental services rendered to Medicaid enrollees and denied by the DBPM, in whole or in part, or more than 60 days have elapsed since the claim was submitted and the dentist has received no remittance advice or other written or electronic notice from the DBPM either partially or totally denying the claim.

B. Request for Reconsideration

1. Prior to submitting a request for independent review, a provider shall submit a written request for reconsideration to the DBPM, as provided for by the DBPM and in accordance with this Section. The request shall identify the claim(s) in dispute, the reasons for the dispute, and any documentation supporting the provider's position or request by the DBPM.

2. The DBPM shall acknowledge in writing its receipt of a reconsideration request submitted in accordance with §2117.B.1, within five calendar days after receipt, and render a final decision by providing a response to the provider within 45 calendar days from the date of receipt of the request for reconsideration, unless another time frame is agreed upon in writing by the dentist/dental provider and the DBPM.

3. If the DBPM reverses the adverse determination pursuant to a request for reconsideration, payment of the claim(s) in dispute shall be made no later than 20 days from the date of the DBPM's decision.

C. Independent Review of Dental Claims Requirements

1. If the DBPM upholds the adverse determination, or does not respond to the reconsideration request within the time frames allowed, the provider may file a written notice with the department requesting the adverse determination be submitted to an independent reviewer. The department must receive the written request from the provider for an independent review within 60

days from the date the provider receives the DBPM's notice of the decision of the reconsideration request, or if the DBPM does not respond to the reconsideration request within the time frames allowed, within 10 days of the last date of the time period allowed for the DBPM to respond.

2. The dentist/dental provider shall include a copy of the written request for reconsideration with the request for an independent review. The appropriate address to be used by the provider for submission of the request shall be Medicaid Dental Benefits Independent Review, P.O. Box 91283, Bin 32, Baton Rouge, LA 70821-9283.

3. Upon receipt of a notice of request for independent review and supporting information and documentation, the department shall refer the adverse determination to the dental claims review panel.

4. Subject to approval by the independent reviewer, a dentist/dental provider may aggregate multiple adverse determinations involving the same DBPM when the specific reason for nonpayment of the claims aggregated involve a dispute regarding a common substantive question of fact or law.

5. Within 14 calendar days of receipt of the request for independent review, the independent reviewer shall request to be provided all information and documentation submitted for reconsideration regarding the disputed claim or claims within 30 calendar days.

6. If the independent reviewer determines that guidance on an administrative issue from the department is required to make a decision, the reviewer shall refer this specific issue to the department for review and concise response to the request within 30 calendar days after receipt.

7. The independent reviewer shall examine all materials submitted and render a decision on the dispute within 60 calendar days. The independent reviewer may request in writing an extension of time from the dental claims review panel to resolve the dispute. If an extension of time is granted by the panel, the independent reviewer shall provide notice of the extension to the dental provider and the DBPM.

8. If the independent reviewer renders a decision requiring the DBPM to pay any claims or portion of the claims, within 20 calendar days, the DBPM shall send the provider payment in full along with interest calculated back to the date the claim was originally denied or recouped.

D. Independent Review Costs

1. The DBPM shall pay the fee for an independent review to the Louisiana State University School of Dentistry. The dentist/dental provider shall, within 10 days of the date of the decision of the independent reviewer, reimburse the DBPM for the fee associated with conducting an independent review when the decision of the DBPM is upheld. If the provider fails to submit payment for the independent review within 10 days from

the date of the decision, the DBPM may withhold future payments to the provider in an amount equal to the cost of the independent review, and the department may prohibit that provider from future participation in the independent review process.

2. If the DBPM fails to pay the bill for the independent reviewer's services, the reviewer may request payment directly from the department from any funds held by the state that are payable to the DBPM.

3. The fee for an independent review of a dental claim shall be paid in an amount established in a memorandum of understanding between the department and the Louisiana State University School of Dentistry, not to exceed \$2,000 per review.

E. Dental Claims Review Panel

1. The dental claims review panel shall select and identify an appropriate number of independent reviewers to comprise a reviewer pool and continually review the number and outcome of requests for reconsideration and independent reviews on an aggregated basis.

2. The panel shall consist of the secretary or his/her duly designated representative, one representative from each DBPM, a number of dentist representatives equal to the number of representatives from DBPMs and the dean of the Louisiana State University School of Dentistry or his/her designee.

3. The reviewer pool selected by the dental claims review panel shall be comprised of dentists who are on the faculty of the Louisiana State University School of Dentistry and have agreed to applicable terms for compensation, confidentiality, and related provisions established by the department. The reviewer pool shall include:

a. For each of the following specialties, at least one dentist who has completed a residency approved by the Commission on Dental Accreditation in that specialty:

- i. periodontics;
- ii. endodontics;
- iii. prosthodontics; and
- iv. oral and maxillofacial surgery.

b. At least two dentists who have completed a residency approved by the Commission on Dental Accreditation in pediatric dentistry.

4. The reviewer pool shall not include any dentist who is currently performing compensated services for the DBPM, whether the compensation is paid directly or through a contract with the Louisiana State University School of Dentistry or other state entity, or has received any such compensation at any time in the prior 12 months.

5. The reviewer pool shall not include any dentist who has received reimbursement for dental services rendered to

Medicaid patients in a private practice setting in the past 60 days.

a. Louisiana State University School of Dentistry clinics, including Louisiana State University School of Dentistry faculty practice, shall not be considered a private practice setting for the purposes of determining eligibility to participate in the reviewer pool.

6. No dentist shall be eligible to submit denied Medicaid claims for independent review while participating in the reviewer pool.

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, Bureau of Health Services Financing, LR 44:

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 Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to 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 27, 2018 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

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

Person
Preparing
Statement: Veronica Dent
Phone: 342-3238

Dept.: Health
Office: Bureau of Health Services
Financing

Return
Address: P.O. Box 91030
Baton Rouge, LA

Rule Title: Dental Benefits Prepaid
Ambulatory Health Plan
Independent Review Process for
Provider Claims

Date Rule Takes Effect: November 20, 2018

SUMMARY

In accordance with Section 953 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 summary statements, based on the attached worksheets, 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 the implementation of this proposed rule will have an indeterminable programmatic impact to the state in FY 18-19, FY 19-20, and FY 20-21 since there is no way to determine how many providers will utilize the process or how many claims payments will be impacted. However, to the extent that this process may result in increased expenses to the dental benefits plan manager (DBPM) through the required administrative reviews and potential payments for reversals of decisions, there is potential for an increase in the monthly capitation rates paid by Medicaid to the DBPM as a result of the process. It is anticipated that \$972 (\$486 SGF and \$486 FED) will be expended in FY 18-19 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 the implementation of this proposed rule will have an indeterminable impact on federal revenue collections in FY 18-19, FY 19-20, and FY 20-21. It is anticipated that \$486 will be collected in FY 18-19 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 OR NON-GOVERNMENTAL GROUPS (Summary)

Pursuant to the provisions of Act 284 of the 2018 Regular Session of the Louisiana Legislature, this proposed Rule amends the provisions governing the dental benefits prepaid ambulatory health plan in order to adopt provisions for an independent review process for dental providers who have received an adverse determination on DBPM provider claims payments. It is anticipated that implementation of this proposed rule may have indeterminable administrative and programmatic costs to the Medicaid Program since there is no way to determine how many providers will utilize this process or how many claims payments may be impacted, and may result in an increase in the monthly capitation rates paid by Medicaid to the DBPM if their administrative costs increase. It is also anticipated that implementation of this proposed rule may have an impact to the DBPM and dental providers in FY 18-19, FY 19-20 and FY 20-21, but the impact is indeterminable since there is no way to determine if there will be recoupments or payments made by the DBPM and dental providers as a result of this process.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.



Signature of Agency Head
or Designee

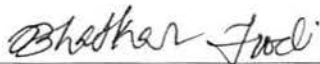


Legislative Fiscal Officer
or Designee

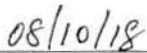
Jen Steele, Medicaid Director

Typed name and Title of
Agency Head or Designee

Date of Signature



LDH/BHSF Budget Head



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 deliberations 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).

Pursuant to the provisions of Act 284 of the 2018 Regular Session of the Louisiana Legislature, this proposed Rule amends the provisions governing the dental benefits prepaid ambulatory health plan in order to adopt provisions for an independent review process for dental providers who have received an adverse determination on dental benefits plan manager (DBPM) claims payments.

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

Act 284 of the 2018 Regular Session of the Louisiana Legislature directed the Department of Health, Bureau of Health Services Financing to establish a process for review of dental provider claims submitted to Medicaid dental benefit plan managers (DBPMs) when claim payment determinations are adverse to providers and the DBPM's appeal and reconsideration process has been exhausted. This legislation further directed the department to: 1) establish a panel for the selection of the independent dental claims reviewers; 2) provide for claims review procedures and fees for claims review services; and 3) provide for related matters.

In compliance with the provisions of Act 284, the department proposes to amend the Rule governing the dental benefits prepaid ambulatory health plan in order to adopt provisions for the independent process for the review of DBPM provider claims payment determinations that are adverse to dental providers.

- 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 indeterminable administrative and programmatic costs. In FY 18-19, \$972 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) ☐ If yes, attach documentation.

(b) ☒ If no, provide justification as to why this rule change should be published at this time.

Act 2 of the 2018 Second Extraordinary 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. This rule change should be published at this time to ensure compliance with Act 284 of the 2018 Regular Session of the Louisiana Legislature which mandated that the Department establish an independent review process for dental prepaid ambulatory health plan providers who receive adverse claims payment determinations.

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET

I. A. COST OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase or (decrease) in cost to implement the proposed action?

COST	FY 18-19	FY 19-20	FY 20-21
PERSONAL SERVICES			
OPERATING EXPENSES	indeterminable	indeterminable	indeterminable
PROFESSIONAL SERVICES			
OTHER CHARGES	indeterminable	indeterminable	indeterminable
REPAIR & CONSTR.			
POSITIONS (#)			
TOTAL	indeterminable	indeterminable	indeterminable

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 18-19, \$972 is included for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

Source	FY 18-19	FY 19-20	FY 20-21
STATE GENERAL FUND	indeterminable	indeterminable	indeterminable
SELF-GENERATED			
FEDERAL FUND	indeterminable	indeterminable	indeterminable
OTHER (Specify)			
Total	indeterminable	indeterminable	indeterminable

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 THIS PROPOSED ACTION.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustment 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.

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET

2. Indicate the sources of funding of the local governmental unit that will be affected by these costs or savings.

There is no known impact on the sources of local governmental unit funding.

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

- A. What increase or (decrease) in revenues can be expected from the proposed action?

REVENUE INCREASE/DECREASE	FY 18-19	FY 19-20	FY 20-21
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
RESTRICTED FUNDS*			
FEDERAL FUNDS	indeterminable	indeterminable	indeterminable
LOCAL FUNDS			
Total	indeterminable	indeterminable	indeterminable

*Specify the particular fund being impacted

- B. Provide a narrative explanation of each increase or decrease in revenue shown in "A". Describe all data, assumptions, and methods used in calculating these increases or decreases.

In FY 18-19, \$486 will be collected for the federal share of the administrative expense for promulgation of this proposed rule and the final rule.

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS

- A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effects on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.)

Pursuant to the provisions of Act 284 of the 2018 Regular Session of the Louisiana Legislature, this proposed Rule amends the provisions governing the dental benefits prepaid ambulatory health plan in order to adopt provisions for an independent review process for dental providers who have received an adverse determination on DBPM provider claims payments.

- B. Also, provide an estimate of any revenue impact resulting from this rule or rule change to these groups.

It is anticipated that implementation of this proposed rule may have indeterminable administrative and programmatic costs to the Medicaid Program since there is no way to determine how many providers will utilize this process or how many claims payments may be impacted, and may result in an increase in the monthly capitation rates paid by Medicaid to the DBPM if their administrative costs increase. It is also anticipated that implementation of this proposed rule may have an impact to the DBPM and dental providers in FY 18-19, FY 19-20 and FY 20-21, but the impact is indeterminable since there is no way to determine if there will be recoupments or payments made by the DBPM and dental providers as a result of this process.

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.