

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Medicaid Employee Criminal History Records Checks (LAC 50:I.103)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:I.103 as authorized by R.S. 36:254 and 254.3, 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 147 of the 2017 Regular Session of the Louisiana Legislature mandated that the Department of Health perform criminal history records checks of current and prospective employees, contractors and subcontractors within the Medicaid eligibility section with access to federal tax information (FTI) in accordance with the procedures provided in R.S. 15:587.5.

In compliance with the requirements of Act 147, the Department of Health, Bureau of Health Services Financing, proposes to amend the provisions governing the administrative procedures for the administration of the Medical Assistance Program in order to adopt provisions which require current or prospective employees, contractors or subcontractors, within the Medicaid eligibility section that have access to FTI or criminal history record information, to submit to criminal history records checks.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 1. General Provisions

Chapter 1. Administrative Procedures

§103. Employee Criminal History Records Checks

A. Pursuant to Act 147 of the 2017 Regular Session of the Louisiana Legislature, the Department of Health (the "department") shall perform criminal history records checks of current and prospective employees, contractors or subcontractors, within the Medicaid eligibility section, that have access to federal tax information (FTI) and/or criminal history record information.

1. In compliance with the requirements of R.S. 15.587.5, current or prospective employees, contractors or subcontractors within the Medicaid eligibility section shall be required to submit to a criminal history records check to be conducted by the Louisiana Bureau of Criminal Identification and Information.

a. Fingerprints and other identifying information shall be submitted to the Louisiana Bureau of Criminal Identification and Information by the current or prospective employee, contractor or subcontractor.

2. The department shall also request local criminal history records checks for current or prospective employees, contractors or subcontractors within the Medicaid eligibility

section with access to FTI and/or criminal history record information.

a. The local criminal history records checks request shall be sent to any jurisdiction where the current or prospective employee, contractor or subcontractor has lived, worked or attended school within the last five years.

3. Fingerprinting and national, state and local criminal history records checks shall be used by the department to determine the suitability of current or prospective employees, contractors or subcontractors within the Medicaid eligibility section to access federal tax information and records.

a. Prospective employees shall be subject to fingerprinting and national, state and local criminal history records checks only after a conditional offer of employment has been made.

b. Current employees, contractors and subcontractors shall be subject to fingerprinting and national, state and local criminal history records checks at a minimum of every 10 years.

4. The costs of providing the criminal history records check for current employees, contractors or subcontractor within the Medicaid Eligibility Section shall be charged to the department by the Louisiana Bureau of Criminal Identification and Information for furnishing information

contained in its criminal history and identification files, including any additional costs of providing the national and local criminal history records checks, which pertains to the current or prospective employee, contractor or subcontractor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 254.3 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 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. 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

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Return P.O. Box 91030

Address: Baton Rouge, LA

Rule Title: Medicaid Employee
Criminal History Records Checks

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.

ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS
(SUMMARY)

I. *It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 18-19. However, the proposed rule is anticipated to have a minimal administrative fiscal impact associated with the costs of the criminal history records checks for this specific category of Medicaid eligibility employees. It is anticipated that \$540 (\$270 SGF and \$270 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)

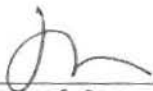
It is anticipated that the implementation of this proposed rule will not affect Medicaid Program revenue collections other than the federal share of the promulgation costs for FY 18-19; however, this proposed rule will increase revenue collections to the Louisiana Bureau of Criminal Identification and Information by approximately \$450 in FY 18-19. It is anticipated that \$270 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)


This proposed Rule amends the provisions governing the administrative procedures for the administration of the Medical Assistance Program in order to adopt provisions which require current or prospective employees, contractors or subcontractors, within the Medicaid eligibility section that have access to federal tax information (FTI) and/or criminal history record information, to submit to criminal history records checks. Since the provisions of this proposed rule are administrative in nature, there will be no programmatic fiscal impact to Medicaid services, providers or recipients. It is anticipated that implementation of this proposed rule will have a minimal administrative fiscal impact to the Medicaid Program of approximately \$450 in FY 18-19 due to the \$50 administrative cost of the criminal history records checks for each of the 9 Medicaid eligibility employees that currently have access to FTI (total cost, \$450).

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).

This proposed Rule amends the provisions governing the administrative procedures for the administration of the Medical Assistance Program in order to adopt provisions which require current or prospective employees, contractors or subcontractors, within the Medicaid eligibility section that have access to federal tax information (FTI) and/or criminal history record information, to submit to criminal history records checks.

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

Act 147 of the 2017 Regular Session of the Louisiana Legislature mandates that the Department of Health, Bureau of Health Services Financing perform criminal history records checks of current and prospective employees, contractors and subcontractors within the Medicaid eligibility section with access to federal tax information (FTI) in accordance with the procedures provided in R.S. 15:587.5. In compliance with the requirements of Act 147, the Department of Health, Bureau of Health Services Financing, proposes to amend the provisions governing the administrative procedures for the administration of the Medical Assistance Program in order to adopt provisions which require current or prospective employees, contractors or subcontractors, within the Medicaid eligibility section that have access to FTI and/or criminal history record information, to submit to criminal history records checks.

- 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.

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state; however, a minimal administrative fiscal impact of approximately \$990 is anticipated in FY 18-19 as a result of the administrative costs associated with the criminal history checks and the promulgation costs for this proposed rule and the final rule. It is anticipated that \$540 will be expended in FY 18-19 for the state's administrative expense for the promulgation costs.

- (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.

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	\$540	\$0	\$0
PROFESSIONAL SERVICES			
OTHER CHARGES	\$450	\$0	\$0
REPAIR & CONSTR.			
POSITIONS (#)			
TOTAL	\$990	\$0	\$0

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, \$990 will be spent for the state's administrative expense for promulgation of this proposed rule and the final rule, as well as the administrative costs associated with securing the criminal records checks.

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	\$495	\$0	\$0
SELF-GENERATED			
FEDERAL FUND	\$495	\$0	\$0
OTHER (Specify)			
Total	\$990	\$0	\$0

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	\$495	\$0	\$0
LOCAL FUNDS			
Total	\$495	\$0	\$0

***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, \$495 will be collected for the federal share of the administrative expenses for promulgation of this proposed rule and the final rule, as well as the criminal records checks.

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.)

This proposed Rule amends the provisions governing the administrative procedures for the administration of the Medical Assistance Program in order to adopt provisions which require current or prospective employees, contractors or subcontractors, within the Medicaid eligibility section that have access to federal tax information (FTI) and/or criminal history record information, to submit to criminal history records checks.

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

Since the provisions of this proposed rule are administrative in nature, there will be no programmatic fiscal impact to Medicaid services, providers or recipients. It is anticipated that implementation of this proposed rule will have a minimal administrative fiscal impact to the Medicaid Program of approximately \$450 in FY 18-19 due to the \$50 administrative cost of the criminal history records checks for each of the 9 Medicaid eligibility employees that currently have access to FTI (total cost, \$450).

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.