

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing**

**Medical Transportation Program
(LAC 50:XXVII.Chapters 5 and 7)**

The Department of Health, Bureau of Health Services Financing proposes to repeal and replace the provisions of LAC 50:XXVII.Chapter 5 and adopt Chapter 7 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 Procedures Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the Medical Transportation Program in order to repeal and replace Chapter 5 governing non-emergency medical transportation in its entirety and relocate the non-emergency ambulance transportation provisions to Chapter 7 to ensure that the *Louisiana Administrative Code* reflects current managed care and fee-for-service practices.

Title 50

**PUBLIC HEALTH-MEDICAL ASSISTANCE
Part XXVII. Medical Transportation Program**

Chapter 5. Non-Emergency Medical Transportation

Subchapter A. General Provisions

§501. Introduction

A. Non-emergency medical transportation (NEMT) is provided to Medicaid beneficiaries to and/or from a medically necessary Medicaid covered service. NEMT is intended to provide transportation only after all reasonable means of free transportation have been explored and found to be unavailable.

NOTE: Non-emergency ambulance transportation (NEAT) is a form of NEMT; NEAT provisions are located in LAC 50:XXVII.Chapter 7.

B. Medicaid covered transportation is available to Medicaid beneficiaries when:

1. the beneficiary is enrolled in a Medicaid benefit program that explicitly includes transportation services; and
2. the beneficiary or their representative has stated that they have no other means of transportation.

C. This Chapter applies to the fee-for-service and managed care programs for the provision of NEMT to and/or from medically necessary Medicaid covered services.

1. Managed care entities may utilize fully credentialed NEMT providers within their networks to transport managed care enrollees to non-Medicaid covered services when approved by the department as a value-added benefit at the managed care entity's expense.

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 47:

§503. Prior Approval and Scheduling

A. The department or its designee will review and approve or deny the transportation requests, prior to scheduling, for beneficiary eligibility and verification of the following:

1. that the originating or destination address belongs to a healthcare provider or facility; or
2. that the service is a prior authorized Medicaid covered service performed in the community.

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 47:

§505. Requirements for Coverage

A. Payment shall only be authorized for the least costly means of transportation available. The least costly means of transportation shall be determined by the department or its designee and considered the beneficiary's choice of transportation, the level of service required to safely transport the beneficiary (e.g., ambulatory, wheelchair, transfer), and the following hierarchy:

1. public providers;
2. gas reimbursement providers who are enrolled in the Medicaid Program;
3. non-profit providers who are enrolled in the Medicaid Program; and

4. profit providers enrolled in the Medicaid Program.

B. Beneficiaries shall be allowed a choice of transportation profit providers as long as it remains the least costly means of transportation.

C. Beneficiaries are encouraged to utilize healthcare providers of their choice in the community in which they reside when the beneficiary requires Medicaid reimbursed transportation services.

1. Beneficiaries may seek medically necessary services in another state when it is the nearest option available.

2. In the managed care program, transportation will only be approved to and/or from a healthcare provider within the department's geographic access standards, unless granted an extension by the department or its designee.

D. Beneficiaries and healthcare providers should give advance notice when requesting transportation.

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 47:

Subchapter B. Beneficiary Participation

§511. General Provisions

A. Beneficiaries shall participate in securing transportation at a low cost and shall agree to use public transportation or solicit transportation from family and friends as an alternative to costlier means of transport.

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 47:

Subchapter C. Provider Responsibilities

§517. Provider Enrollment

A. All NEMT providers must comply with all applicable federal, state, and local laws and regulations, including, but not limited to, those pertaining to enrollment and participation in the Medicaid Program.

B. Non-emergency medical transportation profit providers shall have a minimum liability insurance coverage of \$25,000 per person, \$50,000 per accident and \$25,000 property damage policy.

1. The liability policy shall cover:

a. any autos, hired autos, and non-owned autos;

or

b. scheduled autos, hired autos, and non-owned

autos.

2. Statements of insurance coverage from the agent writing the policy are not acceptable. Proof must include the dates of coverage and a 30-day cancellation notification clause.

Proof of renewal must be received by the department or its designee no later than 48 hours prior to the end date of coverage. The policy must provide that the 30-day cancellation notification be issued to the department or its designee.

3. Upon notice of cancellation or expiration of the coverage, the department or its designee will suspend the provider's Medicaid enrollment, effective on the date of cancellation or expiration.

C. As a condition of reimbursement for transporting Medicaid beneficiaries to and/or from healthcare services, gas reimbursement providers must maintain a current valid vehicle registration, the state minimum automobile liability insurance coverage, and a current valid driver's license. Proof of compliance with these requirements must be submitted to the department or its designee during the enrollment process. Gas reimbursement providers are allowed to transport up to five specified Medicaid beneficiaries or all members of one household. Individuals transporting more than five Medicaid beneficiaries or all members of one household shall be considered profit providers and shall be enrolled as such and comply with all profit provider requirements.

D. A provider must agree to cover the entire parish or parishes for which he or she provides non-emergency medical transportation services.

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 47:

Subchapter D. Reimbursement

§523. General Provisions

A. Reimbursement for NEMT services shall be based upon the current fee schedule.

B. Reimbursement will not be made for any additional person(s) who must accompany the beneficiary to the medical provider.

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 47:

Chapter 7. Non-Emergency Ambulance Transportation

§701. Introduction

A. Non-emergency ambulance transportation (NEAT) is ground or air ambulance transportation provided to Medicaid beneficiaries to and/or from a medically necessary Medicaid covered service when the beneficiary's condition is such that use of any other method of transportation is contraindicated or would make the beneficiary susceptible to injury.

B. Medicaid covered transportation is available to Medicaid beneficiaries when:

1. the beneficiary is enrolled in a Medicaid benefit program that explicitly includes transportation services; and

2. the beneficiary or their representative has stated that they have no other means of transportation.

C. This Chapter applies to the fee for service and managed care programs for the provision of NEAT to and/or from medically necessary Medicaid covered services.

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 47:

§703. Provider Responsibilities

A. All ambulance providers must be licensed by the Department of Health, Bureau of Emergency Medical Services.

B. All NEAT providers must comply with all applicable federal, state, local laws, and regulations, including, but not limited to, those pertaining to enrollment and participation in the Medicaid Program.

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 47:

§705. Prior Approval and Scheduling

A. The department or its designee must review and approve or deny the transportation requests, prior to scheduling, for beneficiary eligibility and verification of the following:

1. that the originating or destination address belongs to a healthcare provider or facility; and

2. that a completed certification of ambulance transportation form is received for the date of service.

B. Out-of-state NEAT and non-emergency air ambulance services may require additional approval.

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 47:

§707. Reimbursement

A. Reimbursement for NEAT services shall be based upon the current Medicaid fee schedule.

B. Reimbursement for NEAT claims shall be allowed only when accompanied by the certification of ambulance transportation form justifying the need for ambulance services.

C. Reimbursement will not be made for any additional person(s) who must accompany the beneficiary to the medical provider.

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 47:

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.

Family Impact Statement

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.

Poverty Impact Statement

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.

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated

that this proposed Rule will have no impact on small businesses, as described in R.S. 49:965.2 et seq.

Provider Impact Statement

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 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.

Public Comments

Interested persons may submit written comments to Michael Boutte, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Mr. Boutte is responsible for responding to this proposed Rule. The deadline for submitting written comments is at close of business, 4:30 p.m., on September 29, 2021.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on September 9, 2021. If the criteria set

forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on September 29, 2021 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after September 9, 2021. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips

Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

Person
Preparing
Statement: Veronica Dent Dept.: Health
Phone: 342-3238 Office: Bureau of Health Services Financing
Return
Address: PO Box 91030 Rule
Baton Rouge, LA Title: Medical Transportation Program
Date Rule
Takes Effect: November 20, 2021

SUMMARY
(Use complete sentences)

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 STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND 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 implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 21-22. It is anticipated that \$1,296 (\$648 SGF and \$648 FED) will be expended in FY 21-22 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 no effect on revenue collections other than the federal share of the promulgation costs for FY 21-22. It is anticipated that \$648 will be collected in FY 21-22 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, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS (Summary)

This proposed rule amends the provisions governing the Medical Transportation Program in order to repeal and replace Chapter 5 governing non-emergency medical transportation in its entirety and relocate the non-emergency ambulance transportation provisions to Chapter 7 to ensure that the *Louisiana Administrative Code* reflects current managed care and fee-for-service practices. It is anticipated that implementation of this proposed Rule will not result in any cost or benefits to NEMT providers in FY 21-22, FY 22-23, and FY 23-24, as it aligns the language in the administrative rule with current practices.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.


Signature of Agency Head or Designee

Michael Boutte, Interim Medicaid Executive Director
Typed Name & Title of Agency Head or Designee

08/09/2021
Date of Signature


Legislative Fiscal Officer or Designee

8/9/21
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 deliberation 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 Medical Transportation Program in order to repeal and replace Chapter 5 governing non-emergency medical transportation in its entirety and relocate the non-emergency ambulance transportation provisions to Chapter 7 to ensure that the Louisiana Administrative Code reflects current managed care and fee-for-service practices.

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

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the Medical Transportation Program in order to repeal and replace Chapter 5 governing non-emergency medical transportation in its entirety and relocate the non-emergency ambulance transportation provisions to Chapter 7 to ensure that the *Louisiana Administrative Code* reflects current managed care and fee-for-service practices.

- 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.

No. 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 21-22. In FY 21-22, \$1,296 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) _____ Yes. If yes, attach documentation.

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

**FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET**

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

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

COSTS	FY 22	FY 23	FY 24
Personal Services			
Operating Expenses	\$1,296	\$0	\$0
Professional Services			
Other Charges			
Equipment			
Major Repairs & Constr.			
TOTAL	\$1,296	\$0	\$0

POSITIONS (#)

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 21-22, \$1,296 will be spent 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 22	FY 23	FY 24
State General Fund	\$648	\$0	\$0
Agency Self-Generated			
Dedicated			
Federal Funds	\$648	\$0	\$0
Other (Specify)			
TOTAL	\$1,296	\$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 THE ACTION PROPOSED.

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

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

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

**FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET**

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

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

REVENUE INCREASE/DECREASE	FY 22	FY 23	FY 24
State General Fund			
Agency Self-Generated			
Dedicated Funds*			
Federal Funds	\$648	\$0	\$0
Local Funds			
TOTAL	\$648	\$0	\$0

*Specify the particular fund being impacted.

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

In FY 21-22, \$648 will be collected for the federal share of the administrative expense for promulgation of this proposed rule and the final rule.

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS

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

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the Medical Transportation Program in order to repeal and replace Chapter 5 governing non-emergency medical transportation in its entirety and relocate the non-emergency ambulance transportation provisions to Chapter 7 to ensure that the *Louisiana Administrative Code* reflects current managed care and fee-for-service practices.

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

It is anticipated that implementation of this proposed Rule will not result in any increase or decrease in payments to NEMT providers in FY 21-22, FY 22-23, and FY 23-24, as it aligns the language in the administrative rule with current practices.

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.