

NOTICE OF INTENT

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

**Early and Periodic Screening, Diagnosis and Treatment
Psychological Services Staffing Requirements
(LAC 50:XV.7103-7105 and 9531-9535)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XV.7103-7105 and 9531-9535 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 582 of the 2018 Regular Session of the Louisiana Legislature enacted provisions governing licensure and certification requirements for behavioral health providers of psychosocial rehabilitation (PSR) services and community psychiatric support and treatment (CPST) services. In compliance with Act 582, the Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing psychological services rendered to children in the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program to allow unlicensed school psychologists and master social workers certified by the Department of Education to provide services under the supervision of a licensed professional in order to align the administrative Rule with the requirements of Act 582.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment

Chapter 71. Health Services

§7103. Covered Services

A. - C.4. ...

D. Physical therapy services are designed to improve the child's movement dysfunction. Physical therapy treatment requires a written referral or prescription on at least an annual basis by a person licensed in Louisiana to practice medicine, surgery, dentistry, podiatry, or chiropractic. An exception to this requirement is that physical therapy services may be performed without a prescription to a child with a diagnosed developmental disability pursuant to the child's plan of care. An initial evaluation does not require such referral or prescription. Physical therapy services include:

1. - 3. ...

E. Psychological services are designed to obtain, integrate, and interpret information about child behavior, and child and family conditions related to learning, mental health, and development. Psychological services include:

1. ...

2. interpreting assessment results; and

3. planning and managing a program of mental health and behavioral interventions and education programs.

F. - F.2. ...

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, Office of the Secretary, Bureau of Health Services Financing, LR 30:1034 (May 2004), amended LR 31:664 (March 2005), amended by the Department of Health, Bureau of Health Services Financing, LR 46:

§7105. Professional Staffing Requirements

A. - D. ...

E. Psychological services must be provided by either a:

1. - 3. ...

4. certified school psychologist, under the supervision of a licensed psychologist.

F. Counseling services must be provided by a:

1. - 2. ...

3. licensed master social worker under the supervision of a licensed clinical social worker.

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, Office of the Secretary, Bureau of Health

Services Financing, LR 31:665 (March 2005), amended by the Department of Health, Bureau of Health Services Financing, LR 46:

Subchapter D. School-Based Therapy Services

§9531. General Provisions

A. EPSDT school-based therapy services are provided pursuant to an individualized service plan (IEP), a section 504 accommodation plan, an individualized health care plan, or are otherwise medically necessary within a local education agency (LEA). School-based services include physical therapy, occupational therapy and other services, including services provided by audiologists and services for individuals with speech, hearing and language disorders, performed by, or under the direction of, providers who meet the qualifications set forth in the therapist licensing requirement.

B. Professionals providing school-based therapy services are required to meet the requirements of licensure for their discipline according to the state of Louisiana.

C. School-based services shall be covered for all recipients who are eligible for EPSDT in accordance with Subsection A.

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 45:566 (April 2019), amended LR 46:

§9533. Covered Services

A. The following school-based services shall be covered.

1. ...

2. Speech/Language Pathology Services. The identification and treatment of children with communicative or oropharyngeal disorders and delays in development of communication skills including diagnosis. Therapists and/or audiologists must meet qualifications established in 42 CFR 440.110(c).

3. - 4. ...

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 45:566 (April 2019), amended by the Department of Health, Bureau of Health Services Financing, LR 46:

§9535. Reimbursement Methodology

A. - A.5. ...

B. Services provided by local education agencies to recipients ages 3 to 21 that are medically necessary and included on the recipient's individualized service plan (IEP), a

section 504 accommodation plan, an individualized health care plan, or are otherwise medically necessary are reimbursed according to the following methodology.

1. - F.5. ...

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 45:567 (April 2019), amended by the Department of Health, Bureau of Health Services Financing, LR 46:

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 effect 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 a no impact on child, individual, or family poverty in 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 the staffing level requirements or qualifications required 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 Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on January 29, 2020.

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 January 9, 2020. 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 January 29, 2020 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 January 9, 2020. 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.

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

Rule Title: Early and Periodic Screening,
Diagnosis and Treatment
Psychological Services Staffing
Requirements

Date Rule Takes Effect: March 20, 2020

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 implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 19-20. It is anticipated that \$864 (\$432 SGF and \$432 FED) will be expended in FY 19-20 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 19-20. It is anticipated that \$432 will be collected in FY 19-20 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)

In compliance with Act 582 of the 2018 Regular Session of the Louisiana Legislature, this proposed Rule amends the provisions governing psychosocial rehabilitation (PSR) services and community psychiatric support and treatment (CPST) services rendered to children in the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program to allow unlicensed school psychologists and master social workers certified by the Department of Education to provide psychological services under the supervision of a licensed professional in order to align the administrative Rule with the requirements of Act 582. Implementation of this proposed Rule is anticipated to have a positive impact on the state's individual school districts, as it allows them to continue to recoup costs incurred as a direct result of providing these school-based behavioral health services. It is anticipated that implementation of this proposed Rule will not result in costs to behavioral health providers of PSR and CPST services in the EPSDT program for FY 19-20, FY 20-21, and FY 21-22, since local education authorities (LEAs) have historically been performing and billing for these services. This proposed Rule will be beneficial to these providers by ensuring that the legislative licensure and certification requirements are clearly and accurately promulgated in the Louisiana Administrative Code.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

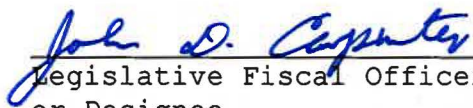
This rule has no known effect on competition and employment.



Signature of Agency Head
or Designee

Jen Steele, Medicaid Director

Typed name and Title of
Agency Head or Designee



Legislative Fiscal Officer
or Designee

12/9/19

Date of Signature



LDH/BHSF Budget Head

12/09/19

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).

In compliance with Act 582 of the 2018 Regular Session of the Louisiana Legislature, this proposed Rule amends the provisions governing psychosocial rehabilitation (PSR) services and community psychiatric support and treatment (CPST) services rendered to children in the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program to allow unlicensed school psychologists and master social workers certified by the Department of Education to provide psychological services under the supervision of a licensed professional in order to align the administrative Rule with the requirements of Act 582.

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

Act 582 of the 2018 Regular Session of the Louisiana Legislature enacted provisions governing licensure and certification requirements for behavioral health providers of psychosocial rehabilitation (PSR) services and community psychiatric support and treatment (CPST) services. In compliance with Act 582, the Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing psychological services rendered to children in the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program to allow unlicensed school psychologists and master social workers certified by the Department of Education to provide services under the supervision of a licensed professional in order to align the administrative Rule with the requirements of Act 582.

- 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 other than the cost of promulgation for FY 19-20. In FY 19-20, \$864 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.

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 19-20	FY 20-21	FY 21-22
PERSONAL SERVICES			
OPERATING EXPENSES	\$864	\$0	\$0
PROFESSIONAL SERVICES			
OTHER CHARGES			
REPAIR & CONSTR.			
POSITIONS (#)			
TOTAL	\$864	\$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 19-20, \$864 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 19-20	FY 20-21	FY 21-22
STATE GENERAL FUND	\$432	\$0	\$0
SELF-GENERATED			
FEDERAL FUND	\$432	\$0	\$0
OTHER (Specify)			
Total	\$864	\$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 19-20	FY 20-21	FY 21-22
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
RESTRICTED FUNDS*			
FEDERAL FUNDS	\$432	\$0	\$0
LOCAL FUNDS			
Total	\$432	\$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 19-20, \$432 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.)

In compliance with Act 582 of the 2018 Regular Session of the Louisiana Legislature, this proposed Rule amends the provisions governing psychosocial rehabilitation services (PSR) and community psychiatric support and treatment (CPST) services rendered to children in the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program to allow unlicensed school psychologists and master social workers certified by the Department of Education to provide psychological services under the supervision of a licensed professional in order to align the administrative Rule with the requirements of Act 582.

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

Implementation of this proposed Rule is anticipated to have a positive impact on the state's individual school districts as it allows them to continue to recoup costs incurred as a direct result of providing these school-based behavioral health services. It is anticipated that implementation of this proposed Rule will not result in costs to behavioral health providers of PSR and CPST services in the EPSDT program for FY 19-20, FY 20-21, and FY 21-22, since local education authorities (LEAs) have historically been performing and billing for these services. This proposed Rule will be beneficial to these providers by ensuring that the legislative licensure and certification requirements are clearly and accurately promulgated in the Louisiana Administrative Code.

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.