

**NOTICE OF INTENT**

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

**Home Health Program  
Authorizing Authority and Emergency Provisions  
(LAC 50:XIII.Chapter 1)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XIII.Chapter 1 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 181 of the 2021 Regular Session of the Louisiana Legislature directed the Department of Health to add nurse practitioners, clinical nurse specialists, and physician assistants as healthcare providers authorized to order home health services. In compliance with Act 181, the Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the Home Health Program in order to add nurse practitioners, clinical nurse specialists, and physician assistants as healthcare providers authorized to order home health services and to repeal emergency provisions that are no longer applicable as a result of this change. In addition, this proposed Rule modifies the locations in which home health services may be provided to be consistent with U.S. Department

of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) requirements.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part XIII. Home Health Program**  
**Subpart 1. Home Health Services**

**Chapter 1. General Provisions**

**§101. Definitions**

[Formerly LAC 50:XIX.101]

A. The following words and terms, when used in this Subpart 1, shall have the following meanings, unless the context clearly indicates otherwise:

*Authorized Healthcare Provider*—a physician, nurse practitioner, clinical nurse specialist, or physician assistant licensed, certified, registered, or otherwise authorized to order home healthcare services consistent with Louisiana law.

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*Home Health Services*—patient care services provided in the patient's home or place of residence under the order of an authorized healthcare provider that are necessary for the diagnosis and treatment of the patient's illness or injury, including one or more of the following services:

a. - e. ...

f. medical supplies, equipment and appliances suitable for use in the patient's home or place of residence.

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*Place of Residence*—location where normal life activities take place but does not include a hospital, intermediate care facility for individuals with intellectual disabilities, or any setting in which payment is or could be made under Medicaid for inpatient services that include room and board.

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*Physical Therapy Services*—rehabilitative services necessary for the treatment of the patient's illness or injury or, restoration and maintenance of function affected by the patient's illness or injury. These services are provided with the expectation, based on the authorized healthcare provider's assessment of the patient's rehabilitative potential, that:

a. - b. ...

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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 30:431 (March 2004), amended by the Department of Health, Bureau of Health Services Financing, LR 44:59 (January 2018), LR 49:

**§103. Requirements for Home Health Services**

**[Formerly LAC 50:XIX.103]**

A. Home health services shall be based on an expectation that the care and services are medically reasonable and appropriate for the treatment of an illness or injury, and that the services can be performed adequately by the agency in the recipient's home or place of residence. For initial ordering of home health services, the authorized healthcare provider must document a face-to-face encounter that is related to the primary reason the recipient requires home health services. This face-to-face encounter must occur no more than 90 days before or 30 days after the start of services. For the initial ordering of medical supplies, equipment and appliances, the authorized healthcare provider must document that a face-to-face encounter that is related to the primary reason the recipient requires medical equipment occurred no more than six months prior to the start of services. A written plan of care for services shall be evaluated and signed by the authorized healthcare provider every 60 days. This plan of care shall be maintained in the recipient's medical records by the home health agency.

B. Home health services shall be provided in the recipient's home or place of residence.

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 30:431 (March 2004), amended by the

Department of Health, Bureau of Health Services Financing, LR 44:59 (January 2018), LR 49:

**§104. Emergency Provisions**

Repealed.

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 48:2293 (September 2022), LR 49:

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 may have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by reducing the waiting time to receive an order for home health services.

**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 the Small Business Protection Act, 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.

#### **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 Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on April 3, 2023.

#### **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 March 13, 2023. If criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on March 30, 2023 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 March 13, 2023. 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: P.O. Box 91030 Rule  
Title: Home Health Program

Authorizing Authority and  
Emergency Provisions

Date Rule  
Takes Effect: May 20, 2023

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 22-23. It is anticipated that \$864 (\$432 SGF and \$432 FED) will be expended in FY 22-23 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 22-23. It is anticipated that \$432 will be collected in FY 22-23 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)

In compliance with Act 181 of the 2021 Regular Session of the Louisiana Legislature, this proposed rule amends the provisions governing the Home Health Program in order to add nurse practitioners, clinical nurse specialists, and physician assistants as healthcare providers authorized to order home health services and to repeal emergency provisions that are no longer applicable as a result of this change. In addition, this proposed rule modifies the locations in which home health services may be provided to be consistent with U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) requirements. This proposed rule will benefit Medicaid beneficiaries by ensuring access to home health services in more locations and reducing the waiting time to receive an order for home health services. It is anticipated that implementation of this proposed rule will not result in costs to home health providers in FY 22-23, FY 23-24, and FY 24-25, but will be beneficial by ensuring that additional healthcare providers are authorized to order services.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc  
Signature of Agency Head or Designee

Tara A. LeBlanc, Medicaid Executive Director  
Typed Name & Title of Agency Head or Designee

February 8, 2023  
Date of Signature

Evan Brasse-L, *Interim Deputy*  
Legislative Fiscal Officer or Designee *Fiscal Officer*

2/8/23  
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).

In compliance with Act 181 of the 2021 Regular Session of the Louisiana Legislature, this proposed rule amends the provisions governing the Home Health Program in order to add nurse practitioners, clinical nurse specialists, and physician assistants as healthcare providers authorized to order home health services and to repeal emergency provisions that are no longer applicable as a result of this change. In addition, this proposed rule modifies the locations in which home health services may be provided to be consistent with U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) requirements.

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

Act 181 of the 2021 Regular Session of the Louisiana Legislature directed the Department of Health to add nurse practitioners, clinical nurse specialists, and physician assistants as healthcare providers authorized to order home health services. In compliance with Act 181, the Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the Home Health Program in order to add nurse practitioners, clinical nurse specialists, and physician assistants as healthcare providers authorized to order home health services and to repeal emergency provisions that are no longer applicable as a result of this change. In addition, this proposed Rule modifies the locations in which home health services may be provided to be consistent with U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) requirements.

- 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 22-23. In FY 22-23, \$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) \_\_\_\_\_ 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 23	FY 24	FY 25
Personal Services			
Operating Expenses	\$864	\$0	\$0
Professional Services			
Other Charges			
Equipment			
Major Repairs & Constr.			
<b>TOTAL</b>	<b>\$864</b>	<b>\$0</b>	<b>\$0</b>

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 22-23, \$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 23	FY 24	FY 25
State General Fund	\$432	\$0	\$0
Agency Self-Generated			
Dedicated			
Federal Funds	\$432	\$0	\$0
Other (Specify)			
<b>TOTAL</b>	<b>\$864</b>	<b>\$0</b>	<b>\$0</b>

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 government 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 23	FY 24	FY 25
State General Fund			
Agency Self-Generated			
Dedicated Funds*			
Federal Funds	\$432	\$0	\$0
Local Funds			
<b>TOTAL</b>	<b>\$432</b>	<b>\$0</b>	<b>\$0</b>

\*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 22-23, \$432 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.

In compliance with Act 181 of the 2021 Regular Session of the Louisiana Legislature, this proposed rule amends the provisions governing the Home Health Program in order to add nurse practitioners, clinical nurse specialists, and physician assistants as healthcare providers authorized to order home health services and to repeal emergency provisions that are no longer applicable as a result of this change. In addition, this proposed rule modifies the locations in which home health services may be provided to be consistent with U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) requirements. This proposed rule will benefit Medicaid beneficiaries by ensuring access to home health services in more locations and reducing the waiting time to receive an order for home health services.

- 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 costs to home health providers in FY 22-23, FY 23-24, and FY 24-25, but will be beneficial by ensuring that additional healthcare providers are authorized to order services.

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.