

**NOTICE OF INTENT**

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

**Medicaid Eligibility  
Resource Disregards  
(LAC 50:III.10705)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:III.10705 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.

Section 1902(r)(2) of the Social Security Act (SSA) grants states the authority to adopt resource disregards for the purposes of determining eligibility in the Medical Assistance Program (Medicaid). The Department of Health, Bureau of Health Services Financing determined that it was necessary to disregard unspent funds received as a class member pursuant to a class settlement in the case of *Nancy Anderson, et al. v. Bob Dean Jr., et al.*, 24th Judicial District Court, Parish of Jefferson, No. 820-839 from resources when determining Medicaid eligibility. Under the authority granted by section 1902(r)(2) of the SSA, the department promulgated an Emergency Rule which amended the provisions governing financial eligibility in the Medical Assistance Program in order to disregard unspent funds

received by settlement class members in the case of *Nancy Anderson, et al. v. Bob Dean Jr., et al.*, 24th Judicial District Court, Parish of Jefferson, No. 820-839 from resources (*Louisiana Register*, Volume 49, Number 1). This proposed Rule is being promulgated to continue the provisions of the January 1, 2023 Emergency Rule.

## **Title 50**

### **PUBLIC HEALTH-MEDICAL ASSISTANCE Part III. Eligibility Subpart 5. Financial Eligibility**

#### **Chapter 107. Resources**

##### **§10705. Resource Disregards**

A. - D. ...

E. Disregard from resources unspent funds received as a class member pursuant to a class settlement in the case of *Nancy Anderson, et al. v. Bob Dean Jr., et al.*, 24th Judicial District Court, Parish of Jefferson. No. 820-839.

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, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:1899 (September 2009), amended LR 36:2867 (December 2010), LR 41:949 (May 2015), amended by the Department of Health, Bureau of Health Services

Financing, LR 45:1772 (December 2019), LR 46:1393 (October 2020), 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 will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by allowing Medicaid beneficiaries to retain unspent funds received pursuant to a class settlement in the case of *Nancy Anderson, et al. v. Bob Dean Jr., et al* and maintain Medicaid benefits.

#### **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 positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by allowing Medicaid beneficiaries to retain unspent funds received pursuant to a class settlement

in the case of *Nancy Anderson, et al. v. Bob Dean Jr., et al* and maintain Medicaid benefits.

#### **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, 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 Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. 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 the 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: 342-3228 Office: Bureau of Health Services Financing  
Return  
Address: P.O. Box 91030 Rule  
Baton Rouge, LA Title: Medicaid Eligibility  
Resource Disregards  
Date Rule  
Takes Effect: January 1, 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)

There is no impact to the state to implement this rule since the members of the settlement class are currently receiving Medicaid services; however, in the absence of the rule, those individuals could be determined to be ineligible which would result in a savings. It is anticipated that \$540 (\$270 SGF and \$270 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)

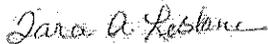
There is no impact to implement this rule since the members of the settlement class are currently receiving Medicaid services; however, in the absence of the rule, these individuals could be determined to be ineligible which would decrease revenue collections. It is anticipated that \$270 will be collected in FY 22-23 for the federal 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 continues the provisions of the January 1, 2023 Emergency Rule, which amended the provisions governing financial eligibility in the Medical Assistance Program in order to disregard unspent funds received by settlement class members in the case of *Nancy Anderson, et al. v. Bob Dean Jr., et al.*, 24th Judicial District Court, Parish of Jefferson, No. 820-839 from resources. Implementation of this proposed rule will allow these Medicaid beneficiaries to continue receiving services since the unspent funds received as a class settlement member in the case of *Nancy Anderson, et al. v. Bob Dean Jr., et al.* will not be counted when their eligibility is determined.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.



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

  
Legislative Fiscal Officer or Designee

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).

This proposed rule continues the provisions of the January 1, 2023 Emergency Rule, which amended the provisions governing financial eligibility in the Medical Assistance Program in order to disregard unspent funds received by settlement class members in the case of *Nancy Anderson, et al. v. Bob Dean Jr., et al.*, 24th Judicial District Court, Parish of Jefferson, No. 820-839 from resources.

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

Section 1902(r)(2) of the Social Security Act (SSA) grants states the authority to adopt resource disregards for the purposes of determining eligibility in the Medical Assistance Program (Medicaid). The Department of Health, Bureau of Health Services Financing determined that it was necessary to disregard unspent funds received as a class member pursuant to a class settlement in the case of *Nancy Anderson, et al. v. Bob Dean Jr., et al.*, 24th Judicial District Court, Parish of Jefferson, No. 820-839 from resources when determining Medicaid eligibility. Under the authority granted by section 1902(r)(2) of the SSA, the department promulgated an Emergency Rule which amended the provisions governing financial eligibility in the Medical Assistance Program in order to disregard unspent funds received by settlement class members in the case of *Nancy Anderson, et al. v. Bob Dean Jr., et al.*, 24th Judicial District Court, Parish of Jefferson, No. 820-839 from resources (*Louisiana Register*, Volume 49, Number 1). This proposed Rule is being promulgated to continue the provisions of the January 1, 2023 Emergency Rule.

- 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. There is no impact to the state to implement this rule since the members of the settlement class are currently receiving Medicaid services. In FY 22-23, \$540 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?

<b>COSTS</b>	<b>FY 23</b>	<b>FY 24</b>	<b>FY 25</b>
Personal Services			
Operating Expenses	See Below	See Below	See Below
Professional Services			
Other Charges	See Below	See Below	See Below
Equipment			
Major Repairs & Constr.			
<b>TOTAL</b>	<b>See Below</b>	<b>See Below</b>	<b>See Below</b>
<b>POSITIONS (#)</b>			

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.

There is no impact to implement this rule since the members of the settlement class are currently receiving Medicaid services; however, in the absence of the rule, those individuals could be determined to be ineligible which would result in a savings. In FY 22-23, \$540 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.

<b>SOURCE</b>	<b>FY 23</b>	<b>FY 24</b>	<b>FY 25</b>
State General Fund	See Below	See Below	See Below
Agency Self-Generated Dedicated			
Federal Funds	See Below	See Below	See Below
Other (Specify)			
<b>TOTAL</b>	<b>See Below</b>	<b>See Below</b>	<b>See Below</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?

There is no impact to implement this rule since the members of the settlement class are currently receiving Medicaid services; however, in the absence of the rule, those individuals could be determined to be ineligible which would result in a savings to the state and decreased revenue collections.

**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 23	FY 24	FY 25
State General Fund			
Agency Self-Generated			
Dedicated Funds*			
Federal Funds	See Below	See Below	See below
Local Funds			
<b>TOTAL</b>	<b>See Below</b>	<b>See Below</b>	<b>See below</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.

There is no impact to implement this rule since the members of the settlement class are currently receiving Medicaid services; however, in the absence of the rule, these individuals could be determined to be ineligible which would decrease revenue collections. In FY 22-23, \$270 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.

This proposed rule continues the provisions of the January 1, 2023 Emergency Rule, which amended the provisions governing financial eligibility in the Medical Assistance Program in order to disregard unspent funds received by settlement class members in the case of *Nancy Anderson, et al. v. Bob Dean Jr., et al.*, 24th Judicial District Court, Parish of Jefferson, No. 820-839 from resources.

- 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.

Implementation of this proposed rule will allow these Medicaid beneficiaries to continue receiving services since the unspent funds received as a class settlement member in the case of *Nancy Anderson, et al. v. Bob Dean Jr., et al.* will not be counted when their eligibility is determined.

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.