

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing
and
Office of Aging and Adult Services

Home and Community-Based Services Waivers
Community Choices Waiver
Self-Direction Initiative
(LAC 50:XXI.8501)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to amend LAC 50:XXI.8501 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.

The Community Choices Waiver (CCW) self-direction initiative allows participants to coordinate the delivery of personal assistance services through an individual direct support professional rather than through a licensed, enrolled provider. The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services promulgated an Emergency Rule which amended the provisions governing the CCW self-direction initiative in order to remove the specific age requirement for employees under the self-direction service option and stipulate that these providers must meet the minimum age requirement per LAC 48:I.Chapter 92 (*Louisiana Register*,

Volume 49, Number 6). This proposed Rule is being promulgated to continue the provisions of the June 9, 2023 Emergency Rule.

Title 50
PUBLIC HEALTH-MEDICAL ASSISTANCE
Part XXI. Home and Community-Based Services Waivers
Subpart 7. Community Choices Waiver

Chapter 85. Self-Direction Initiative

§8501. Self-Direction Service Option

A. - C.2.d.vi. ...

D. Employee Qualifications. All employees under the self-direction option must:

1. meet the minimum age requirement per LAC

48:I.Chapter 92;

2. - 3. ...

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 37:3523 (December 2011), amended LR 39:321 (February 2013), LR 39:1779 (July 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:1900 (October 2018), 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 no impact on family functioning, stability or 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 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 a positive impact on small businesses by aligning the age requirements for employees under the self-direction service option with the licensing provisions for providers of these services.

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 to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, but may have a positive impact on the provider's qualifications and ability to provide the same level of service as described in HCR 170, since it aligns the age requirements for employees under the self-direction service option with the licensing provisions for providers of these services.

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 August 29, 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 August 9, 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 August 24, 2023 in Room 173 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 August 9, 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.

Stephen R. Russo, JD

Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

Person Preparing Statement:	<u>Veronica Dent</u>	Dept.:	<u>Health</u>
Phone:	<u>342-3238</u>	Office:	<u>Bureau of Health Services Financing</u>
Return Address:	<u>P.O. Box 91030</u>	Rule Title:	<u>Home and Community-Based</u>
	<u>Baton Rouge, LA</u>		<u>Service Waivers</u>
			<u>Community Choices Waiver</u>
			<u>Self-Direction Initiative</u>
		Date Rule Takes Effect:	<u>June 9, 2023</u>

SUMMARY
(Use complete sentences)

In accordance with Section 961 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 23-24. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 23-24 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 23-24. It is anticipated that \$270 will be collected in FY 23-24 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 continues the provisions of the June 9, 2023 Emergency Rule, which amended the provisions governing the Community Choice Waiver (CCW) self-direction initiative in order to remove the specific age requirement for employees under the self-direction service option and stipulate that these providers must meet the minimum age requirement as per the licensing provisions of Chapter 92 in Title 48 of the *Louisiana Administrative Code*. Implementation of this proposed rule is not anticipated to result in costs to providers of CCW services or small businesses in FY 23-24, FY 24-25, and FY 25-26, but will be beneficial by ensuring that the age requirements for employees under the self-direction service option align with the licensing provisions for providers of these 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

07/05/2023
Date of Signature

Patrice Thomas, Deputy Fiscal Officer
Legislative Fiscal Officer or Designee

07/06/2023
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 June 9, 2023 Emergency Rule, which amended the provisions governing the Community Choice Waiver (CCW) self-direction initiative in order to remove the specific age requirement for employees under the self-direction service option and stipulate that these providers must meet the minimum age requirement as per the licensing provisions of Chapter 92 in Title 48 of the *Louisiana Administrative Code*.

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

The Community Choices Waiver (CCW) self-direction initiative allows participants to coordinate the delivery of personal assistance services through an individual direct support professional rather than through a licensed, enrolled provider. The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services promulgated an Emergency Rule which amended the provisions governing the CCW self-direction initiative in order to remove the specific age requirement for employees under the self-direction service option and stipulate that these providers must meet the minimum age requirement per LAC 48:I.Chapter 92 (*Louisiana Register*, Volume 49, Number 6). This proposed Rule is being promulgated to continue the provisions of the June 9, 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. 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 23-24. In FY 23-24, \$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?

COSTS	FY 24	FY 25	FY 26
Personal Services			
Operating Expenses	\$540	\$0	\$0
Professional Services			
Other Charges			
Equipment			
Major Repairs & Constr.			
TOTAL	\$540	\$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 23-24, \$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.

SOURCE	FY 24	FY 25	FY 26
State General Fund	\$270	\$0	\$0
Agency Self-Generated			
Dedicated			
Federal Funds	\$270	\$0	\$0
Other (Specify)			
TOTAL	\$540	\$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 24	FY 25	FY 26
State General Fund			
Agency Self-Generated			
Dedicated Funds*			
Federal Funds	\$270	\$0	\$0
Local Funds			
TOTAL	\$270	\$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 23-24, \$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 June 9, 2023 Emergency Rule, which amended the provisions governing the Community Choice Waiver (CCW) self-direction initiative in order to remove the specific age requirement for employees under the self-direction service option and stipulate that these providers must meet the minimum age requirement as per the licensing provisions of Chapter 92 in Title 48 of the *Louisiana Administrative Code*.

- 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 is not anticipated to result in costs to providers of CCW services or small businesses in FY 23-24, FY 24-25, and FY 25-26, but will be beneficial by ensuring that the age requirements for employees under the self-direction service option align with the licensing provisions for providers of these 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 proposed rule has no known effect on competition and employment.