

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing
and
Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers
Residential Options Waiver
Self-Direction Initiative
(LAC 50:XXI.16501)

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XXI.16501 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 Residential Options Waiver (ROW) self-direction initiative allows beneficiaries to exercise employer authority in the delivery of authorized community living supports under the self-direction service option. The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities promulgated an Emergency Rule which amended the provisions governing the ROW self-direction initiative in order to remove specific requirements for employees of beneficiaries in the self-direction service option and stipulate that these providers must meet the qualifications for furnishing personal care services as set forth in 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 13. Residential Options Waiver

Chapter 165. Self-Direction Initiative

§16501. Self-Direction Service Option

A. - D.3. ...

E. Employees of beneficiaries in the self-direction service option are not employees of the fiscal agent or the department.

1. Employee Qualifications. All employees under the self-direction option must ~~÷~~ meet the qualifications for

furnishing personal care services as set forth in LAC

48:I.Chapter 92.

~~a. be at least 18 years of age on the date of hire;~~

~~b. pass required criminal background checks;~~
~~and~~

~~c. be able to complete the tasks identified in the plan of care.~~ a - c. Repealed.

F. ...

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 for Citizens with Developmental Disabilities, LR 33:2455 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2167 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:1525 (October 2021), LR 48:1572 (June 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 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 requirements for employees of beneficiaries in the self-direction service option with the licensing provisions for providers of personal care 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 ability to provide the same level of service as described in HCR 170, since it aligns the requirements for

employees of beneficiaries in the self-direction service option with the licensing provisions for providers of personal care 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