

NOTICE OF INTENT

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

**Medical Transportation Program
Elevated Level of Care
(LAC 50:XXVII.Chapter 5 and Chapter 7)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XXVII.Chapter 5 and Chapter 7 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 Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the medical transportation program to establish guidelines for the administration and distribution of Elevated Level of Care (ELOC) services by non-emergency medical transportation (NEMT) vendors that meet the criteria to provide an elevated level of care service to Medicaid beneficiaries utilizing this service, and to clarify language regarding non-emergency medical ambulance transportation (NEAT) services.

**Title 50
PUBLIC HEALTH-MEDICAL ASSISTANCE
Part XXVII. Medical Transportation Program**

Chapter 5. Non-Emergency Medical Transportation

Subchapter A. General Provisions

§501. Introduction

A. Non-emergency medical transportation (NEMT) is provided to Medicaid beneficiaries to and/or from a Medicaid covered service or value-added benefit (VAB) when no other means of transportation is available.

NOTE: Repealed.

B. Medicaid covered transportation is available to Medicaid beneficiaries when:

1. the beneficiary is enrolled in a Medicaid benefit program that explicitly includes transportation services;
2. the beneficiary or their representative has stated that they have no other means of transportation; and
3. the beneficiary may utilize the elevated level of care (ELOC) transportation services, often referred to as door through door transportation, which provides assistance beyond the capacity of the beneficiary. ELOC is a higher level of care for beneficiaries with mobility limitations requiring assistance with ambulating independently when using a wheelchair.

C. This Chapter applies to the fee-for-service and managed care programs for the provision of NEMT to and/or from medically necessary Medicaid covered services.

1. ...
2. An elevated level of care NEMT service utilizes fully credentialed NEMT providers who have complied with any advanced training and insurance required by the department, to

transport fee-for-service beneficiaries and managed care enrollees to and/or from covered Medicaid services.

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 47:1638 (November 2021), amended LR 50:

§503. Prior Approval and Scheduling

A. - A.2. ...

B. Elevated level of care wheelchair services require additional approval.

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 47:1639 (November 2021), amended LR 50:

§505. Requirements for Coverage

A. Payment shall only be authorized for the least costly means of transportation available. The least costly means of transportation shall be determined by the department or its designee and considered the beneficiary's choice of transportation, the level of service required to safely transport the beneficiary (e.g., ambulatory, wheelchair, transfer), and the following hierarchy:

1. - 3. ...

4. for-profit providers who are enrolled in the Medicaid Program.

B. Beneficiaries shall be allowed a choice of transportation for-profit providers as long as it remains the least costly means of transportation.

C. Beneficiaries may request NEMT elevated level of care services to and/or from a Medicaid covered service if medically eligible.

1. - 2. Repealed.

D. Beneficiaries are encouraged to utilize healthcare providers of their choice in the community in which they reside when the beneficiary requires Medicaid reimbursed transportation services.

1. Beneficiaries may seek medically necessary services in another state when it is the nearest option available.

2. In the managed care program, transportation will only be approved to and/or from a healthcare provider within the department's geographic access standards, unless granted an exception by the department or its designee.

E. Beneficiaries and healthcare providers should give advance notice when requesting transportation.

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 47:1639 (November 2021), amended LR 49:877 (May 2023), LR 50:

Subchapter C. Provider Responsibilities

§517. Provider Enrollment

- A. ...
- B. Non-emergency medical transportation for-profit providers shall have a minimum liability insurance coverage of \$25,000 per person, \$50,000 per accident and \$25,000 property damage policy.
 - 1. - 3. ...
- C. As a condition of reimbursement for transporting Medicaid beneficiaries to and/or from healthcare services, gas reimbursement providers must maintain a current valid vehicle registration, the state minimum automobile liability insurance coverage, and a current valid driver's license. Proof of compliance with these requirements must be submitted to the department or its designee during the enrollment process. Gas reimbursement providers are allowed to transport up to five specified Medicaid beneficiaries or all members of one household across all contracted managed care organizations. The provider may not reside at the same physical address as the beneficiary

being transported. Individuals transporting more than five Medicaid beneficiaries or all members of one household shall be considered for-profit providers and shall be enrolled as such and comply with all for-profit provider requirements.

D. ...

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 47:1639 (November 2021), amended LR 49:877 (May 2023), LR 50:

Subchapter D. Reimbursement

§523. General Provisions

A. - B. ...

C. Reimbursement for NEMT elevated level of care claims shall be allowed only when accompanied by the completed prior approval form documenting the need for the enhanced level of care.

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 47:1639 (November 2021), amended LR 50:

Chapter 7. Non-Emergency Ambulance Transportation

§705. Prior Approval and Scheduling

A. The department or its designee must review and approve or deny the transportation requests, prior to scheduling, for beneficiary eligibility and verification of the following:

1. ...

2. that a completed certification of ambulance transportation form is received for the date of service and medical necessity has been determined by a licensed medical provider.

B. ...

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 47:1640 (November 2021), amended LR 50:

§707. Reimbursement

A. ...

B. Reimbursement for NEAT claims shall be allowed only when accompanied by the completed certification of ambulance transportation form justifying the need for ambulance services.

C. Medicaid covers medically necessary nonemergency, scheduled, repetitive ambulance services if the ambulance provider or supplier, before furnishing the service to the beneficiary, obtains a certificate of ambulance transportation

dated no earlier than 180 days before the date the service is furnished.

D. Reimbursement will not be made for any additional person(s) who must accompany the beneficiary to the medical provider.

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 47:1640 (November 2021), amended LR 50:

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 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 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 Impact Statement

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 may have a positive impact on small businesses, as it permits enhanced Medicaid reimbursement for a higher level of services by properly accredited providers.

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 staffing level requirements or qualifications required to provide the same level of service, and will have no impact on the total direct and indirect cost to the provider to provide the same level of service, but will provide an enhanced reimbursement rate for a higher level of care to properly accredited providers. This proposed Rule is anticipated to 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 Kimberly Sullivan, JD, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Sullivan 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, 2024.

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, 2024. 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 29, 2024 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 August 9, 2024. 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.

Michael Harrington, MBA, MA

Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

Person Preparing Statement:	<u>Lyrica Johnson</u>	Dept.:	<u>Health</u>
Phone:	<u>342-6375</u>	Office:	<u>Bureau of Health Services Financing</u>
Return Address:	<u>P.O. Box 91030</u>	Rule Title:	<u>Medical Transportation Program</u>
	<u>Baton Rouge, LA</u>		<u>Elevated Level of Care</u>
		Date Rule Takes Effect:	<u>October 20, 2024</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 result in increased state costs of approximately \$1,068,496 for FY 24-25, \$1,086,604 for FY 25-26, and \$1,119,203 for FY 26-27. It is anticipated that \$1,080 (\$540 SGF and \$540 FED) will be expended in FY 24-25 for the state's administrative expense for promulgation of this proposed rule and the final rule.

This proposed rule amends the provisions governing the medical transportation program to establish guidelines for the administration and distribution of Elevated Level of Care (ELOC) services in non-emergency medical transportation (NEMT) vendors that meet the criteria to provide an elevated level of care service to Medicaid beneficiaries utilizing this service, and to clarify language regarding non-emergency medical ambulance transportation (NEAT) services.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

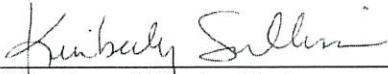
It is anticipated that implementation of this proposed rule will increase federal revenue collections by approximately \$2,265,778 for FY 24-25, \$2,346,585 for FY 25-26, and \$2,416,982 for FY 26-27. It is anticipated that \$540 will be collected in FY 24-25 for the federal share of the expense for 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 amends the provisions governing the medical transportation program to establish guidelines for the administration and distribution of ELOC services in NEMT vendors that meet the criteria to provide an elevated level of care service to Medicaid beneficiaries utilizing this service, and to clarify language regarding non-emergency medical ambulance transportation (NEAT) services. This proposed rule will allow eligible Medicaid beneficiaries to receive a higher level of care. Implementation of this proposed rule is anticipated to increase Medicaid payments to qualifying providers by \$3,333,194 in FY 24-25, \$3,433,189 for FY 25-26, and \$3,536,185 for FY 26-27.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.




Signature of Head or Designee

Kimberly Sullivan, JD
Medicaid Executive Director

Typed Name & Title of Agency Head or Designee


07/10/2024

Date of Signature



Legislative Fiscal Officer or Designee

Patrice Thomas, Deputy Fiscal Officer



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 amends the provisions governing the medical transportation program to establish guidelines for the administration and distribution of ELOC services in NEMT vendors that meet the criteria to provide an elevated level of care service to Medicaid beneficiaries utilizing this service, and to clarify language regarding non-emergency medical ambulance transportation (NEAT) services.

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

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the medical transportation program to establish guidelines for the administration and distribution of Elevated Level of Care (ELOC) services by non-emergency medical transportation (NEMT) vendors that meet the criteria to provide an elevated level of care service to Medicaid beneficiaries utilizing this service, and to clarify language regarding non-emergency medical ambulance transportation (NEAT) services.

- 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.

Yes. It is anticipated that implementation of this proposed rule will result in programmatic costs to the Medicaid Program of \$3,334,274 for FY 24-25, \$3,433,189 for FY 25-26, and \$3,536,185 for FY 26-27. In FY 24-25, \$1,080 is included for the state's administrative expense for promulgation of the proposed rule and 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) X YES. If yes, attach documentation.

(b) NO. If no, provide justification as to why this rule change should be published at this time

The 2024 Regular Session of the Louisiana Legislature allocates funds to the Medical Vendor Program for payments to providers and the operation of the Medicaid Program, and thereby authorizes the expenditures of funds. The proposed rule allows eligible Medicaid beneficiaries to receive a higher level of care for specialized medical transportation services.

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 25	FY 26	FY 27
PERSONAL SERVICES	\$0	\$0	\$0
OPERATING EXPENSES	\$1,080	\$0	\$0
PROFESSIONAL SERVICES	\$0	\$0	\$0
OTHER CHARGES	\$3,333,194	\$3,433,189	\$3,536,185
EQUIPMENT	\$0	\$0	\$0
MAJOR REPAIR & CONSTR.	\$0	\$0	\$0
TOTAL	\$3,334,274	\$3,433,189	\$3,536,185
POSITIONS (#)	0	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.

The expenses reflected above are the estimated increases in expenditures in the Medicaid program. In FY 24-25, \$1,080 is included 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 25	FY 26	FY 27
STATE GENERAL FUND	\$1,068,496	\$1,086,604	\$1,119,202
AGENCY SELF-GENERATED	\$0	\$0	\$0
DEDICATED	\$0	\$0	\$0
FEDERAL FUNDS	\$2,265,778	\$2,346,585	\$2,416,983
OTHER (Specify)	\$0	\$0	\$0
TOTAL	\$3,334,274	\$3,433,189	\$3,536,185

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.

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 25	FY 26	FY 27
STATE GENERAL FUND	\$0	\$0	\$0
AGENCY SELF-GENERATED	\$0	\$0	\$0
DEDICATED	\$0	\$0	\$0
FEDERAL FUNDS	\$2,265,778	\$2,346,585	\$2,416,983
LOCAL FUNDS	\$0	\$0	\$0
TOTAL	\$2,265,778	\$2,346,585	\$2,416,983

*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.

The amounts reflected above are the estimated increases in federal revenue collections. In FY 24-25, \$540 will be collected for the federal share of the administrative expense for the 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 amends the provisions governing the medical transportation program to establish guidelines for the administration and distribution of ELOC services in NEMT vendors that meet the criteria to provide an elevated level of care service to Medicaid beneficiaries utilizing this service, and to clarify language regarding non-emergency medical ambulance transportation (NEAT) 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.

This proposed rule will allow eligible Medicaid beneficiaries to receive a higher level of care. Implementation of this proposed rule is anticipated to increase Medicaid payments to qualifying providers by \$3,333,194 in FY 24-25, \$3,433,189 for FY 25-26, and \$3,536,185 for FY 26-27.

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.