

NOTICE OF INTENT

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

**Professional Services Program
Physician Directed Treatment-in-Place Ambulance Services
(LAC 50:IX.Chapter 13)**

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:IX.Chapter 13 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 promulgated Emergency Rules which allowed reimbursement, to qualified ambulance providers, throughout the duration of the Coronavirus Disease 2019 (COVID-19) public health emergency for initiation and facilitation of physician directed treatment-in-place services via telehealth. The services are provided on site without transport, within established treatment protocols, and under the direct supervision of a qualified provider (*Louisiana Register*, Volume 46, Number 7 and Volume 47, Number 11). The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) waived requirements in order to expand the types

of health care professionals eligible to bill for telehealth services provided from a distant site.

As a result of the CMS waiver, the department promulgated an Emergency Rule which adopted provisions in the Professional Services Program to continue to provide reimbursement for physician directed treatment-in-place ambulance services after the COVID-19 public health emergency ended on May 11, 2023 (*Louisiana Register*, Volume 49, Number 5). This proposed Rule is being promulgated in order to continue the provisions of the May 12, 2023 Emergency Rule.

Title 50
PUBLIC HEALTH-MEDICAL ASSISTANCE
Part IX. Professional Services Program
Subpart 1. General Provisions

Chapter 13. Physician Directed Treatment-In-Place Ambulance Services

§1301. General Provisions

A. Effective for dates of service on or after May 12, 2023, the Louisiana Medicaid Program provides coverage for initiation and facilitation of telehealth services by qualified Louisiana Medicaid enrolled ambulance providers.

B. Ambulance providers interested in offering physician directed treatment-in-place telehealth services must complete the following:

1. enroll as a CMS ET3 model participant;

2. enter into a partnership with a qualified, Louisiana Medicaid enrolled healthcare provider to furnish treatment-in-place telehealth services to Louisiana Medicaid beneficiaries; and

3. notify the Department of Health of its partnerships with each telehealth provider.

C. Reimbursement for initiation and facilitation of telehealth services shall be made according to the established physician directed treatment-in-place telehealth service fee schedule or billed charges, whichever is the lesser amount.

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 49:

§1303. Scope of Services

A. Initiation and facilitation of physician directed treatment-in-place telehealth services are performed by Louisiana Medicaid enrolled ambulance providers on site, with no transport, using audio and video telecommunications systems that permit real-time communication between a qualified, Medicaid enrolled, licensed medical practitioner and the beneficiary.

B. All services provided by ambulance providers during the initiation and facilitation of the physician directed treatment-in-place intervention are covered by the associated

BLS-E, emergency base rate, or the ALS1-E, Level 1 emergency base rate.

C. Ambulance providers are not eligible to submit a claim for reimbursement or receive payment for other services (except for supplies) at the scene.

D. If a beneficiary must be transported to an emergency department (ED) due to poor internet connection, which resulted in a failed physician directed treatment-in-place encounter, or the beneficiary's condition deteriorates, the ambulance provider may submit a claim for reimbursement and receive compensation for the transport to the ED, but not for initiation and facilitation of the telehealth service.

E. The entity seeking reimbursement for the corresponding physician directed treatment-in-place telehealth service must be an enrolled Louisiana Medicaid 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 49:

§1305. Reimbursement

A. Reimbursement to the ambulance providers for initiation and facilitation of the physician directed treatment-in-place telehealth service requires a corresponding treatment-in-place telehealth service. The corresponding treatment-in-

place telehealth service is demonstrated via a Louisiana Medicaid paid treatment-in-place telehealth service claim.

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 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 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 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 July 31, 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 July 10, 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 July 27, 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 July 10, 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: Veronica Dent Dept: Health
 Phone: 342-3238 Office: Bureau of Health Services Financing
 Return Address: P.O. Box 91030 Rule Title: Professional Services Program
Baton Rouge, LA Physician Directed Treatment-in-Place
Ambulance Services
 Date Rule Takes Effect: May 12, 2023

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 22-23. It is anticipated that \$756 (\$378 SGF and \$378 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 \$378 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)

The proposed rule continues the provisions of the May 12, 2023 Emergency Rule, which adopted provisions in the Professional Services Program to continue to provide reimbursement for physician directed treatment-in-place ambulance services after the Coronavirus Disease 2019 (COVID-19) public health emergency (PHE) ended on May 11, 2023. Reimbursement to qualified ambulance providers was allowed throughout the duration of the COVID-19 PHE for initiation and facilitation of physician directed treatment-in-place services via telehealth. The services are provided on site without transport, within established treatment protocols, and under the direct supervision of a qualified provider. The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) has now waived requirements to expand the types of healthcare professionals eligible to bill for telehealth services from a distant site. As a result of the CMS waiver, the department is adding this provision to the administrative rule. This proposed rule will allow Medicaid beneficiaries that require ambulance services to continue to receive treatment on site. It is anticipated that implementation of this proposed rule will not result in costs to ambulance service providers or small businesses in FY 22-23, FY 23-24, and FY 24-25.

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

06/08/2023
Date of Signature

Evan Brassfield, *Interim* *Operative*
Legislative Fiscal Officer or Designee *Fiscal Officer*

6/8/23
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).

The proposed rule continues the provisions of the May 12, 2023 Emergency Rule, which adopted provisions in the Professional Services Program to continue to provide reimbursement for physician directed treatment-in-place ambulance services after the Coronavirus Disease 2019 (COVID-19) public health emergency (PHE) ended on May 11, 2023. Reimbursement to qualified ambulance providers was allowed throughout the duration of the COVID-19 PHE for initiation and facilitation of physician directed treatment-in-place services via telehealth. The services are provided on site without transport, within established treatment protocols, and under the direct supervision of a qualified provider. The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) has now waived requirements to expand the types of healthcare professionals eligible to bill for telehealth services from a distant site. As a result of the CMS waiver, the department is adding this provision to the administrative rule.

- 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 promulgated Emergency Rules which allowed reimbursement, to qualified ambulance providers, throughout the duration of the Coronavirus Disease 2019 (COVID-19) public health emergency for initiation and facilitation of physician directed treatment-in-place services via telehealth. The services are provided on site without transport, within established treatment protocols, and under the direct supervision of a qualified provider (*Louisiana Register*, Volume 46, Number 7 and Volume 47, Number 11). The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) waived requirements in order to expand the types of health care professionals eligible to bill for telehealth services provided from a distant site.

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- 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, \$756 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	See Below	See Below	See Below
Professional Services			
Other Charges			
Equipment			
Major Repairs & Constr.			
TOTAL	See Below	See Below	See Below
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.

This proposed rule continues existing payments that were implemented during the COVID-19 public health emergency declaration. In FY 22-23, \$756 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	See Below	See Below	See Below
Agency Self-Generated			
Dedicated			
Federal Funds	See Below	See Below	See Below
Other (Specify)			
TOTAL	See Below	See Below	See Below

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. This proposed rule continues existing payments that were implemented during the COVID-19 public health emergency declaration.

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?

<u>REVENUE INCREASE/DECREASE</u>	<u>FY 23</u>	<u>FY 24</u>	<u>FY 25</u>
State General Fund			
Agency Self-Generated			
Dedicated Funds*			
Federal Funds	See Below	See Below	See Below
Local Funds			
TOTAL	See Below	See Below	See Below

*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.

This proposed rule continues existing payments that were implemented during the COVID-19 public health emergency declaration. In FY 22-23, \$378 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.

The proposed rule continues the provisions of the May 12, 2023 Emergency Rule, which adopted provisions in the Professional Services Program to continue to provide reimbursement for physician directed treatment-in-place ambulance services after the Coronavirus Disease 2019 (COVID-19) public health emergency (PHE) ended on May 11, 2023. Reimbursement to qualified ambulance providers was allowed throughout the duration of the COVID-19 PHE for initiation and facilitation of physician directed treatment-in-place services via telehealth. The services are provided on site without transport, within established treatment protocols, and under the direct supervision of a qualified provider. The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) has now waived requirements to expand the types of healthcare professionals eligible to bill for telehealth services from a distant site. As a result of the CMS waiver, the department is adding this provision to the administrative rule. This proposed rule will allow Medicaid beneficiaries that require ambulance services to continue to receive treatment on site.

- 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 ambulance service providers or small businesses in FY 22-23, FY 23-24, and FY 24-25.

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.