

NOTICE OF INTENT

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

**Home and Community-Based Services Waivers
New Opportunities Waiver
Unit of Reimbursement
(LAC 50:XXI.14301)**

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XXI.14301 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 and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amended the provisions governing the New Opportunities Waiver (NOW) in order to adopt requirements mandating that providers utilize the electronic verification system designated by the department for automated scheduling, time and attendance tracking and billing for certain home and community-based services (*Louisiana Register*, Volume 41, Number 7).

Act 299 of the 2011 Louisiana Legislative Session directed the department to implement certain policy and licensing provisions governing home and community-based services (HCBS) and mandated cost

reporting for HCBS providers. In compliance with Act 299, the department has determined that it is necessary to amend the provisions governing the NOW in order to further clarify the reimbursement methodology, remove language that provides historical information pertaining to the rate reimbursement and revise the terminology associated with New Opportunities Waiver reimbursements.

Title 50

**PUBLIC HEALTH-MEDICAL ASSISTANCE
Part XXI. Home and Community Based Services Waivers
Subpart 11. New Opportunities Waiver**

Chapter 143. Reimbursement

§14301. Reimbursement Methodology

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§14301. Unit of Reimbursement ~~Methodology~~

A. Reimbursement for services shall be a prospective flat rate for each approved unit of service provided to the participant. One quarter hour (15 minutes) is the standard unit of service, ~~which and~~ reimbursement shall not be made for less than 15 minutes (one quarter hour) of service. This covers both service provision and administrative costs for the following services:

1. ...
2. community integration development:

a. ~~services furnished up to two three~~ participants ~~who may~~ choose to share ~~supports will be reimbursed at 75 percent~~ community integration development if they share a common provider of

~~the full rate for each recipient~~ this service; and

b. ~~services furnished to three participants who choose to share supports will be reimbursed at 66 percent of the full rate~~ there is a separate reimbursement rate for each participant community integration development when these services are shared;

3. - 4. ...

5. individualized and family support-day and night~~;~~:

a. up to three participants may choose to share individualized and family support services if they share a common provider;

b. there is a separate reimbursement rate for individualized and family support when these services are shared;

6. ...

7. skilled nursing services:

a. ~~services furnished~~ up to ~~two~~ three participants ~~who may choose to share supports will be reimbursed at 75 percent of the full rate for each participant~~ skilled nursing services if they share a common provider;

b. there is a separate reimbursement rate for skilled nursing services when these services are shared ~~furnished to three participants who choose to share supports will be reimbursed at 66 percent of the full rate for each participant~~;

c. ...

~~d. effective January 1, 2009, the reimbursement rate for skilled nursing services provided by a registered nurse (RN) will be increased by 39 percent of the rate in effect on December 31, 2008;~~

~~e. effective January 1, 2009 the reimbursement rate for skilled nursing services provided by a licensed practical nurse (LPN) will be increased by 31 percent of the rate in effect on December 31, 2008;~~ d. - e. Repealed.

A.8. - E. ...

F. ~~Direct Support Professionals Wage Enhancement~~ Remote assistance is paid through an hourly rate.

~~1. Effective February 9, 2007, an hourly wage enhancement payment in the amount of \$2 will be reimbursed to providers for full-time equivalent (FTE) direct support professionals who provide Individual and Family Support Services to New Opportunities Waiver recipients.~~

~~2. Effective May 20, 2007, an hourly wage enhancement payment in the amount of \$2 will be reimbursed to providers for full-time equivalent (FTE) direct support professionals who provide the following services to New Opportunities Waiver recipients:~~

- ~~a. day habilitation;~~
- ~~b. supported employment;~~
- ~~c. employment-related training; and~~
- ~~d. center-based respite~~

~~3. At least 75 percent of the wage enhancement shall be paid in the aggregate to direct support workers as wages. If less than 100 percent of the enhancement is paid in wages, the remainder, up to 25 percent, shall be used to pay employer-related taxes, insurance and employee benefits.~~

~~4. Effective September 20, 2007, the minimum hourly rate paid to direct support professionals shall be the federal minimum wage in effect on February 20, 2007 plus 75 percent of the wage enhancement or the current federal minimum wage, whichever is higher.~~

~~5. Providers shall be required to submit a certified wage register to the Department verifying the direct support professionals' gross wages for the quarter ending June 30, 2005. The wage register will be used to establish a payroll baseline for each provider. It shall include the following information:~~

~~a. gross wage paid to the direct support professional(s);~~

~~b. total number of direct support hours worked; and~~

~~c. the amount paid in employee benefits.~~

~~6. A separate report shall be submitted for paid overtime.~~

~~7. The provider shall submit quarterly wage reports that verify that the 75 percent wage enhancement has been paid to the appropriate staff.~~

~~8. The provider shall submit a report, according to the~~

~~Department's specifications, that will be used to measure the effectiveness of the wage enhancement.~~

~~9. The wage enhancement payments reimbursed to providers shall be subject to audit by the Department.~~

~~10. Noncompliance or failure to demonstrate that the wage enhancement was paid directly to direct support professionals may result in:~~

~~a. forfeiture of eligibility for wage enhancement payments;~~

~~b. recoupment of previous wage enhancement payments;~~

~~c. Medicaid fraud charges; and~~

~~d. disenrollment in the Medicaid Program.~~1. - 10.d.

Repealed

G. ~~Effective for dates of service on or after February 1, 2009, the reimbursement rate for certain services provided in the NOW Waiver shall be reduced by 3.5 percent of the rate in effect on January 31, 2009~~Direct Support Professionals Wages. The rate paid to direct support professionals shall be the federal minimum wage in effect at the time.

~~1. The reimbursement rates shall be reduced for the following services:~~

~~a. individualized and family support services;~~

~~b. center-based respite care;~~

~~c. community integration development;~~

~~d. residential habilitation supported independent living;~~

~~e. substitute family care;~~

~~f. day habilitation;~~

~~g. supported employment;~~

~~h. employment related training; and~~

~~i. professional services.~~

~~H. Effective for dates of service on or after August 4, 2009, the reimbursement rates for certain services provided in the NOW Waiver shall be reduced.~~

~~1. The reimbursement rates for individualized and family support (IFS) services shall be reduced by 3.11 percent of the rates in effect on August 3, 2009.~~

~~2. The reimbursement rates for residential habilitation supported independent living (SIL) services shall be reduced by 10.5 percent of the rates in effect on August 3, 2009.~~

~~I. Effective for dates of service on or after September 1, 2009, IFS Night services and shared IFS services shall be excluded from the 3.11 percent rate reduction.~~

~~J. Effective for dates of service on or after August 1, 2010, the reimbursement rates for New Opportunity Waiver services shall be reduced by 2 percent of the rates in effect on July 31, 2010.~~

~~1. The following services shall be excluded from the rate reduction:~~

~~a. environmental accessibility adaptations;~~
~~b. specialized medical equipment and supplies;~~
~~c. personal emergency response systems;~~
~~d. one time transitional expenses; and~~
~~e. individualized and family support services-night and shared night.~~

~~K. Effective for dates of service on or after July 1, 2012, the reimbursement rates for individualized and family support services day provided to one person shall be reduced by 1.5 percent of the rates in effect on June 30, 2012.~~

~~L. Remote assistance is paid through an hourly rate.~~ G.1. - L.
Repealed.

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 of the Secretary, Bureau of Community Supports and Services, LR 30:1209 (June 2004), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 34:252 (February 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 35:1851 (September 2009), amended LR 36:1247 (June 2010), LR 37:2158 (July 2011), LR 39:1049 (April 2013), LR 40:80 (January 2014), LR 42:

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.

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.

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.

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.

Interested persons may submit written comments to Jen Steele,

Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, April 28, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH

Secretary