

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
Supports Waiver
Unit of Reimbursement
(LAC 50:XXI.6101)**

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.6101 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 Supports Waiver 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 Supports Waiver 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 Supports Waiver reimbursements.

Title 50

PUBLIC HEALTH MEDICAL ASSISTANCE

Part XXI. Home and Community Based Services Waivers

Subpart 5. Supports Waiver

Chapter 61. Reimbursement ~~Methodology~~

§6101. Unit of Reimbursement ~~Methodology~~

A. The reimbursement for all services will be paid on a per claim basis, ~~based on established rates determined through consultation with stakeholders, review of current rates and costs for similar services and available funding.~~ The reimbursement rate covers both service provision and administration. Services which utilize a prospective flat rate of one quarter hour (15 minutes) will not be paid for the provision of less than one quarter hour of service.

B. - G. ...

H. Direct Support Professionals Wages ~~Enhancement~~. The minimum hourly rate paid to direct support professionals shall be the federal minimum wage in effect at the time.

~~1. 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 supports waiver participants:~~

- ~~a. habilitation;~~
- ~~b. supported employment;~~
- ~~c. day habilitation;~~
- ~~d. center-based respite; and~~
- ~~e. prevocational services.~~

~~2. 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.~~

~~3. 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.~~

~~4. Providers shall be required to submit a certified wage register to the department verifying the direct support professionals' gross wages for the quarter ending March 31, 2007. 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.~~

~~5. A separate report shall be submitted for paid overtime.~~

~~6. The provider shall submit quarterly wage reports that verify that the 75 percent wage enhancement has been paid to the appropriate staff.~~

~~7. The provider shall submit a report, according to the Department's specifications, that will be used to measure the effectiveness of the wage enhancement.~~

~~8. The wage enhancement payments reimbursed to providers shall be subject to audit by the department.~~

~~9. 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 from the Medicaid Program.~~

H.1. - H.9.d. Repealed.

I. ...

~~J. Effective for dates of service on or after January 22, 2010, the reimbursement rates for supports waiver services shall~~

~~be reduced by 5.35 percent of the rates on file as of January 21, 2010.~~

~~1. Support coordination services and personal emergency response system (PERS) services shall be excluded from the rate reduction.~~

~~K. Effective for dates of service on or after August 1, 2010, the reimbursement rates for supports waiver services shall be reduced by 2 percent of the rates on file as of July 31, 2010.~~

~~1. Support coordination services and personal emergency response system services shall be excluded from the rate reduction.~~

~~L. Effective for dates of service on or after July 1, 2012, the reimbursement rates for supports waiver services shall be reduced by 1.5 percent of the rates on file as of June 30, 2012.~~

~~1. Personal emergency response system services shall be excluded from the rate reduction.~~ J. - L.1. 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, Office for Citizens with Developmental Disabilities, LR 32:1607 (September 2006), amended LR 34:662 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:2281 (October

2010), LR 37:2158 (July 2011), LR 39:1050 (April 2013), LR 40:82 (January 2014), LR 40:2587 (December 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