

**NOTICE OF INTENT**

**Department of Health  
Bureau of Health Services Financing  
and  
Office of Aging and Adult Services**

**Nursing Facilities  
Standards for Payment  
(LAC 50:II.10101 and 10156)**

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to amend LAC 50:II.10101 and §10156 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 Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to amend the provisions governing the standards for payments for nursing facilities in order to clarify the definitions of admission and continued stay, clarify the provisions governing the levels of care pathways and eliminate the behavior pathway for meeting nursing facility level of care.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE  
Part II. Medical Assistance Program  
Subpart 3. Standards for Payment**

**Chapter 101. Standards for Payment for Nursing Facilities**

**Subchapter A. Abbreviations and Definitions**

**§10101. Definitions**

A. This glossary contains a comprehensive list of abbreviations and definitions used in the requirements for payment for nursing facilities.

\*\*\*

Admission—the date a person enters the facility and is admitted as a resident.

\*\*\*

Continued Stay—a request for medical certification beyond the date of the currently authorized period.

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:34 (January 1996), amended LR 23:970 (August 1997), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:

**Subchapter G. Levels of Care**

**§10156. Level of Care Pathways**

A. ...

B. When specific eligibility criteria are met within a pathway, that pathway is said to have triggered. The Medicaid program defines nursing facility level of care for Medicaid eligible individuals as the care required by individuals who meet or trigger any one of the established level of care pathways described in this Subchapter. The pathways of eligibility focus on information used to determine if an individual has met or triggered a level of care pathway. When a pathway is triggered, that individual may be approved for a limited stay/length of service as deemed appropriate by OAS.

C. - F.4.c. ...

5. ~~This pathway is approved for limited stay/length of service as deemed appropriate by OAS.~~ Repealed.

G. - G.3.b.iii. ...

4. ~~This pathway is approved for limited stay/length of service as deemed appropriate by OAS.~~ Repealed.

H. - H.3.e. ...

4. ~~This pathway is approved for limited stay/length of service as deemed appropriate by OAS.~~ Repealed.

I. Behavior Pathway

1. ~~The intent of this~~ Effective upon promulgation of this Rule, the behavior pathway ~~is to identify individuals who have experienced repetitive behavioral challenges which have impacted his/her ability to function in the community during the~~

~~specified screening/assessment look back period~~ will be eliminated as a pathway for meeting nursing facility level of care.

2. ~~The following are investigated for this pathway~~ Individuals receiving services who met the nursing facility level of care only by triggering the behavior pathway prior to promulgation of this Rule shall continue to remain eligible for services requiring nursing facility level of care until:

a. ~~wandering~~ the individual is discharged from long term care services; or

b. ~~verbally or physically abusive behavior;~~ the individual has been found eligible for services in another program or setting more appropriate to their needs.

~~e. socially inappropriate behavior; and~~

~~d. delusions or hallucinations.~~

~~3. In order for an individual to be approved under the behavior pathway, the individual must have either:~~

~~a. exhibited any one of the following behaviors four or more days of the screening tool's seven-day look-back period:~~

~~i. wandering;~~

~~ii. verbally abusive;~~

~~iii. physically abusive; or~~

~~iv. socially inappropriate or disruptive;~~  
~~or~~

~~b. exhibited any one of the following behaviors during the assessment tool's three-day look-back period and behavior(s) were not easily altered:~~

~~i. wandering;~~

~~ii. verbally abusive;~~

~~iii. physically abusive; or~~

~~iv. socially inappropriate or disruptive;~~

~~or~~

~~c. experienced delusions or hallucinations that impacted his/her ability to live independently in the community within the specific screening/assessment tool's look-back period.~~ 2.c. - 3.c. Repealed.

J. - J.3. ...

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, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:342 (January 2011), amended LR 39:1471 (June 2013), LR 41:1289 (July 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 43:2187 (November 2017), LR 44:

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 or 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, but may increase direct or indirect cost to the provider to provide the same level of service due to the reduction of Medicaid payments. The proposed

Rule may also have a negative impact on the provider's ability to provide the same level of service as described in HCR 170 if the reduction in payments adversely impacts the provider's financial standing.

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 26, 2018 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