

NOTICE OF INTENT

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

**Home and Community-Based Services Providers
Licensing Standards
(LAC 48:I.5043)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.5043 as authorized by R.S. 36:254 and R.S. 40:2120.2. 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 licensing standards for home and community-based services (HCBS) providers in order to clarify the requirements for contract services to ensure that HCBS providers utilize contractors and/or subcontractors in compliance with all state and federal requirements.

Title 48

**PUBLIC HEALTH-GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification**

Chapter 50. Home and Community-Based Services Providers

Licensing Standards

Subchapter D. Service Delivery

§5043. Contract Services

A. - D. . .

E. Any HCBS provider that employs contractors, including independent contractors, shall ensure that such utilization complies with all state and federal laws, rules and/or regulations, including those enforced by the United States Department of Labor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:77 (January 2012), amended LR 41:2638 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2511 (December 2017), LR 44:

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 and no direct or indirect cost to the provider to provide the same level of service. These provisions 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 Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, June 28, 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

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

Person
Preparing
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Financing

Return Address: P.O. Box 91030 Rule Title: Home and Community-Based Services Providers Licensing Standards
Baton Rouge, LA

Date Rule Takes Effect: August 20, 2018

SUMMARY

In accordance with Section 953 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 summary statements, based on the attached worksheets, 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 the implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 17-18. It is anticipated that \$324 (SGF) will be expended in FY 17-18 for the state's administrative expense for the 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 not affect federal revenue collections since the licensing fees, in the same amounts, will continue to be collected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

This proposed Rule is being promulgated to amend the provisions governing the licensing standards for home and community-based services (HCBS) providers in order to clarify the requirements for contract services to ensure that HCBS providers utilize contractors and/or subcontractors in compliance with all state and federal laws, rules, and/or regulations, including those enforced by the United States Department of Labor. It is anticipated that the implementation of this proposed rule will have no economic costs, but may be beneficial to HCBS providers in FY 17-18, FY 18-19 and FY 19-20 by providing clear and concise licensing standards.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Cecile Castello

Signature of Agency Head
or Designee

Evan Braux

Legislative Fiscal Officer
or Designee

Cecile Castello,
Health Standards Section Director
Typed name and Title of
Agency Head or Designee

5/9/18

Date of Signature

Bhaktar Ford

LDH/BHSF Budget Head

05/09/18

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 deliberations 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 licensing standards for home and community-based services (HCBS) providers in order to clarify the requirements for contract services to ensure that HCBS providers utilize contractors and/or subcontractors in compliance with state and federal laws, rules and/or regulations, including those enforced by the United States Department of Labor.

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

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the licensing standards for home and community-based services (HCBS) providers in order to clarify the requirements for contract services to ensure that HCBS providers utilize contractors and/or subcontractors in compliance with all state and federal laws, rules, and/or regulations, including those enforced by the United States Department of Labor.

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 the implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 17-18. It is anticipated that \$324 will be expended in FY 17-18 for the state's administrative expense for the 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) If yes, attach documentation.
(b) If no, provide justification as to why this rule change should be published at this time.

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET

I. A. COST OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase or (decrease) in cost to implement the proposed action?

| COST | FY 17-18 | FY 18-19 | FY 19-20 |
|-----------------------|-----------------|-----------------|-----------------|
| PERSONAL SERVICES | | | |
| OPERATING EXPENSES | \$324 | \$0 | \$0 |
| PROFESSIONAL SERVICES | | | |
| OTHER CHARGES | | | |
| REPAIR & CONSTR. | | | |
| POSITIONS (#) | | | |
| TOTAL | \$324 | \$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.

In FY 17-18, \$324 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 17-18 | FY 18-19 | FY 19-20 |
|--------------------|-----------------|-----------------|-----------------|
| STATE GENERAL FUND | \$324 | \$0 | \$0 |
| SELF-GENERATED | | | |
| FEDERAL FUND | \$0 | \$0 | \$0 |
| OTHER (Specify) | | | |
| Total | \$324 | \$0 | \$0 |

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 THIS PROPOSED ACTION.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustment 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 governmental units.

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET

2. Indicate the sources of funding of the local governmental unit that will be affected by these costs or savings.

There is no known impact on the sources of local governmental unit funding.

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase or (decrease) in revenues can be expected from the proposed action?

| REVENUE INCREASE/DECREASE | FY 17-18 | FY 18-19 | FY 19-20 |
|------------------------------|----------|----------|----------|
| STATE GENERAL FUND | | | |
| AGENCY SELF-GENERATED | | | |
| RESTRICTED FUNDS* | | | |
| FEDERAL FUNDS | | | |
| LOCAL FUNDS | | | |
| Total | | | |

**Specify the particular fund being impacted*

B. Provide a narrative explanation of each increase or decrease in revenue shown in "A". Describe all data, assumptions, and methods used in calculating these increases or decreases.

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS

A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effects on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.)

This proposed Rule amends the provisions governing the licensing standards for home and community-based services (HCBS) providers in order to clarify the requirements for contract services to ensure that HCBS providers utilize contractors and/or subcontractors in compliance with state and federal laws, rules, and/or regulations, including those enforced by the United States Department of Labor.

B. Also, provide an estimate of any revenue impact resulting from this rule or rule change to these groups.

It is anticipated that the implementation of this proposed rule will have no economic costs, but may be beneficial to HCBS providers in FY 17-18, FY 18-19 and FY 19-20 by providing clear and concise licensing standards.

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.