

NOTICE OF INTENT

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

**Home Health Program
Reimbursement Rate Increase
(LAC 50:XIII.701)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XIII.701 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 sec.

The Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing reimbursement in the Home Health program to increase the rates for all home health services and base reimbursement on the Louisiana Medicaid fee schedule in order to align the reimbursement methodology with current practice (*Louisiana Register*, Volume 49, Number 4). This proposed Rule is being promulgated to continue the provisions of the April 3, 2023 Emergency Rule.

**Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XIII. Home Health Program
Subpart 1. Home Health Services**

Chapter 7. Reimbursement Methodology

§701. Nursing and Home Health Aide Services

A. - D. ...

E. Effective for dates of service on or after April 3, 2023, the reimbursement rates for all home health services shall be reimbursed based on the Louisiana Medicaid fee schedule. All rates in the fee schedule are published on the Medicaid provider website at www.lamedicaid.com.

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 Health Services Financing, LR 34:654 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2281 (October 2010), LR 37:2159 (July 2011), LR 39:1051 (April 2013), amended 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 a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 as it should assist families in receiving all home health hours that are authorized because the more competitive rates should enable agencies to recruit more nurses.

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 a positive impact on small businesses because it will increase reimbursement.

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, but may reduce the total direct and indirect cost to the provider to provide the same level of service, and may enhance the provider's ability to provide the same level of service as described in HCR 170 since this proposed Rule increases payments to providers for the services they already render.

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 June 29, 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 June 9, 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 June 29, 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 June 9, 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.

Dr. Courtney N. Phillips

Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

Person
Preparing
Statement:

Veronica Dent

Dept.: Health

Phone:

342-3238

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Return

Address:

P.O. Box 91030

Rule

Title: Home Health Program

Baton Rouge, LA

Reimbursement Rate Increase

Date Rule

Takes Effect: April 3, 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 result in increased state costs of approximately \$709,490 for FY 22-23, \$3,216,307 for FY 23-24, and \$3,308,669 for FY 24-25. It is anticipated that \$540 (\$270 SGF and \$270 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 this proposed rule will increase federal revenue collections by approximately \$1,849,563 for FY 22-23, \$7,017,745 for FY 23-24, and \$6,925,383 FY 24-25. It is anticipated that \$270 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)

This proposed rule continues the provisions of the April 3, 2023 Emergency Rule, which amended the provisions governing reimbursement in the Home Health program to increase the rates for all home health services and base reimbursement on the Louisiana Medicaid fee schedule in order to align the reimbursement methodology with current practice. This proposed rule will assist Medicaid beneficiaries in receiving all home health hours that are authorized because the more competitive rates should enable agencies to recruit more nurses. Home health providers and small businesses will benefit from implementation of this proposed rule as it is anticipated to increase payments to these providers by approximately \$2,558,513 for FY 22-23, \$10,234,052 for FY 23-24, and \$10,234,052 for FY 24-25.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and may have a positive effect on employment as the more competitive rates should enable home health agencies to recruit more nurses.

Tara A. LeBlanc

Signature of Agency Head or Designee

Tara A. LeBlanc, Medicaid Executive Director
Typed Name & Title of Agency Head or Designee

Date of Signature

Evan Brasseel, Interim Deputy
Legislative Fiscal Officer or Designee
Fiscal Officer

5/9/23

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).

This proposed rule continues the provisions of the April 3, 2023 Emergency Rule, which amended the provisions governing reimbursement in the Home Health program to increase the rates for all home health services and base reimbursement on the Louisiana Medicaid fee schedule in order to align the reimbursement methodology with current practice.

- 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 an Emergency Rule which amended the provisions governing reimbursement in the Home Health program to increase the rates for all home health services and base reimbursement on the Louisiana Medicaid fee schedule in order to align the reimbursement methodology with current practice (*Louisiana Register*, Volume 49, Number 4). This proposed Rule is being promulgated to continue the provisions of the April 3, 2023 Emergency Rule.

- 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.

Yes. It is anticipated that implementation of this proposed rule will result in increased programmatic costs to the Medicaid Program of approximately \$2,559,053 for FY 22-23, \$10,234,052 for FY 23-24, and \$10,234,052 for FY 24-25. In FY 22-23, \$540 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) X NO. If no, provide justification as to why this rule change should be published at this time

Act 199 of the 2022 Regular Session of the Louisiana Legislature allocated funds to the Medical Vendor Program for payments to providers and the operation of the Medicaid Program, and thereby, authorizes the expenditure of these funds. Implementation of this proposed rule will ensure that Medicaid beneficiaries have access to home health services and will increase payments to home health providers.

**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	\$540	\$0	\$0
Professional Services			
Other Charges	\$2,558,513	\$10,234,052	\$10,234,052
Equipment			
Major Repairs & Constr.			
TOTAL	\$2,559,053	\$10,234,052	\$10,234,052
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.

The expenses reflected above are the estimated increases in expenditures in the Medicaid program. In FY 22-23, \$540 is included 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	\$709,490	\$3,216,307	\$3,308,669
Agency Self-Generated			
Dedicated			
Federal Funds	\$1,849,563	\$7,017,745	\$6,925,383
Other (Specify)			
TOTAL	\$2,559,053	\$10,234,052	\$10,234,052

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 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 governmental units.

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?

REVENUE INCREASE/DECREASE	FY 23	FY 24	FY 25
State General Fund			
Agency Self-Generated			
Dedicated Funds*			
Federal Funds	\$1,849,563	\$7,017,745	\$6,925,383
Local Funds			
TOTAL	\$1,849,563	\$7,017,745	\$6,925,383

*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.

The amounts reflected above are the estimated increases in federal revenue collections. In FY 22-23, \$270 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.

This proposed rule continues the provisions of the April 3, 2023 Emergency Rule, which amended the provisions governing reimbursement in the Home Health program to increase the rates for all home health services and base reimbursement on the Louisiana Medicaid fee schedule in order to align the reimbursement methodology with current practice. This proposed rule will assist Medicaid beneficiaries in receiving all home health hours that are authorized because the more competitive rates should enable agencies to recruit more nurses.

- 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.

Home health providers and small businesses will benefit from implementation of this proposed rule as it is anticipated to increase payments to these providers by approximately \$2,558,513 for FY 22-23, \$10,234,052 for FY 23-24, and \$10,234,052 for 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 may have a positive effect on employment as the more competitive rates should enable home health services agencies to recruit more nurses.