

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing
and
Office of Behavioral Health**

**Behavioral Health Services
Healthy Louisiana and Coordinated System of Care Waiver
(LAC 50:XXXIII.Chapters 1, 3 and 7)**

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend LAC 50:XXXIII.Chapters 1, 3 and 7 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 of Behavioral Health amended the provisions governing behavioral health services coordinated by the statewide management organization (SMO) to: 1) narrow the SMO's scope of service administration to coordinated system of care (CSoC) services only; 2) revise the enrollment provisions; and 3) revise the reimbursement methodology to reflect the integration of specialized behavioral health services into the Healthy Louisiana program, formerly known as Bayou Health, by establishing capitation payments for recipients enrolled in managed care organizations (MCOs) (*Louisiana Register*, Volume 41, Number 11).

The department now proposes to amend the provisions governing behavioral health services in order to clarify and align the provisions with the 1915(b) Healthy Louisiana and CSoc Waiver.

TITLE 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part XXXIII. Behavioral Health Services

Subpart 1. Healthy Louisiana ~~Bayou Health~~ and Coordinated System of Care Waiver

Chapter 1. Managed Care Organizations and the Coordinated System of Care Contractor

§101. General Provisions

A. The Medicaid Program hereby adopts provisions to establish a comprehensive system of delivery for specialized behavioral health and physical health services. These services shall be administered through the Healthy Louisiana ~~Bayou Health~~ and Coordinated System of Care (CSoc) Waiver under the authority of the Department of Health ~~and Hospitals~~ (~~DHH~~LDH), in collaboration with managed care organizations (MCOs) and the coordinated system of care (CSoc) contractor, which shall be responsible for the necessary operational and administrative functions to ensure adequate service coordination and delivery.

B. ...

C. Managed care organizations shall operate as such, and the CSoc contractor shall operate as a prepaid inpatient health plan (PIHP). The MCOs were procured through a competitive

request for proposal (RFP) process. The CSoC contractor was procured through an emergency process consistent with 45 CFR part 92. The MCOs and CSoC contractor shall assist with the state's system reform goals to support individuals with behavioral health and physical health needs in families, homes, communities, schools, and jobs.

D. - E. ...

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, LR 38:360 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2353 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 43:

§103. Recipient Participation

A. - A.5. ...

6. full dual eligibles (for behavioral health services only and non-emergency medical transportation (NEMT));

7. children residing in an intermediate care facility for persons with ~~developmental~~ intellectual disabilities (for behavioral health services only and NEMT);

8. all enrollees of waiver programs administered by the ~~DHH-LDH~~ Office for Citizens with Developmental Disabilities (OCDD) or the ~~DHH-LDH~~ Office of Aging and Adult Services (OAAS) (mandatory for behavioral health services only and NEMT);

9. ...

10. adults residing in a nursing facility (for behavioral health services only and NEMT);

11. supplemental security income/transfer of resources/long-term care related adults and children (for behavioral health services only and NEMT); and

12. transfer of resources/long-term care adults and children (for behavioral health services only and NEMT).

* * *

B. ...

C. Notwithstanding the provisions of Subsection A of this Section, the following Medicaid recipients are excluded from enrollment in the MCOs and the CSoC contractor:

1. ~~recipients enrolled in the Medicare beneficiary programs (QMB, SLMB, QDWI and QI-1);~~ for adults and children:

a. Refugee Cash Assistance;

b. Refugee Medical Assistance;

c. Spend-Down Medically Needy;

d. Specified Low-Income Beneficiaries (SLMB)-
only;

e. Aliens Emergency Services;

- f. Qualified Individuals (QI)1;
 - g. Long-Term Care (LTC) co-insurance;
 - h. Qualified Disabled and Working Individuals (QDWI); and
 - i. Qualified Medicare Beneficiaries (QMB)-only;
- and

2. ~~adults who reside in an intermediate care facility for persons with intellectual disabilities (ICF/ID);~~ adult-only populations excluded from the 1915(b) waiver:

- a. residents of an ICF/ID;
- b. Program of All Inclusive Care for the Elderly (PACE); and
- c. Take Charge Plus.

- ~~3. recipients of refugee cash assistance;~~
- ~~4. recipients of refugee medical assistance;~~
- ~~5. recipients enrolled in the Spend-Down Medically Needy Program;~~
- ~~6. recipients who receive emergency services only coverage;~~
- ~~7. recipients who receive services through the Program of All-Inclusive Care for the Elderly (PACE);~~
- ~~8. recipients enrolled in the Take Charge Plus Program;~~

~~9. recipients enrolled in the Greater New Orleans Community Health Connection (GNOCHC) program; and~~

~~10. recipients enrolled in the Long-Term Care Medicare Co-Insurance program.~~ 3. - 10. Repealed.

D. ...

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, LR 38:361 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:1286 (July 2015), LR 41:2354 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 43:

§107. Enrollee Rights and Responsibilities

A. - A.1.b. ...

c. receive assistance with care coordination from the primary care providers (PCP's) office or the enrollee's behavioral health provider;

~~d. receive assistance with care coordination from the primary care providers (PCP's) office;~~ Repealed.

A.2. - B.8. ...

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, LR 38:361 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2354 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 43:

Chapter 3. Managed Care Organizations and the Coordinated System of Care Contractor Participation

§301. Participation Requirements and Responsibilities

A. - B.4. ...

5. contract only with providers of services who are licensed and/or certified, ~~and~~ meet the state of Louisiana credentialing criteria and enrolled with the Bureau of Health Services Financing, or its designated contractor, after this requirement is implemented;

B.6. - B.9. ...

a. are developed by the enrollee's primary care provider (PCP) or behavioral health provider with the enrollee's participation and in consultation with any specialists' providing care to the enrollee, with the exception of treatment plans or plans of care developed for recipients in the Home and Community Based Services (HCBS) Waiver. The wraparound agency shall develop plans of care according to wraparound best practice

standards for recipients who receive behavioral health services through the HCBS Waiver;

b. ...

c. are in accordance with any applicable state and federal quality assurance and utilization review standards; and

9.d. - 10.c. ...

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, LR 38:362 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2355 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 43:

§303. Benefits and Services

A. ...

B. The MCO and CSoC contractor:

1. shall ensure that medically necessary services are sufficient in amount, duration, or scope to reasonably be expected to achieve the purpose for which the services are being furnished and shall not be more restrictive than services provided under the Medicaid State Plan;

B.2. - C.1. ...

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, LR 38:362 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2355 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 43:

Chapter 7. Grievance and Appeals Process

§701. General Provisions

A. ...

B. An enrollee, or a provider on behalf of an enrollee, ~~must file an appeal within 30~~ has 60 calendar days from the date on the notice of action in which to file an appeal.

C. An enrollee ~~must~~ may file a grievance ~~within 180 calendar days at any time of the~~ after an occurrence or incident which is the basis for the grievance.

D. - E. ...

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, LR 38:363

(February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2356 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 43:

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, December 29, 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