

NOTICE OF INTENT

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

**Children's Behavioral Health Services
(LAC 50:XXXIII. Chapters 21-27)**

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend LAC 50:XXXIII Chapters 21-27 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, Bureau of Health Services Financing and the Office of Behavioral Health (OBH) propose to amend the provisions governing children's behavioral health services in order to: 1) reflect the coordinated system of care contractor moving from a non-risk contract to a full-risk capitated contract; 2) remove the requirements for OBH certification of providers and for prior approval of services; and 3) clarify the exclusion criteria for services rendered by institutes for mental disease.

Title 50

**PUBLIC HEALTH-MEDICAL ASSISTANCE
Part XXXIII. Behavioral Health Services
Subpart 3. Children's Mental Health Services**

Chapter 21. General Provisions

§2101. Introduction

A. The Medicaid Program hereby adopts provisions to provide coverage under the Medicaid State Plan for mental health services rendered to children and youth with behavioral health disorders. These services shall be administered under the authority of the Department of Health ~~and Hospitals~~ (LDH), in collaboration with ~~a~~ 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. The CSoC contractor shall only manage specialized behavioral health services for children ~~+~~ and youth enrolled in the coordinated system of care.

B. ...

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 38:364 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2358 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:

Chapter 23. Services

§2301. General Provisions

A. ...

B. ~~All services shall be authorized.~~ Services which exceed the initial authorization provided to children and youth must ~~be approved for re-authorization prior to service~~ delivery include communication and coordination with the family and/or legal guardian and custodial agency for children in state custody. Coordination with other child-serving systems should occur as needed to achieve the treatment goals. All coordination must be documented in the child's medical record.

1. The agency or individual who has the decision making authority for a child or youth in state custody must request and approve the provision of services to the recipient.

C. ~~Services provided to children and youth must include communication and coordination with the family and/or legal guardian and custodial agency for children in state custody. Coordination with other child-serving systems should occur as needed to achieve the treatment goals. All coordination must be documented in the child's medical record~~ Children who are in need of specialized behavioral health services shall be served within the context of the family and not as an isolated unit.

1. The agency or individual who has the decision making authority for a child or adolescent in state custody must

~~request and approve the provision of services to the recipient.~~ Services shall be:

a. delivered in a culturally and linguistically competent manner; and

b. respectful of the individual receiving services.

2. Services shall be appropriate to children and youth of diverse racial, ethnic, religious, sexual, and gender identities and other cultural and linguistic groups.

3. Services shall also be appropriate for:

a. age;

b. development; and

c. education.

D. ~~Children who are in need of specialized behavioral health services shall be served within the context of the family and not as an isolated unit.~~ Evidence-based practices require prior approval and fidelity reviews on an ongoing basis as determined necessary by the department.

~~1. Services shall be:~~

~~a. delivered in a culturally and linguistically competent manner; and~~

~~b. respectful of the individual receiving services.~~

~~2. Services shall be appropriate to children and youth of diverse racial, ethnic, religious, sexual, and gender identities and other cultural and linguistic groups.~~

~~3. Services shall also be appropriate for:~~

~~a. age;~~

~~b. development; and~~

~~c. education.~~1. - 3.c. Repealed.

E. ~~Evidence-based practices require prior approval and fidelity reviews on an ongoing basis as determined necessary by the department~~Services may be provided at a site-based facility, in the community or in the individual's place of residence as outlined in the plan of care.

F. ~~Services may be provided at a site-based facility, in the community or in the individual's place of residence as outlined in the plan of care.~~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, Bureau of Health Services Financing, LR 38:364 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2358 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:

§2303. Covered Services

A. The following behavioral health services shall be reimbursed under the Medicaid Program:

1. ...

2. rehabilitation services, including community psychiatric support and treatment (CPST) and psychosocial rehabilitation (PSR);

3. - 4. ...

B. Service Exclusions. The following services shall be excluded from Medicaid reimbursement:

1. - 3. ...

4. services rendered in an institute for mental disease other than a psychiatric residential treatment facility (PRTF) or an inpatient psychiatric hospital; and

5. ...

~~C. Service Exclusions. The following services shall be excluded from Medicaid reimbursement:~~

~~1. components that are not provided to, or directed exclusively toward the treatment of, the Medicaid eligible individual;~~

~~2. services provided at a work site which are job tasks oriented and not directly related to the treatment of the recipient's needs;~~

~~3. any services or components in which the basic nature of which are to supplant housekeeping, homemaking, or basic services for the convenience of an individual receiving substance abuse services; and~~

~~4. services rendered in an institute for mental disease.~~ C. - C.4. 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, Bureau of Health Services Financing, LR 38:364 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2359 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:

Chapter 25. Provider Participation

§2501. Provider Responsibilities

A. - B. ...

C. ~~Providers of~~ Anyone providing specialized behavioral health services shall ~~ensure that all services are authorized and any services that exceed established limitations beyond the initial authorization are approved for re-authorization prior to service delivery~~ be licensed in accordance with state laws and regulations, in addition to operating within their scope of

practice license. Providers shall meet the provisions of this Rule, the provider manual and the appropriate statutes. The provider shall create and maintain documents to substantiate that all requirements are met.

D. ~~Anyone providing specialized behavioral health services must be certified by the department, or its designee, in addition to operating within their scope of practice license. To be certified or recertified, providers shall meet the provisions of this Rule, the provider manual and the appropriate statutes. The provider~~ Providers shall ~~create and maintain documents to substantiate that all requirements are met.~~ case records that include, at a minimum:

1. a copy of the plan of care or treatment plan;
2. the name of the individual;
3. the dates of service;
4. the nature, content and units of services

provided;

5. the progress made toward functional improvement;

and

6. the goals of the plan of care or treatment plan.

~~E. Providers shall maintain case records that include, at a minimum:~~

- ~~1. a copy of the plan of care or treatment plan;~~
- ~~2. the name of the individual;~~

- ~~3. the dates of service;~~
- ~~4. the nature, content and units of services provided;~~
- ~~5. the progress made toward functional improvement; and~~
- ~~6. the goals of the plan of care or treatment plan.~~E. -

E.6. 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, Bureau of Health Services Financing, LR 38:364 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2359 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:

Chapter 27. Reimbursement

§2701. General Provisions

A. For recipients enrolled with one of the MCOs or CSoc contractor, ~~reimbursement for services shall be based upon the established Medicaid fee schedule for specialized behavioral health services~~ the department or its fiscal intermediary shall make monthly capitation payments to the MCOs or the CSoc contractor.

1. The capitation rates paid to MCOs or the CSoc contractor shall be actuarially sound rates.

2. The MCOs or the CSoc contractor will determine the rates paid to its contracted providers.

a. No payment shall be less than the minimum Medicaid rate.

~~B. For recipients enrolled in one of the MCOs, the department or its fiscal intermediary shall make monthly capitation payments to the MCOs. The capitation rates paid to MCOs shall be actuarially sound rates and the MCOs will determine the rates paid to its contracted providers. No payment shall be less than the minimum Medicaid rate.~~ 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, Bureau of Health Services Financing, LR 38:365 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 39:317 (February 2013), LR 41:2359 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, 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 a 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 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 28, 2017 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