

NOTICE OF INTENT

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

**Behavioral Health Services
Substance Use Disorders Services
(LAC 50:XXXIII.14101,14301,14303, and 14501)**

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend LAC 50:XXXIII.14101, §14301, §14303, and §14501 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 U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) approved a request by the Department of Health to implement the Healthy Louisiana Opioid Use Disorder/Substance Use Disorder Waiver, a five-year 1115(a) demonstration waiver to permit managed care organizations (MCOs) to provide opioid use disorder/substance use disorder services to Medicaid recipients in an institution for mental disease (IMD) without regard to the monthly MCO length of stay limit for these residential treatment services in an IMD setting. The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health propose

to amend the provisions governing substance use disorders services in order to align these provisions with the CMS-approved Healthy Louisiana Opioid Use Disorder/Substance Use Disorder Waiver.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE Part XXXIII. Behavioral Health Services Subpart 15. Substance Use Disorders Services

Chapter 141. General Provisions

§14101. Introduction

A. ...

B. The SUD services rendered shall be those services which are medically necessary to reduce the disability resulting from the illness and to restore the individual to his/her best possible ~~functioning level~~level of functioning in the community.

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 38:426 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2357 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:1890 (October 2018), LR 45:

Chapter 143. Services

§14301. General Provisions

A. All ~~addiction~~ SUD services must be medically necessary. The medical necessity for services shall be determined by a licensed mental health practitioner (LMHP) or physician who is acting within the scope of his/her professional license and applicable state law.

B. American Society of Addiction Medicine (ASAM) levels of care require reviews on an ongoing basis, as deemed necessary by the department to document compliance with national standards.

C. Children who are in need of SUD services should be served within the context of the family and not as an isolated unit. Services provided to children and youth ~~must~~ shall include communication and coordination with the family and/or legal guardian and custodial agency for children in state custody provided that written consent is obtained from minor.

Coordination with other child-serving systems should occur as needed to achieve the treatment goals subject to the minor's consent and applicable privacy laws. All coordination and consent must be documented in the child's medical record.

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

~~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 individuals 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 SUD 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 individuals 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.~~

~~E. Evidence-based practices require prior approval and fidelity reviews on an ongoing basis as determined necessary by the department.~~ D.1. - E. 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 38:426 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2357 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:1890 (October 2018), LR 45:

§14303. Covered Services

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

1. assessment;

2. outpatient treatment;~~and~~
3. residential treatment~~;~~ and
4. inpatient treatment.

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

1. - 2. ...
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 services; and
4. ~~services rendered in an institute for mental disease unless provided through Code of Federal Regulations "allowed in lieu of", or a U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) approved waiver;~~ and room and board for any rates provided in a residential setting.
5. ~~room and board for any rates provided in a residential setting.~~ 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 38:426 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of

Behavioral Health, LR 41:2357 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:1891 (October 2018), LR 45:

Chapter 145. Provider Participation

§14501. Provider Responsibilities

A. - D. ...

E. ~~Residential addiction treatment facilities shall be accredited by an approved accrediting body and~~Providers shall maintain such accreditation. Denial, loss of or any negative change in accreditation status must be reported to the MCO in writing within the time limit established by the department.case records that include, at a minimum:

1. the name of the individual;
2. the dates and time of service;
3. assessments;
4. a copy of the treatment plans, which include at a minimum:
 - a. goals and objectives, which are specific, measurable, action oriented, realistic and time-limited;
 - b. specific interventions;
 - c. the service locations for each intervention;
 - d. the staff providing the intervention; and
 - e. the dates of service;

5. progress notes that include the content of each delivered service, including the reason for the contact describing the goals/objectives addressed during the service, specific intervention(s), progress made toward functional and clinical improvement;

6. units of services provided;

7. crisis plan;

8. discharge plan; and

9. advanced directive.

F. ~~Providers~~ Residential treatment facilities shall ~~maintain case records that include, at a minimum~~ meet the following additional requirements:

1. ~~a copy of the treatment plan;~~ Be a licensed organization, pursuant to the residential service provider qualifications described in the Louisiana Administrative Code and the Louisiana Medicaid provider manual.

2. ~~the name of the individual;~~ Residential addiction treatment facilities shall be accredited by an approved accrediting body and maintain such accreditation. Denial, loss of or any negative change in accreditation status must be reported to the MCO in writing within the time limit established by the department.

3. ~~the dates of service;~~ Provide full disclosure of ownership and control, including but not limited to any relative contractual agreements, partnerships, etc.

4. ~~the nature, content, and units of services provided;~~ Follow all residential treatment provider qualifications and program standards in licensure, Medicaid provider manual, managed care contracts or credentialing.

5. ~~the progress made toward functional improvement;~~ and Must deliver care consistent with the specifications in the ASAM Criteria or other OBH approved, nationally recognized SUD program standards, hours of clinical care, and credentials of staff for residential treatment settings.

6. ~~the goals of the treatment plan~~ Effective April 1, 2019, must offer medication-assisted treatment (MAT) on-site or facilitate access to MAT off-site, and appropriately document MAT options, education and facilitation efforts in accordance with requirements outlined in the Medicaid provider manual.

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 38:427 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2357 (November 2015), amended by the

Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:1891 (October 2018), LR 45:

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 positive on family functioning, stability and autonomy as described in R.S. 49:972 because it will allow recipients in institutions for mental disease with an opioid use disorder/substance use disorder diagnosis to access critical treatment services.

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 a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 because it will allow recipients in institutions for mental disease with an opioid use

disorder/substance use disorder diagnosis to access critical OUD/SUD treatment services.

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 27, 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