

NOTICE OF INTENT

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

Adult Mental Health Services
Covered Services and Recipient Qualifications
(LAC 50:XXXIII.Chapters 61-67)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend LAC 50:XXXIII.Chapters 61-67 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 adult behavioral health services in order to ensure the provider certification, assessment, and reevaluation criteria are in alignment with the approved Medicaid State Plan (*Louisiana Register*, Number 41, Volume 2).

The department promulgated an Emergency Rule which amended the provisions governing adult mental health services in order to: 1) provide Medicaid coverage and reimbursement for licensed mental health professional services and mental health rehabilitative services to adult members enrolled in Bayou

Health and terminate the behavioral health services rendered under the 1915(i) State Plan authority; 2) establish the recipient qualifications criteria; and 3) revise the assessment and plan of care requirements (*Louisiana Register*, Volume 41, Number 10). This proposed Rule is being promulgated to continue the provisions of the December 1, 2015 Emergency Rule.

TITLE 50

PUBLIC HEALTH-MEDICAL ASSISTANCE Part XXXIII. Behavioral Health Services Subpart 7. Adult Mental Health Services

Chapter 61. General Provisions

§6101. Introduction

A. The Medicaid Program provides coverage under the Medicaid State Plan for mental health services rendered to adults with mental health disorders. These services shall be administered under the authority of the Department of Health and Hospitals, in collaboration with the managed care organizations (MCOs), which shall be responsible for the necessary operational and administrative functions to ensure adequate service coordination and delivery.

B. The mental health services rendered to adults shall be necessary to reduce the disability resulting from mental illness and to restore the individual to his/her best possible functioning level 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 38:358 (February 2012), LR 42:

§6103. Recipient Qualifications

A. Individuals, 21 years of age and older, who meet Medicaid eligibility and clinical criteria established in §6103.B, shall qualify to receive adult mental health services.

B. Qualifying individuals shall be eligible to receive the following adult mental health services.

1. Licensed mental health professional services are available to adults enrolled in Bayou Health, provided the services are determined to be medically necessary in accordance with LAC 50:I.1101.

a. - b. Repealed.

2. Mental health rehabilitation services are available to adults enrolled in Bayou Health, provided the services are determined to be medically necessary in accordance with LAC 50:I.1101, and the enrollee meets the following conditions:

a. currently presents with mental health symptoms that are consistent with a diagnosable mental disorder specified within the *Diagnostic and Statistical Manual of Mental*

Disorders (DSM-V) or the International Classification of Diseases, Tenth Revision, Clinical Modification (ICD-10), or subsequent revisions of these documents;

i. - iii. Repealed.

b. has at least a score of two on the Level of Care Utilization System (LOCUS); and

c. has a condition for which services are therapeutically appropriate.

3. - 4. Repealed.

C. An adult who has previously met the criteria stated in §6103.B.2.a-c, but who now meets a composite LOCUS score of one and needs subsequent medically necessary services for stabilization and maintenance, shall be eligible for adult mental health services.

D. An adult with a primary diagnosis of a substance use disorder without an additional co-occurring qualifying mental health diagnosis shall not meet the criteria for mental health rehabilitation services.

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 38:358 (February 2012), amended by the Department of Health and

Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:378 (February 2015), LR 42:

Chapter 63. Services

§6301. General Provisions

A. All mental health services must be medically necessary, in accordance with the provisions of LAC 50:I.1101. The medical necessity for services shall be determined by a licensed mental health practitioner or physician who is acting within the scope of his/her professional license and applicable state law.

B. ...

C. There shall be recipient involvement throughout the planning and delivery of services.

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 be appropriate for:

- a. age;
- b. development; and
- c. education.

4. Repealed.

D. Anyone providing mental health services must operate within their scope of practice license.

E. ...

F. Services may be provided at a facility, in the community, or in the individual's place of residence as outlined in the plan of care. Services may be furnished in a nursing facility only in accordance with policies and procedures issued by the department.

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 38:359 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:378 (February 2015), LR 42:

§6303. Assessments

A. For mental health rehabilitation services, each enrollee shall be assessed and have a plan of care (POC) developed.

B. Assessments shall be performed by a licensed mental health practitioner (LMHP).

C. Assessments must be performed at least every 365 days or as needed any time there is a significant change to the enrollee's circumstances.

D. 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 38:359 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:378 (February 2015), LR 42:

§6305. Plan of Care

A. Each enrollee who receives adult mental health rehabilitation services shall have a POC developed based upon the assessment.

B. The individualized POC shall be developed according to the criteria established by the department and in accordance

with the provisions of this Rule, the provider manual and other notices or directives issued by the department.

1. The POC is reviewed at least every 365 days and as needed when there is significant change in the individual's circumstances.

C. The plan of care shall be developed by a case manager who acts as an advocate for the individual and is a source of information for the individual and the team.

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 38:359 (February 2012), LR 42:

§6307. Covered Services

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

1. therapeutic services, including diagnosis and treatment delivered by LMHPs;

2. - 3. ...

B. Service Exclusions. The following 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; and

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.

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 38:359 (February 2012), LR 42:

Chapter 65. Provider Participation

§6501. Provider Responsibilities

A. Each provider of adult mental health services shall enter into a contract with one or more of the managed care organizations in order to receive reimbursement for Medicaid covered services.

B. All services shall be delivered in accordance with federal and state laws and regulations, the provisions of this Rule, the provider manual, and other notices or directives issued by the department. The provider shall create and maintain documents to substantiate that all requirements are met.

C. Providers of adult mental 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.

D. Anyone providing adult mental health services must be certified by the department, or its designee, in addition to operating within their scope of practice license.

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

1. a copy of the plan of care and treatment plan;
2. - 5. ...
6. the goals of the plan of care and/or treatment plan.

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 41:378 (February 2015), LR 42:

Chapter 67. Reimbursement

§6701. Reimbursement Methodology

A. Effective for dates of service on or after December 1, 2015, the department, or its fiscal intermediary, shall make monthly capitation payments to the MCOs.

B. The capitation rates paid to the 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.

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), LR 42:

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 impact on family functioning, stability and autonomy as described in R.S. 49:972 by increasing

access to Medicaid covered adult mental health 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 by reducing the financial burden on families for mental health services as a result of increased access to Medicaid covered adult mental health 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 J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, November 25, 2015 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.

Kathy H. Kliebert

Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

Person

Preparing

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Phone: 342-2339

Dept.: Health and Hospitals

Office: Bureau of Health Services
Financing

Return P.O. Box 91030

Address: Baton Rouge, LA

Rule Title: Adult Mental Health Services
Covered Services and Recipient
Qualifications

Date Rule Takes Effect: December 1, 2015

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) 30

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic costs of \$830,993 for FY 15-16, \$1,469,932 for FY 16-17, and \$1,514,030 for FY 17-18. It is anticipated that \$1,404 (\$702 SGF and \$702 FED) will be expended in FY 15-16 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.17 percent in FY 15-16. The enhanced rate of 62.11 percent for the last nine months of FY 16 is the federal rate for disaster-recovery FMAP adjustment states.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$1,365,206 for FY 15-16, \$2,405,449 for FY 16-17, and \$2,477,612 for FY 17-18. It is anticipated that \$702 will be expended in FY 15-16 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.17 percent in FY 15-16. The enhanced rate of 62.11 percent for the first three months of FY 16 is the federal rate for disaster-recovery FMAP adjustment states.

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

This proposed rule, which continues the provisions of the December 1, 2015 emergency rule, amends the provisions governing adult mental health services to: 1) provide Medicaid coverage and reimbursement for licensed mental health professional services and mental health rehabilitation services to adult members enrolled in Bayou Health and terminate the behavioral health services rendered under the 1915(i) State Plan authority; 2) establish recipient qualifications criteria; and 3) revise the assessment and plan of care requirements. It is anticipated that implementation of this proposed rule will increase programmatic expenditures in the Medicaid Program for adult mental health services by approximately \$2,194,795 for FY 15-16, \$3,875,381 for FY 16-17, and \$3,991,642 for FY 17-18.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition and employment.



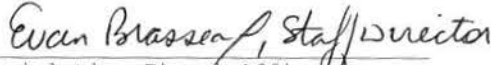
Signature of Agency Head
or Designee

J. Ruth Kennedy, Medicaid Director

Typed name and Title of
Agency Head or Designee



DHH/BHSF Budget Head



Legislative Fiscal Officer
or Designee

10/9/15

Date of Signature

10/8/15

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, which continues the provisions of the December 1, 2015 emergency rule, amends the provisions governing adult mental health services to: 1) provide Medicaid coverage and reimbursement for licensed mental health professional services and mental health rehabilitation services to adult members enrolled in Bayou Health and terminate the behavioral health services rendered under the 1915(i) State Plan authority; 2) establish recipient qualifications criteria; and 3) revise the assessment and plan of care requirements.

- 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 and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health amended the provisions governing adult behavioral health services in order to ensure the provider certification, assessment, and reevaluation criteria are in alignment with the approved Medicaid State Plan (Louisiana Register, Number 41, Volume 2).

The department promulgated an Emergency Rule which amended the provisions governing adult mental health services in order to: 1) provide Medicaid coverage and reimbursement for licensed mental health professional services and mental health rehabilitative services to adult members enrolled in Bayou Health and terminate the behavioral health services rendered under the 1915(i) State Plan authority; 2) establish the recipient qualifications criteria; and 3) revise the assessment and plan of care requirements (Louisiana Register, Volume 41, Number 10). This proposed Rule is being promulgated to continue the provisions of the December 1, 2015 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. This proposed rule will result in an increase in programmatic expenditures in the Medicaid Program by approximately \$2,196,199 for FY 15-16, \$3,875,381 for FY 16-17, and \$3,991,642 for FY 17-18. In FY 15-16, \$702 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) If yes, attach documentation.
(b) X If no, provide justification as to why this rule change should be published at this time.

Act 16 of the 2015 Regular Session of the Louisiana Legislature allocates funds to the Department of Health and Hospitals to provide reimbursements to providers for Medicaid covered services. This rule change should be published at this time to ensure recipients in dire need of adult mental health services will have access to these services.

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 15-16	FY 16-17	FY 17-18
PERSONAL SERVICES			
OPERATING EXPENSES	\$1,404	\$0	\$0
PROFESSIONAL SERVICES			
OTHER CHARGES	\$2,194,795	\$3,875,381	\$3,991,642
REPAIR & CONSTR.			
POSITIONS (#)			
TOTAL	\$2,196,199	\$3,875,381	\$3,991,642

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 programmatic expenditures for adult mental health services. In FY 15-16, \$1,404 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 15-16	FY 16-17	FY 17-18
STATE GENERAL FUND	\$830,993	\$1,469,932	\$1,514,030
SELF-GENERATED			
FEDERAL FUND	\$1,365,206	\$2,405,449	\$2,477,612
OTHER (Specify)			
Total	\$2,196,199	\$3,875,381	\$3,991,642

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 15-16	FY 16-17	FY 17-18
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
RESTRICTED FUNDS*			
FEDERAL FUNDS	\$1,365,206	\$2,405,449	\$2,477,612
LOCAL FUNDS			
Total	\$1,365,206	\$2,405,449	\$2,477,612

***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.

The amounts reflected above are the estimated increases in the federal share of program expenditures for adult mental health services. In FY 15-16, \$702 will be collected for the federal share of the administrative expense for promulgation of this proposed rule and the final rule.

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, which continues the provisions of the December 1, 2015 emergency rule, amends the provisions governing adult mental health services to: 1) provide Medicaid coverage and reimbursement for licensed mental health professional services and mental health rehabilitation services to adult members enrolled in Bayou Health and terminate the behavioral health services rendered under the 1915(i) State Plan authority; 2) establish recipient qualifications criteria; and 3) revise the assessment and plan of care requirements.

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

It is anticipated that implementation of this proposed rule will increase programmatic expenditures in the Medicaid Program for adult mental health services by approximately \$2,194,795 for FY 15-16, \$3,875,381 for FY 16-17, and \$3,991,642 for FY 17-18.

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.

It is anticipated that the implementation of this proposed rule will not have an effect on competition and employment.