

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Medicaid Eligibility Children's Health Insurance Program Reauthorization Act Option for Lawfully Resident Children (LAC 50:III.2329 and 2523)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:III.2329 and to repromulgate the provisions of the June 20, 1998 Rule governing Medicaid Eligibility for non-citizens in order to adopt this Rule into LAC 50:III.2523, 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, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule which adopted provisions to provide regular Medicaid coverage to optional qualified aliens (hereafter referred to as "qualified non-citizens"), who were in the United States prior to August 22, 1996, who meet all eligibility criteria and requiring a five-year waiting period for qualified non-citizens, entering the United States on or after August 22, 1996 (*Louisiana Register*, Volume 24, Number 6).

The Children's Health Insurance Program Reauthorization Act (CHIPRA) of 2009 provides states with the option to eliminate the five-year waiting period and provide coverage under the

Medical Assistance Program to a new eligibility group consisting of children up to age 19 who are lawfully residing in the United States, and for which an enhanced federal medical assistance percentage (FMAP) rate is available.

The Department of Health, Bureau of Health Services Financing hereby amends the provisions governing Medicaid eligibility to adopt the CHIPRA option which will eliminate the five-year waiting period and provide coverage to lawfully residing children. This proposed Rule will also repromulgate the provisions of the June 20, 1998 Rule governing Medicaid eligibility for qualified non-citizens to ensure that these provisions are promulgated in the *Louisiana Administrative Code* in a clear and concise manner.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 3. Eligibility Groups and Factors

Chapter 23. Eligibility Groups and Medicaid Programs

§2329. Lawfully Resident Children

A. The Children's Health Insurance Program Reauthorization Act (CHIPRA) of 2009, Public Law No. 111-3, established provisions which allow states the option of providing Medicaid and Children's Health Insurance Program (CHIP) coverage to children up to age 19 who are lawfully residing in the United States, including those within their first five years of having certain legal status. B. The

Department shall utilize the CHIPRA Option under P.L. 111-3 provisions for the enrollment of children, up to age 19, who are lawfully residing in the United States.

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, Bureau of Health Services Financing, LR 45:

Chapter 25. Eligibility Factors

§2523. Citizenship

A. Qualified Non-Citizens

1. The Department hereby adopts criteria for the coverage of qualified non-citizens pursuant to the provisions of §401 of the Personal and Work Opportunity Act of 1996 (P.L. 104-193) as amended by the Balanced Budget Act of 1997 (P.L. 105-33).

2. The Department elects to provide regular Medicaid coverage to optional qualified non-citizens who were in the United States prior to August 22, 1996, who meet all eligibility criteria.

3. Qualified non-citizens entering the United States on or after August 22, 1996 are not eligible for Medicaid coverage for five years after entry into the United States.

a. Such qualified non-citizens are eligible for emergency services only.

b. Upon expiration of the five-year period, coverage for regular Medicaid services shall be considered if the qualified non-citizen meets all eligibility criteria.

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, Bureau of Health Services Financing, 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 may have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 as it eliminates the waiting period for coverage for lawfully residing children who meet eligibility criteria.

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 may 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 as it reduces the financial burden on families with lawfully residing children in need of healthcare services by eliminating the waiting period for coverage.

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, November 29, 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

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

Person

Preparing

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Rule Title: Medicaid Eligibility
Children's Health Insurance
Program Reauthorization Act
Option for Lawfully Resident
Children

Date Rule Takes Effect: January 20, 2019

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)

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic net savings of \$128,303 for FY 18-19, \$21,909 for FY 19-20 and net costs of \$140,871 for FY 20-21. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 18-19 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 64.67 percent in FY 18-19, 65.79 percent in FYs 19-20 and 20-21, and an enhanced FMAP rate of 98.27 percent in FY 18-19 and 90.43 percent in FYs 19-20 and 20-21 for the projected CHIP population.

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

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$105,953 for FY 18-19 and increase revenue collections by approximately \$1,065,117 for FY 20-21 and \$2,603,273 for FY 20-21. It is anticipated that \$270 will be expended in FY 18-19 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 64.67 percent in FY 18-19, 65.79 percent in FYs 19-20 and 20-21, and an enhanced FMAP rate of 98.27 percent in FY 18-19 and 90.43 percent in FYs 19-20 and 20-21 for the projected CHIP population.

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

This proposed rule amends the provisions governing Medicaid eligibility to allow for the option to eliminate the five-year waiting period for Medicaid coverage of lawfully residing children in compliance with the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA). The proposed rule also repromulgates the provisions of the June 20, 1998 Rule governing Medicaid eligibility for qualified non-citizens to ensure that these provisions are promulgated in the Louisiana Administrative Code in a clear and concise manner. This proposed rule will be beneficial to non-citizen recipients as it eliminates the five-year waiting period for providing Medicaid coverage to lawfully residing children. There are no anticipated economic costs or benefits to providers since this proposed rule does not change payments. It is anticipated that implementation of this proposed rule will result in a net reduction in Medicaid programmatic expenditures by approximately \$234,796 for FY 18-19 and a net increase in expenditures by approximately \$1,043,208 for FY 19-20 and \$2,744,144 for FY 20-21 due to the transition of children from fee-for-service to managed care at the enhanced CHIP match rate. The reduction in FY 19-20 is dependent upon the

phase in of the total population estimated to be eligible under the CHIPRA option (37 per month). To the extent the take up rate is faster than projected, the savings projected in FY 19 would decrease.

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



Legislative Fiscal Officer
or Designee

Jen Steele, Medicaid Director
Typed name and Title of
Agency Head or Designee

10/9/18

Date of Signature



LDH/BHSF Budget Head

10/09/18

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 amends the provisions governing Medicaid eligibility to allow for the option to eliminate the five-year waiting period for Medicaid coverage of lawfully residing children in compliance with the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA). The proposed rule also repromulgates the provisions of the June 20, 1998 Rule governing Medicaid eligibility for qualified non-citizens to ensure that these provisions are promulgated in the Louisiana Administrative Code in a clear and concise manner.

- 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, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule which adopted provisions to provide regular Medicaid coverage to optional qualified aliens (hereafter referred to as "qualified non-citizens"), who were in the United States prior to August 22, 1996, who meet all eligibility criteria and requiring a five-year waiting period for qualified non-citizens, entering the United States on or after August 22, 1996 (Louisiana Register, Volume 24, Number 6).

The Children's Health Insurance Program Reauthorization Act (CHIPRA) of 2009 provides states with the option to eliminate the five-year waiting period and provide coverage under the Medical Assistance Program to a new eligibility group consisting of children up to age 19 who are lawfully residing in the United States, and for which an enhanced federal medical assistance percentage (FMAP) rate is available.

The Department of Health, Bureau of Health Services Financing hereby amends the provisions governing Medicaid eligibility to adopt the CHIPRA option which will eliminate the five-year waiting period and provide coverage to lawfully residing children. This proposed Rule will also repromulgate the provisions of the June 20, 1998 Rule governing Medicaid eligibility for qualified non-citizens to ensure that these provisions are promulgated in the Louisiana Administrative Code in a clear and concise manner.

- 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.

It is anticipated that implementation of this proposed rule will reduce programmatic expenditures in the Medicaid Program by approximately \$234,796 for FY 18-19, and increase expenditures by \$1,043,208 for FY 19-20 and \$2,744,144 for FY 20-21. In FY 18-19, \$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) ☐ If yes, attach documentation.
(b) ☐ If no, provide justification as to why this rule change should be published at this time.

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 18-19	FY 19-20	FY 20-21
PERSONAL SERVICES			
OPERATING EXPENSES	\$540	\$0	\$0
PROFESSIONAL SERVICES			
OTHER CHARGES	(\$234,796)	\$1,043,208	\$2,744,144
REPAIR & CONSTR.			
POSITIONS (#)			
TOTAL	(\$234,256)	\$1,043,208	\$2,744,144

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 reduction in expenditures in FY 18-19 and estimated increases in expenditures in FYs 19-20 and 20-21 in the Medicaid Program. In FY 18-19, \$540 is included for the state's administrative expense for promulgation of this

3. Sources of funding for implementing the proposed rule or rule change.

Source	FY 18-19	FY 19-20	FY 20-21
STATE GENERAL FUND	(\$128,303)	(\$21,909)	\$140,871
SELF-GENERATED			
FEDERAL FUND	(\$105,953)	\$1,065,117	\$2,603,273
OTHER (Specify)			
Total	(\$234,256)	\$1,043,208	\$2,744,144

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 18-19	FY 19-20	FY 20-21
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
RESTRICTED FUNDS*			
FEDERAL FUNDS	(\$105,953)	\$1,065,117	\$2,603,273
LOCAL FUNDS			
Total	(\$105,953)	\$1,065,117	\$2,603,273

**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 reduction in FY 18-19 and estimated increases in FY 19-20 and FY 20-21 in the federal share of Medicaid Program expenditures. In FY 18-19, \$270 is included for the federal 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 amends the provisions governing Medicaid eligibility to allow for the option to eliminate the five-year waiting period for Medicaid coverage of lawfully residing children in compliance with the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA). The proposed rule also repromulgates the provisions of the June 20, 1998 Rule governing Medicaid eligibility for qualified non-citizens to ensure that these provisions are promulgated in the Louisiana Administrative Code in a clear and concise manner.

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

This proposed rule will be beneficial to non-citizen recipients as it eliminates the five-year waiting period for providing Medicaid coverage to lawfully residing children. There are no anticipated economic costs or benefits to providers since this proposed rule does not change payments. It is anticipated that implementation of this proposed rule will result in a net reduction in Medicaid programmatic expenditures by approximately \$234,796 for FY 18-19 and a net increase in expenditures by approximately \$1,043,208 for FY 19-20 and \$2,744,144 for FY 20-21 due to the transition of children from fee-for-service to managed care at the enhanced CHIP match rate. The

reduction in FY 19-20 is dependent upon the phase in of the total population estimated to be eligible under the CHIPRA option (37 per month). To the extent the take up rate is faster than projected, the savings projected in FY 19 would decrease.

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 employment.