

## NOTICE OF INTENT

### Department of Health Bureau of Health Services Financing

#### Medical Transportation Program Emergency Medical Transportation (LAC 50:XXVII.Chapter 3)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50: XXVII.Chapter 3 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) requires reimbursement for emergency ambulance services to transition from the Full Medicaid Pricing program to an approved federal supplemental payment program by July 1, 2023. The Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing reimbursement in the Medical Transportation Program in order to align the reimbursement rates established for emergency ambulance services and providers with current practice for Medicaid managed care and fee-for-service (*Louisiana Register*, Volume 49, Number 5). The department subsequently promulgated a Notice of Intent to continue the provisions of the July 1, 2023 Emergency Rule (*Louisiana Register*, Volume 49, Number 6). After further

discussion with various stakeholders, the department determined that it was necessary to abandon the June 20, 2023 Notice of Intent and promulgated an Emergency Rule in order to amend the provisions of the July 1, 2023 Emergency Rule (*Louisiana Register*, Volume 49, Number 10). This proposed Rule is being promulgated to continue the provisions of the July 1, 2023 and September 11, 2023 Emergency Rules.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part XXVII. Medical Transportation Program**

**Chapter 3. Emergency Medical Transportation**

**Subchapter A. Reserved.**

**Subchapter B. Ground Transportation**

**§325. Reimbursement**

A. The Medicaid reimbursement for ground ambulance services is the rate established in the state fee schedule for emergency ambulance transport, basic life support, advanced life support and mileage, oxygen, intravenous fluids, and disposable supplies administered during the emergency ambulance transport minus the amount paid by any liable third party coverage.

B. - J. ...

K. Effective for dates of service on or after July 1, 2023, the reimbursement rates for emergency ground ambulance transportation services shall be reimbursed based on the Louisiana Medicaid fee schedule.

EXCEPTION: Except as otherwise noted in the plan, state-developed fee schedule rates are established separately for governmental, New Orleans-based governmental, and private providers of ambulance transportation services to account for cost variability across these provider types and to maintain access to care through alignment with historic payment levels.

1. The agency's fee schedule rate, set as of July 1, 2023, is effective for services provided on or after that date. All rates are published on the agency's website at: <https://www.lamedicaid.com>.

2. The fee schedule was established as a function of historical rates in effect as of January 1, 2023 plus an enhancement which was calculated to achieve total fee schedule reimbursement as a percentage of average commercial rates (ACR), with the clarifications listed within Subparagraph a through c below:

a. governmental ambulance providers include those ambulance providers who are owned or operated by a public organization such as state, federal, parish, or city entities;

b. New Orleans-based governmental ambulance providers include ambulance providers located within the city of New Orleans; and

c. private ambulance transportation providers include corporations, limited liability companies, partnerships,

or sole proprietors. Private providers must comply with all state laws and the regulations of any governing state agency, commission, or local entity to which they are subject as a condition of enrollment and continued participation in the Medicaid program.

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, Office of the Secretary, Bureau of Health Services Financing, LR 34:878 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1248 (June 2010), LR 36:2564 (November 2010), LR 37:3029 (October 2011), LR 39:1285 (May 2013), LR 40:1379 (July 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 50:

**§327. Supplemental Payments for Ambulance Providers**

A. Effective for dates of service on or after September 20, 2011, quarterly supplemental payments shall be issued to qualifying ambulance providers for emergency medical transportation services rendered during the quarter if the department has received an appropriation from the legislature for these payments.

B. - H. ...

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 40:1530 (August 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 50:

**§331. Enhanced Reimbursements for Qualifying Emergency Ground Ambulance Service Providers**

A. Emergency Medical Transportation

1. Qualifying emergency ambulance service providers assessed a fee as outlined in LAC 48:I.4001.E.1.a-b shall receive enhanced reimbursement for emergency ground ambulance transportation services rendered during the quarter through the Supplemental Payment Program described in the Medicaid State Plan if the department has received an appropriation from the legislature for these payments.

2. Effective for dates of service on or after July 1, 2019, qualifying emergency ambulance service providers assessed a fee as outlined in LAC 48:I.4001.E.1.a-d shall receive enhanced reimbursement for non-emergency ground ambulance transportation services rendered during the quarter through the Supplemental Payment Program described in the Medicaid State Plan if the department has received an appropriation from the legislature for these payments.

B. - E.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, Bureau of Health Services Financing, LR 42:1890  
(November 2016), amended LR 45:1598 (November 2019), LR 50:

### **Subchapter C. Aircraft Transportation**

#### **§351. Standards for Participation**

A. Rotor winged (helicopters) and fixed winged emergency aircraft must be certified by the Department of Health, Bureau of Health Services Financing in order to receive Medicaid reimbursement. All air ambulance services must be provided in accordance with state laws and regulations governing the administration of these services.

B. ...

C. Prior Approval. Prior approval shall not be required for emergency air ambulance transportation services, including mileage. Approval shall be done during post payment review and shall not be completed prior to service delivery. Claims for payment of emergency air ambulance transportation services are received and reviewed retrospectively. The clinical documentation for each emergency air ambulance transportation service shall not be required for submission concurrent with the

claim. If required, clinical documentation shall be required post claim submission.

1. Air ambulance claims will be reviewed and a determination will be made based on the following requirements. Air ambulance services are covered only if:

a. speedy admission of the beneficiary is essential and the point of pick-up of the beneficiary is inaccessible by a land vehicle; or

b. great distance or other obstacles are involved in getting the beneficiary to the nearest hospital with appropriate 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, Office of the Secretary, Bureau of Health Services Financing, LR 35:70 (January 2009), amended by the Department of Health, Bureau of Health Services Financing, LR 50:

**§353. Reimbursement**

A.- B. ...

C. If a ground ambulance must be used for part of the transport, the ground ambulance provider will be reimbursed separately according to the provisions governing emergency ground transportation.

D. - I.2. ...

J. The reimbursement rates for emergency and non-emergency, rotor winged and fixed winged air ambulance transportation services shall be reimbursed based on the Louisiana Medicaid fee schedule. These rates include both in state and out-of-state air ambulance transportation. The agency's fee schedule rate was set as of January 1, 2022 and is effective for services provided on or after that date. All rates are published on the agency's website at:  
<https://www.lamedicaid.com>.

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, Office of the Secretary, Bureau of Health Services Financing, LR 35:70 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2564 (November 2010), amended LR 37:3029 (October 2011), LR 39:1285 (May 2013), LR 40:1379 (July 2014), LR 42:277 (February 2016), amended by the Department of Health, Bureau of Health Service Financing, LR 50:

**§355. Supplemental Payments for Ambulance Providers**

A. Effective for dates of service on or after September 20, 2011, quarterly supplemental payments shall be issued to qualifying ambulance providers for emergency medical air



transportation services rendered during the quarter if the department has received an appropriation from the legislature for these payments.

B. - H. ...

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 40:1531 (August 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 50:

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.

#### **Family Impact Statement**

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.

#### **Poverty Impact Statement**

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.

#### **Small Business Analysis**

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses.

#### **Provider Impact Statement**

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.

#### **Public Comments**

Interested persons may submit written comments to Kimberly Sullivan, JD, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Sullivan is responsible for responding to inquiries regarding this proposed Rule. The

deadline for submitting written comments is at 4:30 p.m. on November 29, 2023.

### **Public Hearing**

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on November 9, 2023. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on November 28, 2023 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after November 9, 2023. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Stephen R. Russo, JD

Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

Person Preparing Statement:	<u>Lyrica Johnson</u>	Dept.:	<u>Health</u>
			<u>Bureau of Health Services</u>
Phone:	<u>342-6375</u>	Office:	<u>Financing</u>
Return Address:	<u>P.O. Box 91030</u>	Rule Title:	<u>Medical Transportation Program</u>
	<u>Baton Rouge LA</u>		<u>Emergency Medical Transportation</u>
		Date Rule Takes Effect:	<u>July 1, 2023</u>

**SUMMARY**  
(Use complete sentences)

In accordance with Section 961 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 STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND 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 implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 23-24. It is anticipated that \$1,188 (\$594 SGF and \$594 FED) will be expended in FY 23-24 for the state's administrative expense for promulgation of this proposed rule and the final rule.

This proposed rule continues Emergency Rule provisions and is necessary to comply with the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) requirement that reimbursement for emergency ambulance services transition from the Full Medicaid Pricing program to an approved federal supplemental payment program.

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

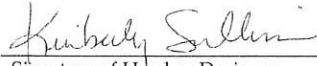
It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 23-24. It is anticipated that \$594 will be collected in FY 23-24 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

The Department of Health promulgated an Emergency Rule and published a Notice of Intent in the June 20, 2023 edition of the Louisiana Register, which amended the provisions governing reimbursement in the Medical Transportation Program effective July 1, 2023 in order to align the reimbursement rates established for emergency ambulance services and providers with current practice for Medicaid managed care and fee-for-service. However, after further discussions with stakeholders, the Department decided not to proceed with the June 2023 Notice of Intent and to issue an amended Emergency Rule on September 11, 2023. This proposed rule continues the emergency provisions and is necessary to comply with the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) requirement that reimbursement for these services transition from the Full Medicaid Pricing program to an approved federal supplemental payment program. Implementation of this proposed rule is not anticipated to result in costs or benefits to emergency medical transportation providers or small businesses and will not result in a fiscal impact in FY 23-24, FY 24-25, and FY 25-26.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.



Signature of Head or Designee

Kimberly Sullivan, JD

Interim Medicaid Executive Director

Typed Name & Title of Agency Head or Designee

10/10/2023

Date of Signature

 Debra Thomas, Deputy Fiscal Officer

Legislative Fiscal Officer or Designee

10/10/2023

Date of Signature