

**NOTICE OF INTENT**

**Department of Health  
Bureau of Health Services Financing**

**Home Health Program  
American Rescue Plan Act  
(LAC 50:XIII.801)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XIII.801 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 the Department of Health's administration and payment model for funds provided under section 9817 of the American Rescue Plan Act of 2021 (ARPA) to agencies that provide home health care services. In compliance with the CMS-approved model for administering ARPA funds, the Department of Health, Bureau of Health Services Financing adopted provisions governing ARPA funding in the Home Health Program in order to establish recruitment and retention payments for nurses that provide extended home health services to beneficiaries under the age of 21 who are in a Medicaid waiver program (*Louisiana Register*, Volume 49, Number 5). The department now proposes to amend the provisions governing

nursing recruitment and retention payments in the Home Health Program as a result of the decision by CMS to continue to provide funding under ARPA through March 2025.

**Title 50**  
**PUBLIC HEALTH-GENERAL**  
**Part XIII. Home Health Program**  
**Subpart 1. Home Health Services**

**Chapter 8. American Rescue Plan Act Funding**

**§801. Nursing Recruitment and Retention Payments**

A. General Provisions

1. Nurses that provide extended home health (EHH) services may be eligible to receive recruitment and retention bonuses through March 2025.

2. - 4. ...

5. HHAs shall disburse the entire payment to the nurse and are prohibited from reducing the payment for any purpose other than required state or federal withholdings.

A.6. - C.2. ...

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 49:875 (May 2023), amended 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 may have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972, by reducing the waiting time needed to receive extended home health services, thereby, increasing the percentage of prior authorized nursing hours that are filled.

#### **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 may have a positive impact on small businesses, since the additional

financial support may increase the hiring ability of home health agencies.

### **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 and indirect cost to the provider to provide the same level of service, but may have a positive impact on the provider's ability to provide the same level of service as described in HCR 170, since this proposed Rule provides additional financial support which may increase the hiring ability of home health agencies.

### **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>Home Health Program</u>
	<u>Baton Rouge LA</u>		<u>American Rescue Plan Act</u>
		Date Rule Takes Effect:	<u>January 20, 2024</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 result in estimated programmatic costs of approximately \$961,020 for FY 23-24 and \$2,883,750 for FY 24-25. It is anticipated that \$540 (\$270 SCF and \$270 FED) will be expended in FY 23-24 for the state's administrative expense for promulgation of this proposed and final rule.

This proposed rule amends the provisions in the Home Health Program governing recruitment and retention payments funded under the American Rescue Plan Act of 2021 (ARPA) for nurses that provide extended home health services to beneficiaries under the age of 21 who are in a Medicaid waiver program. These payments were due to expire in April 2024; however, the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services made the decision to extend the funding for these services under ARPA through March 2025.

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

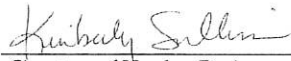
It is anticipated that implementation of this proposed rule will increase federal revenue collections by approximately \$961,020 for FY 23-24 and \$2,883,750 for FY 24-25. It is anticipated that \$270 will be collected for the federal share of the expense for promulgation of the proposed and final rule.

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

This proposed rule amends the provisions in the Home Health Program governing recruitment and retention payments funded under the American Rescue Plan Act of 2021 (ARPA) for nurses that provide extended home health services to beneficiaries under the age of 21 who are in a Medicaid waiver program. These payments were due to expire in April 2024; however, the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services made the decision to extend the funding for these services under ARPA through March 2025. This proposed rule continues the administrative fee home health agencies receive to make recruitment and retention payments to nurses which may reduce the beneficiaries' waiting time to receive extended home health services and increase the percentage of prior authorized nursing hours that are filled. Implementation of this proposed rule is anticipated to increase expenditures for home health services by approximately \$1,921,500 for FY 23-24 and \$5,767,500 for FY 24-25.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule continues the administrative fee provided under ARPA to home health agencies for recruitment and retention payments to nurses that provide extended home health services to pediatric Medicaid waiver participants, which will make it easier to hire and retain nurses to provide these services.



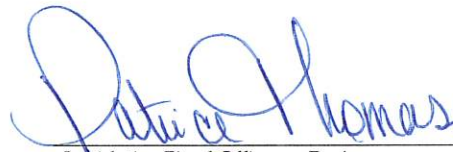
Signature of Head or Designee

Kimberly Sullivan, JD  
Interim Medicaid Executive Director

Typed Name & Title of Agency Head or Designee

10/10/2023

Date of Signature

 Deputy Fiscal Officer

Legislative Fiscal Officer or Designee

10/10/2023

Date of Signature