

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Medical Transportation Program
Non-Emergency Medical Transportation
American Rescue Plan Act
(LAC 50:XXVII.531)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XXVII.531 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 use of funds provided under the American Rescue Plan Act of 2021 (ARPA) for bonus payments to providers of non-emergency medical transportation (NEMT) services. The Department of Health, Bureau of Health Services Financing adopted provisions in the Medical Transportation Program in order to establish guidelines for the administration and distribution of ARPA bonus payment funds to eligible NEMT providers (*Louisiana Register*, Volume 49, Number 5). The department promulgated an Emergency Rule which amended the provisions governing ARPA bonus payments in order to establish the guidelines that will be utilized to oversee the administration and distribution of ARPA bonus payment funds to

eligible NEMT providers by the Medicaid managed care organizations (*Louisiana Register*, Volume 49, Number 10). This proposed Rule is being promulgated to continue the provisions of the December 1, 2023 Emergency Rule.

Title 50
PUBLIC HEALTH-GENERAL
Part XXVII. Medical Transportation Program

Chapter 5. Non-Emergency Medical Transportation

Subchapter E. Non-Emergency Medical Transportation American Rescue Plan Act

§531. Non-Emergency Medical Transportation Bonus Payments

A. ...

1. Non-emergency medical transportation (NEMT) providers that are fully credentialed in the Medicaid Program may be eligible to receive a bonus payment under the Department of Health's (LDH) American Rescue Plan Act (ARPA) NEMT Program until the program's federal funds are exhausted or through the conclusion of the program.

2. Fully credentialed NEMT providers who meet all eligibility requirements are entitled to a monthly disbursement of \$500 per vehicle, for up to three vehicles per month, totaling a maximum payment of \$1,500 per month per transportation provider. The managed care organization (MCO) will determine eligibility for monthly payments based on the NEMT provider's ongoing compliance for all provider, driver, and

vehicle requirements set forth by the Medicaid Program and the LDH ARPA NEMT Program.

3. ...

4. The MCO will provide a weekly report to LDH containing all newly acquired NEMT providers. LDH will assign each active NEMT provider to an affiliated MCO.

5. The MCO will administer all payments for the LDH ARPA NEMT Program.

a. - e. Repealed.

6. In order to receive payments under the LDH ARPA NEMT Program, the NEMT provider shall do the following:

a. accede to all provisions of the LDH ARPA NEMT Program and execute a contractual agreement with the MCO, solely for the distribution of ARPA funds;

b. maintain ongoing compliance for all provider, driver, and vehicle requirements set forth by the Medicaid Program;

c. submit reporting and credentialing documentation for all drivers and vehicles within their individual company used for NEMT services on a monthly basis. Failure to meet both LDH and the MCO's time requirements shall result in loss of the monthly bonus payment; and

d. submit a monthly attestation to the MCO which certifies the accuracy of the submitted supporting and credentialing documentation.

7. NEMT services are ineligible and shall not be submitted as a completed service if the status of the NEMT service rendered results in one of the following:

- a. the provider is a no-show;
- b. no NEMT vehicle is available;
- c. no NEMT driver is available; or
- d. the NEMT provider is late which causes the beneficiary to miss his or her scheduled Medicaid covered service.

B. - B.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 49:877 (May 2023), 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 or 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 a positive impact on small businesses as it increases reimbursement to eligible non-emergency medical transportation providers.

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, but may reduce the total direct and indirect cost to the provider to provide the same level of service, and may enhance the provider's ability to provide the same level of service as described in HCR 170 since this proposed Rule increases payments to providers for the services they already render.

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. 49:953(A)(2)(a) 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</u>
	<u>Baton Rouge LA</u>		<u>Program</u>
			<u>Non-Emergency Medical</u>
			<u>Transportation</u>
			<u>American Rescue Plan Act</u>
		Date Rule Takes Effect:	<u>December 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 result in increased state costs of approximately \$892,978 for FY 23-24 and \$1,083,315 for FY 24-25. It is anticipated that \$864 (\$432 SGF and \$432 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 the provisions of the December 1, 2023 Emergency Rule, which amended the provisions in the Medical Transportation Program governing bonus payments to providers of non-emergency medical transportation (NEMT) services in order to establish the guidelines the department will utilize to oversee the administration and distribution of American Rescue Plan Act (ARPA) bonus payment funds to eligible NEMT providers by the Medicaid managed care organizations (MCOs).

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

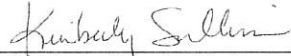
It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$1,908,470 for FY 23-24 and \$2,315,853 for FY 24-25. It is anticipated that \$432 will be collected in FY 23-24 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

This proposed rule continues the provisions of the December 1, 2023 Emergency Rule, which amended the provisions in the Medical Transportation Program governing bonus payments to providers of non-emergency medical transportation (NEMT) services in order to establish the guidelines the department will utilize to oversee the administration and distribution of American Rescue Plan Act (ARPA) bonus payment funds to eligible NEMT providers by the Medicaid managed care organizations (MCOs). This proposed rule will ensure that the ARPA bonus payments are made appropriately to eligible NEMT providers by the MCOs and that these providers continue rendering services to Medicaid beneficiaries. Implementation of this proposed rule is anticipated to increase expenditures for NEMT services by approximately \$2,800,584 for FY 23-24 and \$3,399,168 for FY 24-25.

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

 Patrice Thomas, Deputy Fiscal Officer

Legislative Fiscal Officer or Designee

10/10/2023

Date of Signature