

NOTICE OF INTENT

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

**Managed Care for Physical and Behavioral Health
Reimbursement Methodology
Kick and Lump Sum Payments
(LAC 50:I.3509)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:I.3509 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, Bureau of Health Services Financing currently provides a one-time supplemental lump sum payment, hereafter referred to as a "kick payment", to managed care organizations (MCOs) participating in the Healthy Louisiana Program to cover the cost of prenatal care, deliveries and postpartum care for MCO members. The department has now determined that it is necessary to amend the provisions governing MCO reimbursement to allow for expansion of the current kick payment methodology to include reimbursements for specific care events, services, and treatments in addition to obstetrical deliveries and for reimbursement of the MCO monthly capitation and kick payments in the aggregate on a lump sum basis when administratively necessary.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 3. Managed Care for Physical and Behavioral Health

Chapter 35. Managed Care Organization Participation Criteria

§3509. Reimbursement Methodology

A. ...

1. The department will establish monthly capitation rates within an actuarially sound rate range certified by its actuaries. Consistent with all applicable federal rules and regulations, the rate range will initially be developed using fee-for-service claims data, Bayou Health shared savings claims data, Bayou Health managed care organization encounter data, Louisiana Behavioral Health Partnership (LBHP) encounter data, financial data reported by Bayou Health managed care organizations and the LBHP statewide management organization, supplemental ad hoc data, and actuarial analyses with appropriate adjustments.

2. As the Bayou Health managed care program matures and fee-for-service, shared savings and LBHP data are no longer available, there will be increasing reliance on Bayou Health managed care organization encounter data and/or financial data to set future rates, subject to comparable adjustments.

3. - 4.d. ...

5. Kick Payments. MCOs may be reimbursed a one-time

supplemental lump sum payment, hereafter referred to as a "kick payment", for the provision of certain services that meet specific conditions, in an amount determined by the department's actuaries.

a. The kick payment is intended to cover the cost of a specific care event or treatment. Payment will be made to the MCO upon submission of satisfactory evidence of the event or treatment.

b. Only one kick payment will be made per event or treatment.

c. Repealed.

6. ...

7. The department, or its fiscal intermediary, may reimburse an MCO's monthly capitation payments or kick payments in the aggregate on a lump sum basis when administratively necessary.

B. - M.1. ...

2. If three attempts to contract with the provider prior to the delivery of the medically necessary service have not been documented, the MCO shall reimburse the provider the published Medicaid fee-for-service rate in effect on the date of service.

M.3. - N.2.a. ...

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 37:1587 (June 2011), amended LR 39:92 (January 2013), LR 41:937 (May 2015), LR 41:2367 (November 2015), LR 42:755 (May 2016), amended 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.

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 Act 820 of the 2008 Regular Session of the Louisiana Legislature, 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, as described in R.S. 49:965.2 et seq.

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 Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on October 30, 2019.

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 October 10, 2019. 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 October 30, 2019 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 October 10, 2019. 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. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Rebekah E. Gee MD, MPH

Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

Person
Preparing

Statement: Veronica Dent
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Dept.: Health
Office: Bureau of Health Services
Financing

Return P.O. Box 91030
Address: Baton Rouge, LA

Rule Title: Managed Care for Physical
and Behavioral Health
Reimbursement Methodology
Kick and Lump Sum Payments

Date Rule Takes Effect: December 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 a budget neutral fiscal impact to the state since it allows the department to expand current kick payment provisions to reimburse managed care organizations (MCOs) for specified care events, services, or treatments in addition to obstetrical deliveries. The costs for these treatments are currently included in the MCO per member, per month rates and may instead be reimbursed via a one-time kick payment. It is anticipated that \$648 (\$324 SGF and \$324 FED) will be expended in FY 19-20 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

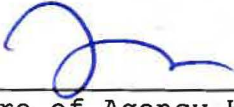
It is anticipated that \$324 will be collected in FY 19-20 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

This proposed rule amends the provisions governing reimbursement to the managed care organizations (MCOs) participating in the Healthy Louisiana program to allow for expansion of the current kick payment methodology to include reimbursements for specific care events, services, and treatments in addition to obstetrical deliveries and for reimbursement of the MCO monthly capitation and kick payments in the aggregate on a lump sum basis when administratively necessary. Implementation of this proposed Rule will be beneficial to MCO members that have been diagnosed with, and are receiving treatment for conditions the department deems appropriate for kick payment reimbursement. It is anticipated that implementation of this proposed rule will not result in increased costs, as it seeks only to broaden the available payment methodologies for services whose costs are already incorporated into capitation rates. The proposed rule will be beneficial to MCOs by providing discrete, lump-sum, one-time payments to cover the costs of these specific treatments as outlined in the kick payment methodology.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.



Signature of Agency Head
or Designee

Jen Steele, Medicaid Director

Typed name and Title of
Agency Head or Designee



LDH/BHSF Budget Head

Evan Brassuf, Staff Director

Legislative Fiscal Officer
or Designee

9/10/19

Date of Signature

09/10/19

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 reimbursement to the managed care organizations (MCOs) participating in the Healthy Louisiana program to allow for expansion of the current kick payment methodology to include reimbursements for specific care events, services, and treatments in addition to obstetrical deliveries and for reimbursement of the MCO monthly capitation and kick payments in the aggregate on a lump sum basis when administratively necessary.

- 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, Bureau of Health Services Financing currently provides a one-time supplemental lump sum payment, hereafter referred to as a "kick payment", to managed care organizations (MCOs) participating in the Healthy Louisiana Program to cover the cost of prenatal care, deliveries and postpartum care for MCO members. The department has now determined that it is necessary to amend the provisions governing MCO reimbursement to allow for expansion of the current kick payment methodology to include reimbursements for specific care events, services, and treatments in addition to obstetrical deliveries and for reimbursement of the MCO monthly capitation and kick payments in the aggregate on a lump sum basis when administratively necessary.

- 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.

No. It is anticipated that the implementation of this proposed rule will result in a budget neutral fiscal impact to the state since it allows the department to expand current kick payment provisions to reimburse managed care organizations (MCOs) for specified care events, services, or treatments in addition to obstetrical deliveries. The costs for these treatments are currently included in the MCO per member, per month rates and may instead be reimbursed via a one-time kick payment. In FY 19-20, \$648 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 19-20 | FY 20-21 | FY 21-22 |
|-----------------------|--------------|------------|------------|
| PERSONAL SERVICES | | | |
| OPERATING EXPENSES | \$648 | \$0 | \$0 |
| PROFESSIONAL SERVICES | | | |
| OTHER CHARGES | | | |
| REPAIR & CONSTR. | | | |
| POSITIONS (#) | | | |
| TOTAL | \$648 | \$0 | \$0 |

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.

In FY 19-20, \$648 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 19-20 | FY 20-21 | FY 21-22 |
|--------------------|--------------|------------|------------|
| STATE GENERAL FUND | \$324 | \$0 | \$0 |
| SELF-GENERATED | | | |
| FEDERAL FUND | \$324 | \$0 | \$0 |
| OTHER (Specify) | | | |
| Total | \$648 | \$0 | \$0 |

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 19-20 | FY 20-21 | FY 21-22 |
|---------------------------|--------------|------------|------------|
| STATE GENERAL FUND | | | |
| AGENCY SELF-GENERATED | | | |
| RESTRICTED FUNDS* | | | |
| FEDERAL FUNDS | \$324 | \$0 | \$0 |
| LOCAL FUNDS | | | |
| Total | \$324 | \$0 | \$0 |

***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.

In FY 19-20, \$324 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 amends the provisions governing reimbursement to the managed care organizations (MCOs) participating in the Healthy Louisiana program to allow for expansion of the current kick payment methodology to include reimbursements for specific care events, services, and treatments in addition to obstetrical deliveries and for reimbursement of the MCO monthly capitation and kick payments in the aggregate on a lump sum basis when administratively necessary.

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

Implementation of this proposed Rule will be beneficial to MCO members that have been diagnosed with, and are receiving treatment for, conditions the department deems appropriate for kick payment reimbursement. It is anticipated that implementation of this proposed rule will not result in increased costs, as it seeks only to broaden the available payment methodologies for services whose costs are already incorporated into capitation rates. The proposed rule will be beneficial to MCOs by providing discrete, lump-sum, one-time payments to cover the costs of these specific treatments as outlined in the kick payment methodology.

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.