

**NOTICE OF INTENT**

**Department of Health  
Bureau of Health Services Financing  
and  
Office for Citizens with Developmental Disabilities**

**Home and Community-Based Services Waivers  
Residential Options Waiver  
(LAC 50:XXI.Chapters 161, 163 and S16901)**

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:Chapters 161, 163 and S16901 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 Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities (OCDD) propose to amend the provisions governing the Residential Options Waiver (ROW) in order to restore the minimum age for access to the ROW and delete the grandfather clause for participants under age 21, add the monitored in-home caregiving service, change units for specific services to a 15 minute rate and clarify and align provisions of the ROW with other OCDD home and community-based services waivers.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part XXI. Home and Community Based Services Waivers**  
**Subpart 13. Residential Options Waiver**

**Chapter 161. General Provisions**

**§16101. Introduction**

A. ...

B. The goal of the Residential Options Waiver is to promote independence through strengthening the individual's capacity for self-care, self-sufficiency and community integration utilizing a wide array of services, supports and residential options, which best meets the individual's needs and preferences, while supporting the dignity, quality of life, and security in the everyday life of the individual as he/she is a member of his/her community.

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 for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2154 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:

**§16103. Program Description**

A. The ROW is designed to utilize the principles of self-determination and to supplement the family and/or community supports that are available to maintain the individual in the community and are designed to allow an individual experience that mirrors the experiences of individuals without disabilities. These services are not to be restrictive, but liberating, by empowering individuals to experience life in the most fulfilling manner as defined by the individual while still assuring health and safety. In keeping with the principles of self-determination, ROW includes a self-direction option, which allows for greater flexibility in hiring, training and general service delivery issues. ROW services are meant to enhance, not replace existing informal networks.

B. ROW offers an alternative to institutional care that:

1. utilizes a wide array of services, supports and residential options, which best meet the individual's needs and preferences;

B.2. - D. ...

E. The total expenditures available for each waiver participant is established through an assessment of individual support needs and may not exceed the approved ICF/ID ICAP rate/ROW budget level established for that individual except as approved by Office for Citizens with Developmental Disabilities'

(OCDD's) assistant secretary, deputy assistant secretary or his/her designee to prevent institutionalization.

1. When the department determines that it is necessary to adjust the ICF/ID ICAP rate, each waiver participant's annual service budget may be adjusted to ensure that the participant's total available expenditures do not exceed the approved ICAP rate.

F. ...

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 for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2154 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:

**\$16104. Settings for Home and Community Based Services**

A. ROW participants are expected to be integrated in and have full access to the greater community while receiving services, to the same extent as individuals without disabilities. Providers shall meet the requirements of the Centers for Medicare and Medicaid Services (CMS) home and

community-based setting requirements for home and community-based services (HCBS) waivers as delineated in LAC 50:XXI, Subpart 1 or any subsequent rule.

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 and the Office for Citizens with Developmental Disabilities, LR 45:

**§16105. Participant Qualifications**

A. In order to qualify for Residential Options Waiver (ROW), individuals of all ages must meet all of the following criteria:

1. - 8. ...

B. Individuals age 18 through 20 may be offered a funded ROW opportunity if the results of the uniform needs-based assessment and person-centered planning discussion determine that the ROW is the most appropriate waiver. These offers are subject to the approval of the OCDD assistant secretary/designee.

C. Repealed.

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 for Citizens with Developmental

Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2155 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2530 (December 2017), LR 45:

**\$16107. Programmatic Allocation of Waiver Opportunities**

A. - B.2. ...

3. Individuals on the registry who have the highest level of need and the earliest registry date shall be notified in writing when a funded OCDD waiver opportunity is available and that he/she is next in line to be evaluated for a possible waiver assignment. Participants shall have justification, based on a uniform needs-based assessment and a person-centered planning discussion that the ROW is the OCDD waiver that will meet the needs of the individual.

B.4. - C. ...

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 for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services

Financing and the Office for Citizens with Developmental Disabilities, LR 41:2155 (October 2015), LR 42:62 (January 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2530 (December 2017), LR 45:

**\$16109. Admission, Denial or Discharge Criteria**

A. Admission to the ROW Program shall be denied if one of the following criteria is met.

1. - 7. ...

8. The individual does not have justification, based on a uniform needs-based assessment and a person-centered planning discussion that the ROW is the OCDD waiver that will meet the needs of the individual.

B. - B.10. ...

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 for Citizens with Developmental Disabilities, LR 33:2443 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2156 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:

**Chapter 163. Covered Services**

**§16303. Community Living Supports**

A. - E.6. ...

7. Community living supports services are not available to individuals receiving the following services:

- a. ...
- b. home host;
- c. companion care; or
- d. monitored in-home caregiving.

8. Community living supports cannot be billed or provided for during the same hours on the same day that the participant is receiving the following services:

- a. - c. ...
- d. respite out-of-home services;
- e. transportation-community access;
- f. monitored in-home caregiving; or
- g. adult day health care.

F. - F.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 and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2443 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services

Financing and the Office for Citizens with Developmental Disabilities, LR 41:2157 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:

**§16305. Companion Care**

A. - F. ...

1. Companion care is not available to individuals receiving the following services:

a. - b. ...

c. community living supports;

d. host home; or

e. monitored in-home caregiving.

G. ...

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 for Citizens with Developmental Disabilities, LR 33:2444 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2158 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:

**§16307. Day Habilitation Services**

A. - A.3. ...

B. Day habilitation services shall:

1. - 3. ...

4. be furnished on a regularly scheduled basis for one or more days per week;

a. services are based on a 15 minute unit of service and on time spent at the service site by the participant;

b. services shall not exceed 32 units of service on any given day or 160 units in any given week in a plan of care;

c. any time less than the 15 minute unit of service is not billable or payable; and

d. no rounding up of hours is allowed.

e. Repealed.

C. - E.2. ...

3. Day habilitation services cannot be billed or provided during the same hours on the same day as any of the following services:

a. ...

b. professional services, except those direct contacts needed to develop a behavioral management plan or any other type of specialized assessment/plan;

c. respite care services-out of home;

- d. adult day health care; or
- e. monitored in-home caregiving.

F. ...

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 for Citizens with Developmental Disabilities, LR 33:2445 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2158 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:

**§16313. Host Home**

A. - I.1. ...

2. Separate payment will not be made for the following residential service models if the participant is receiving host home services:

- a. - b. ...
- c. shared living-conversion;
- d. companion care; or
- e. monitored in-home caregiving.

I.3. - J.2. ...

3. Agencies serving adults must be licensed by the Department of Health as a provider of substitute family care 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 for Citizens with Developmental Disabilities, LR 33:2447 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2160 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:

**§16319. One Time Transitional Services**

A. One-time transitional services are one-time, set-up services to assist individuals in making the transition from an institution to their own home or apartment in the community of their choice.

B. - E. ...

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 for Citizens with Developmental Disabilities, LR 33:2449 (November 2007), amended by the

Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2162 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:

**\$16323. Prevocational Services**

A. Prevocational services are time limited with employment at the individual's highest level of work in the most integrated community setting, with the job matched to the individual's interests, strengths, priorities, abilities and capabilities, with integrated competitive employment as the optimal outcome. Individuals receiving prevocational services may choose to pursue employment opportunities at any time. Career planning must be a major component of prevocational services.

1. - 2.b. Repealed.

B. Prevocational services are to be provided in a variety of locations in the community and are not to be limited to a fixed site facility. Activities associated with prevocational services should be focused on preparing the participant for paid employment or a volunteer opportunity in the community. These services are operated through a provider agency that is licensed by the appropriate state licensing agency. Services are

furnished one or more hours per day on a regularly scheduled basis for one or more days per week.

1. - 1.c. Repealed.

C. Participants receiving services must have an employment related goal in their plan of care, and the general habilitation activities must be designed to support such employment goals. Prevocational services are designed to create a path to integrated community-based employment for which a participant is compensated at or above minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals without disabilities.

1. Repealed.

D. Prevocational services can include assistance in personal care and with activities of daily living. Choice of this service and staff ratio needed to support the participant must be documented on the plan of care.

1. - 3. Repealed.

E. All transportation costs are included in the reimbursement for prevocational services. The participant must be present to receive this service. If a participant needs transportation, the provider must physically provide, arrange, or pay for appropriate transport to and from a central location that is convenient for the participant and agreed upon by the

team. The participant's transportation needs and this central location shall be documented in the plan of care.

1. - 5. Repealed.

F. Service Limitations

1. Services shall not exceed 8,320 units of service in a plan of care.

2. Prevocational services are not available to participants who are eligible to participate in programs funded under the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act.

3. Multiple vocational/habilitative services cannot be provided or billed for during the same hours on the same day as the following services:

a. community living supports;  
b. professional services, except those direct contacts needed to develop a behavioral management plan or other type of specialized assessment/plan;

c. respite care services-out of home;  
d. adult day healthcare; or  
e. monitored-in-home caregiving.

4. Transportation to and from the service site is only payable when a vocational/habilitative service is provided on the same day.

a. Time spent in traveling to and from the prevocational program site shall not be included in the calculation of the total number of service hours provided per day.

b. During travel training, providers must not also bill for the transportation component as this is included in the rate for the number of service hours provided.

c. Transportation-community access shall not be used to transport ROW participants to any prevocational services

G. Restrictions.

1. Participants receiving prevocational services may also receive day habilitation or individualized supported employment services, but these services cannot be provided during the same time period of the day and cannot total more than five hours combined in the same service day. Group supported employment services cannot be provided on the same day, but can be utilized on a different service day.

H. There must be documentation in the participant's file that this service is not available from programs funded under section 110 of the Rehabilitation Act of 1973 or sections 602 (16) or (17) of the Individuals with Disabilities Education Act [230 U.S.C. 1401 (16 and 71)] and those covered under the state plan.

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 for Citizens with Developmental Disabilities, LR 33:2450 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2162 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:

**§16327. Respite Care Services-Out of Home**

A. - C.1. ...

2. Respite care services-out of home may not be billed for participants receiving the following services:

- a. ...
- b. companion care;
- c. host home; or
- d. monitored in-home caregiving.

D. ...

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 for Citizens with Developmental Disabilities, LR 33:2451 (November 2007), amended by the

Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2164 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:

**§16329. Shared Living Services**

A. - D.5. ...

6. The following services are not available to participants receiving shared living services:

a. - c. ...

d. host home;

e. personal emergency response system; or

f. monitored in-home caregiving.

E. ...

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 for Citizens with Developmental Disabilities, LR 33:2452 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2164 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:

## **§16335. Supported Employment**

A. Supported employment services consists of intensive, ongoing supports and services necessary for a participant to achieve the desired outcome of employment in a community setting in the state of Louisiana where a majority of the persons employed are without disabilities. Participants utilizing these services may need long-term supports for the life of their employment due the nature of their disability, and natural supports would not meet this need.

B. Supported employment services provide supports in the following areas:

1. individual job, group employment or self-employment;
2. job assessment, discovery and development; and
  - a. - a.iv. Repealed.
3. initial job support and job retention, including assistance in personal care with activities of daily living in the supported employment setting and follow-along.
4. - 5. Repealed.

C. When supported employment services are provided at a work site where a majority of the persons employed are without disabilities, payment is only made for the adaptations, supervision and training required by participants receiving the service as a result of their disabilities. It does not include

payment for the supervisory activities rendered as a normal part of the business setting.

1. - 4. Repealed.

D. Transportation is included in supported employment services, but whenever possible, family, neighbors, friends, coworkers or community resources that can provide needed transportation without charge should be utilized.

1. - 8. Repealed.

E. These services are also available to those participants who are self-employed. Funds for self-employment may not be used to defray any expenses associated with setting up or operating a business.

F. Supported employment services may be furnished by a coworker or other job-site personnel under the following circumstances:

1. the services furnished are not part of the normal duties of the coworker or other job-site personnel; and
2. these individuals meet the pertinent qualifications for the providers of service.

G. Service Limits. Participants may receive more than one vocational or habilitative service per day as long as the service and billing requirements for each service are met.

1. Services for individual/micro-enterprise job assessment, discovery and development in individual jobs and

self-employment shall not exceed 2,880 units of service in a plan of care year.

2. Services for group job assessment, discovery and development in group employment shall not exceed 480 units of service in a plan of care year.

3. Services for initial job support, job retention and follow-along for individual/micro-enterprise shall not exceed 1280 quarter hour units of service in a plan of care year.

4. Services for initial job support, job retention and follow-along in group employment shall not exceed 8,320 quarter hour units of service in a plan of care year.

H. Service Exclusions/Restrictions. Participants receiving individual supported employment services may also receive prevocational or day habilitation services. However, these services cannot be provided during the same service hours and cannot total more than five hours of services in the same day. Participants receiving group supported employment services may also receive prevocational or day habilitation services; however, these services cannot be provided in the same service day.

1. Payment will only be made for the adaptations, supervision and training required by individuals receiving waiver services, and will not include payment for the

supervisory activities rendered as a normal part of the business setting.

2. Any time less than one hour for individual placement and micro-enterprise is not billable or payable.

3. Supported employment services cannot be billed for the same time as any of the following services:

- a. community living supports;
- b. professional services except direct contacts needed to develop a behavioral management plan; or
- c. respite care services-out of home,;
- d. adult day health care; or
- e. monitored in-home caregiving.

4. Any time less than fifteen minutes for enclaves and mobile crews is not billable or payable.

5. Time spent in traveling to and from the prevocational program site shall not be included in the calculation of the total number of service hours provided per day.

- a. Travel training for the purpose of teaching the participant how to use transportation services may be included in determining the total service numbers hours provided per day, but only for the period of time specified in the POC.

6. The following incentive payments, subsidies or unrelated vocational training expenses are excluded from coverage in supported employment services:

- a. incentive payments made to an employer to encourage or subsidize the employer's participation in a supported employment program;
- b. payments that are passed through to users of supported employment programs; or
- c. payments for vocational training that is not directly related to an individual's supported employment program.

7. There must be documentation in the participant's file that these services are not available from programs funded under the Rehabilitation Act of 1973 or sections 602 (16) or (17) of the Individuals with Disabilities Education Act [230 U.S.C. 1401 (16 and 17)] and those covered under the State Plan.

8. No rounding up of service units is allowed.

I. Provider Qualifications. In order to enroll in the Medicaid Program, providers must have a compliance certificate from the Louisiana Rehabilitation Services as a community rehabilitation program or a current, valid license as an adult day care center.

F. Choice of this service and staff ratio needed to support the participant must be documented on the plan of care.

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 for Citizens with Developmental Disabilities, LR 33:2453 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2166 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:

**§16337. Transportation-Community Access**

A. - C.1. ...

2. Separate payment will not be made for transportation-community access and the following services:

- a. shared living services;
- b. community living services;
- c. companion care;
- d. adult day health care; or
- e. monitored in-home caregiving.

C.3. - E. ...

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 for Citizens with Developmental

Disabilities, LR 33:2454 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2166 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:

**§16343. Adult Day Health Care Services**

A. ...

B. ADHC services include those core service requirements identified in the ADHC licensing standards (LAC 48.I.4243), in addition to:

1. medical care management;
2. transportation between the participant's place of residence and the ADHC (if the participant is accompanied by the ADHC staff);
3. assistance with activities of daily living;
4. health and nutrition counseling;
5. an individualized exercise program;
6. an individualized goal-directed recreation program;
7. health education;
8. individualized health/nursing services; and
9. meals.

B.9.a. - E. ...

F. The following services are not available to AFDC recipients:

1. respite care services-out of home;
2. shared living;
3. companion care, or
4. monitored in-home caregiving.

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 and the Office for Citizens with Developmental Disabilities, LR 42:62 (January 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:

**§16345. Monitored In-Home Caregiving Services**

A. Monitored in-home caregiving (MIHC) services are provided by a principal caregiver to a participant who lives in a private unlicensed residence. The principal caregiver shall be contracted by the licensed HCBS provider having a MIHC service module. The principal caregiver shall reside with the participant. Professional staff employed by the HCBS provider shall provide oversight, support and monitoring of the principal caregiver, service delivery, and participant outcomes through

on-site visits, training, and daily, web-based electronic information exchange.

B. The principal caregiver is responsible for supporting the participant to maximize the highest level of independence possible by providing necessary care and supports that may include:

1. supervision or assistance in performing activities of daily living;
2. supervision or assistance in performing instrumental activities of daily living;
3. protective supervision provided solely to assure the health and welfare of a participant;
4. supervision or assistance with health related tasks (any health related procedures governed under the Nurse Practice Act) in accordance with applicable laws governing the delegation of medical tasks/medication administration;
5. supervision or assistance while escorting/ accompanying the individual outside of the home to perform tasks, including instrumental activities of daily living, health maintenance or other needs as identified in the plan of care and to provide the same supervision or assistance as would be rendered in the home; and
6. extension of therapy services to maximize independence when the caregiver has been instructed in the

performance of the activities by a licensed therapist or registered nurse.

C. Unless the individual is also the spouse of the participant, the following individuals are prohibited from being paid as a monitored in-home caregiving principal caregiver:

1. the participant's curator;
2. the participant's tutor;
3. the participant's legal guardian;
4. the participant's responsible representative; or
5. the person to whom the participant has given representative and mandate authority (also known as power of attorney).

D. Participants electing monitored in-home caregiving services shall not receive the following Residential Options waiver services during the period of time that the participant is receiving monitored in-home caregiving services:

1. community living supports;
2. companion care;
3. host home;
4. shared living (conversion or non-conversion); or
5. adult day health care services.

E. Monitored in-home caregiving providers must be licensed HCBS providers with a monitored in-home caregiving module who employ professional staff, including a registered

nurse and a care manager, to support principal caregivers to perform the direct care activities performed in the home. The agency provider must assess and approve the home in which services will be provided, and shall enter into contractual agreements with caregivers who the agency has approved and trained. The agency provider will pay per diem stipends to caregivers.

F. The MIHC provider must use secure, web-based information collection from principal caregivers for the purposes of monitoring participant health and caregiver performance. All protected health information must be transferred, stored, and otherwise utilized in compliance with applicable federal and state privacy laws. Providers must sign, maintain on file, and comply with the LDH HIPAA business associate addendum.

G. The department shall reimburse for monitored in-home caregiving services based upon a two-tiered model which is designed to address the participant's ROW acuity level.

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 and the Office for Citizens with Developmental Disabilities, LR 45:

**Chapter 169. Reimbursement**

**§16901. Unit of Reimbursement**

A. Reimbursement for the following services shall be a prospective flat rate for each approved unit of service provided to the waiver participant. One quarter hour (15 minutes) is the standard unit of service and reimbursement shall not be made for less than one quarter hour of service. This covers both the service provision and administrative costs for these services:

1. - 4.b. ...

5. professional services furnished by a/an:

a. - d. ...

e. social worker;

f. ...

6. supported employment;

a. individual placement;

b. micro-enterprise;

7. adult day health care;

8. pre-vocational service; and

9. day habilitation.

\* \* \*

B. - B.2. ...

C. The following services are reimbursed at a per diem rate:

1. ...

2. companion care services;

3. shared living services;

a. per diem rates are established based on the number of individuals sharing the living service module for both shared living non-conversion and shared living conversion services; and

4. monitored in-home caregiving services.

a. The per diem rate for monitored in-home caregiving services does not include payment for room and board, and federal financial participation is not claimed for room and board.

D. The reimbursement for transportation services is a flat fee based on a capitated rate.

1. - 3.b. Repealed.

E. Nursing services are reimbursed at either an hourly or per visit rate for the allowable procedure codes.

F. Installation of a personal emergency response system (PERS) is reimbursed at a one-time fixed rate and maintenance of the PERS is reimbursed at a monthly rate.

G. Transition expenses from an ICF/ID or nursing facility to a community living setting are reimbursed at the cost of the service(s) up to a lifetime maximum rate of \$3,000.

H. Dental services are reimbursed at the Medicaid fee-for-service rate.

I. The assessment performed by the monitored in-home caregiving provider shall be reimbursed at the authorized rate or approved amount of the assessment when the service has been prior authorized by the plan of care.

J. ...

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 for Citizens with Developmental Disabilities, LR 33:2456 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:1049 (April 2013), LR 41:2168, 2170 (October 2015), LR 42:63 (January 2016), LR 42:900 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2530 (December 2017), 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 a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 as it will allow children currently served in ROW to continue access to those services, will allow individuals to transition to ROW without service interruption, allow participants to access the same amounts and duration of service as other waiver participants, and allow individuals to access additional supports which may prevent institution.

**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 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 will improve access to services.

**Small Business Statement**

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 a positive 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, 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.

#### **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.

#### **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 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  
Phone: 342-3238

Dept.: Health  
Office: Bureau of Health Services  
Financing

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

Rule Title: Home and Community-Based Services Waivers  
Residential Options Waiver  
Allocation of Waiver Opportunities

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 implementation of this proposed rule will result in estimated state general fund costs of approximately \$41,578 for FY 19-20, \$77,110 for FY 20-21 and \$77,110 for FY 21-22. It is anticipated that \$3,780 (\$1,890 SGF and \$1,890 FED) will be expended in FY 19-20 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 66.40 percent in FY 19-20 and 67.35 percent in FYs 20-21 and 21-22.*

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

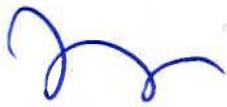
*It is anticipated that the implementation of this proposed Rule will increase federal revenue collections by approximately \$80,287 for FY 19-20, \$159,061 for FY 20-21 and \$159,061 for FY 21-22. It is anticipated that \$1,890 will be collected in FY 19-20 for the federal share of the expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 66.40 percent in FY 19-20 and 67.35 percent in FYs 20-21 and 21-22.*

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

*This proposed Rule amends the provisions governing the Residential Options Waiver (ROW) in order to restore the minimum age for access to the ROW and delete the grandfather clause for participants under age 21, add the monitored in-home caregiving service, change units for specific services to a 15 minute rate and clarify and align provisions of the ROW with other OCDD home and community-based services waivers. Implementation of this proposed Rule will broaden and increase ROW participant access to needed support services. ROW providers will benefit from implementation of this proposed Rule since the alignment of rates streamlines billing and service approval processes across OCDD waivers. It is anticipated that costs will increase as a result of the ability, on a case-by-case basis, to pay over and above the individual cap limit for recipients the department determines may require extended service hours. It is anticipated that implementation of this Rule will increase Medicaid programmatic expenditures by approximately \$118,085 for FY 19-20, \$236,171 for FY 20-21 and \$236,171 for FY 21-22.*

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

Matthew Groob  
LDH/BHSF Budget Head



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 the Residential Options Waiver (ROW) in order to restore the minimum age for access to the ROW and delete the grandfather clause for participants under age 21, add the monitored in-home caregiving service, change units for specific services to a 15 minute rate and clarify and align provisions of the ROW with other OCDD home and community-based services waivers.*

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 and the Office for Citizens with Developmental Disabilities propose to amend the provisions governing the Residential Options Waiver (ROW) in order to restore the minimum age for access to the ROW and delete the grandfather clause for participants under age 21, add the monitored in-home caregiving service, change units for specific services to a 15 minute rate and clarify and align provisions of the ROW with other OCDD home and community-based services waivers.*

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.

*Yes. It is anticipated that implementation of this proposed rule will result in an increase in Medicaid programmatic expenditures by approximately \$121,865 for FY 19-20, \$236,171 for FY 20-21 and \$236,171 for FY 21-22. It is anticipated that \$3,780 will be expended in FY 19-20 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) x If no, provide justification as to why this rule change should be published at this time.

*Act 10 of the 2019 Regular Session of the Louisiana Legislature allocated funds to the Medical Vendor Program for payments to providers and the operation of the Medicaid Program, and thereby, authorizes the expenditure of these funds. This proposed Rule will broaden and increase ROW participant access to needed support services and align rates to streamline the provider billing and service approval processes across OCDD waivers.*

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?

<b>COST</b>	<b>FY 19-20</b>	<b>FY 20-21</b>	<b>FY 21-22</b>
PERSONAL SERVICES			
OPERATING EXPENSES	\$3,780	\$0	\$0
PROFESSIONAL SERVICES			
OTHER CHARGES	\$118,085	\$236,171	\$236,171
REPAIR & CONSTR.			
POSITIONS (#)			
<b>TOTAL</b>	<b>\$121,865</b>	<b>\$236,171</b>	<b>\$236,171</b>

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 increases in expenditures in the Medicaid Program. In FY 19-20, \$3,780 is included 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.

<b>Source</b>	<b>FY 19-20</b>	<b>FY 20-21</b>	<b>FY 21-22</b>
STATE GENERAL FUND	\$41,578	\$77,110	\$77,110
SELF-GENERATED			
FEDERAL FUND	\$80,287	\$159,061	\$159,061
OTHER (Specify)			
<b>Total</b>	<b>\$121,865</b>	<b>\$236,171</b>	<b>\$236,171</b>

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	\$80,287	\$159,061	\$159,061
LOCAL FUNDS			
<b>Total</b>	<b>\$80,287</b>	<b>159,061</b>	<b>\$159,061</b>

*\*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 increases in federal share of expenditures. In FY 19-20, \$1,890 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 the Residential Options Waiver (ROW) in order to restore the minimum age for access to the ROW and delete the grandfather clause for participants under age 21, add the monitored in-home caregiving service, change units for specific services to a 15 minute rate and clarify and align provisions of the ROW with other OCDD home and community-based services waivers.*

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 broaden and increase ROW participant access to needed support services. ROW providers will benefit from implementation of this proposed Rule since the alignment of rates streamlines billing and service approval processes across OCDD waivers. It is anticipated that costs will increase as a result of the ability, on a case-by-case basis, to pay over and above the individual cap limit for recipients the department determines may require extended service hours. It is anticipated that implementation of this Rule will increase Medicaid programmatic expenditures by approximately \$118,085 for FY 19-20, \$236,171 for FY 20-21 and \$236,171 for FY 21-22.*

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.*