

## NOTICE OF INTENT

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

Early and Periodic Screening, Diagnosis and Treatment  
Health Services  
EarlySteps Reimbursement Rate Increase  
(LAC 50:XV.7107)

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XV.7101 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.

Act 199 of the 2022 Regular Session of the Louisiana Legislature appropriated funds to the Department of Health to increase reimbursement rates paid for certain services rendered to infants and toddlers in the EarlySteps Program within the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program. In compliance with Act 199, the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities promulgated an Emergency Rule which amended the provisions governing EPSDT EarlySteps services in order to increase reimbursement for certain services (*Louisiana Register*, Volume 48, Number 8). This proposed Rule is

being promulgated in order to continue the provisions of the July 31, 2022 Emergency Rule.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part XV. Services for Special Populations**  
**Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment**  
**Chapter 71. Health Services**

**§7107. EarlySteps Reimbursement**

A. Effective for dates of service on or after January 1, 2011, the reimbursement for certain Medicaid-covered health services rendered in the EarlySteps Program shall be reduced by 2 percent of the rate in effect on December 31, 2010.

1. The following services rendered in the natural environment shall be reimbursed at the reduced rate:

- a. audiology services;
- b. speech pathology services;
- c. occupational therapy;
- d. physical therapy; and
- e. psychological services.

2. Services rendered in special purpose facilities/inclusive child care and center-based special purpose facilities shall be excluded from this rate reduction.

B. Effective for dates of service on or after July 1, 2022, the reimbursement for Medicaid covered health services rendered in the EarlySteps Program (Part C of IDEA) shall be increased by 30 percent of the rate in effect on January 1, 2011.

1. The increased rate shall be applied to services provided in the following settings :

a. natural environment that includes a child's home and settings in the community where children of the same age with no disabilities or special needs participate;

b. special purpose facility/inclusive child care that includes settings such as a child care center, nursery schools, or preschools where at least 50 percent of the children have no disabilities or developmental delays, and

c. center-based special purpose facility that is a facility where only children with disabilities or developmental delays are served.

2. The following services shall be reimbursed at the increased rate:

- a. audiology services;
- b. speech language pathology services;
- c. occupational therapy;
- d. physical therapy; and
- e. psychological services.

C. - C.2. 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 of the Secretary, Bureau of Health Services

Financing, LR 30:800 (April 2004), amended LR 31:2030 (August 2005), LR 35:69 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1599 (June 2011), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 48:

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 or autonomy as described in R.S. 49:972 by ensuring continued provider participation in the Medicaid Program.

#### **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.

#### **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 Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The

deadline for submitting written comments is at 4:30 p.m. on October 31, 2022.

### **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, 2022. 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 27, 2022 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, 2022. 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.

Dr. Courtney N. Phillips

Secretary

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

Person  
Preparing  
Statement: Veronica Dent Dept.: Health

Phone: 342-3238 Office: Bureau of Health Services Financing

Return  
Address: PO Box 91030 Rule  
Baton Rouge, LA Title: Early and Periodic Screening,  
Diagnosis and Treatment  
Health Services  
EarlySteps Reimbursement Rate Increase

Date Rule  
Takes Effect: July 31, 2022

**SUMMARY**  
(Use complete sentences)

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 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 \$4,173,484 for FY 22-23, \$4,323,394 for FY 23-24, and \$4,479,036 for FY 24-25. It is anticipated that \$648 (\$324 SGF and \$324 FED) will be expended in FY 22-23 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 the implementation of this proposed rule will increase federal revenue collections by approximately \$2,152,816 for FY 22-23, \$2,229,982 for FY 23-24, and \$2,310,261 for FY 24-25. It is anticipated that \$324 will be collected in FY 22-23 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)**

In compliance with Act 199 of the 2022 Regular Session of the Louisiana Legislature, this proposed rule continues the provisions of the July 31, 2022 Emergency Rule, which increased reimbursement rates for certain Early and Periodic Screening, Diagnosis and Treatment (EPSDT) services rendered to infants and toddlers in the EarlySteps Program. The increased reimbursement resulting from this proposed rule will ensure that EPSDT providers continue rendering services to EarlySteps beneficiaries in the Medicaid Program. Implementation of this proposed rule is anticipated to increase payments for EarlySteps services by approximately \$6,325,652 for FY 22-23, \$6,553,376 for FY 23-24, and \$6,789,297 for FY 24-25.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This rule has no known effect on competition and employment



\_\_\_\_\_  
Signature of Agency Head or Designee

Tara A. LeBlanc, Medicaid Executive Director  
Typed Name & Title of Agency Head or Designee

September 6, 2022  
Date of Signature

  
\_\_\_\_\_  
Legislative Fiscal Officer or Designee

9/6/22  
\_\_\_\_\_  
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 deliberation 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).

In compliance with Act 199 of the 2022 Regular Session of the Louisiana Legislature, this proposed rule continues the provisions of the July 31, 2022 Emergency Rule, which increased reimbursement rates for certain Early and Periodic Screening, Diagnosis and Treatment (EPSDT) services rendered to infants and toddlers in the EarlySteps Program.

- B. Summarize the circumstances, which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

Act 199 of the 2022 Regular Session of the Louisiana Legislature appropriated funds to the Department of Health to increase reimbursement rates paid for certain services rendered to infants and toddlers in the EarlySteps Program within the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program. In compliance with Act 199, the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities promulgated an Emergency Rule which amended the provisions governing EPSDT EarlySteps services in order to increase reimbursement for certain services (*Louisiana Register*, Volume 48, Number 8). This proposed Rule is being promulgated in order to continue the provisions of the July 31, 2022 Emergency Rule.

- 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 increased programmatic costs of approximately \$6,326,300 for FY 22-23, \$6,553,376 for FY 23-24, and \$6,789,297 for FY 24-25. In FY 22-23, \$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)   X   Yes. If yes, attach documentation.

(b)            NO. If no, provide justification as to why this rule change should be published at this time

Act 199 of the 2022 Regular Session of the Louisiana Legislature appropriated funds to the Department of Health to increase reimbursement rates paid for certain services rendered to infants and toddlers in the EarlySteps Program within the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program. Implementation of this proposed rule will provide increased reimbursement for certain EarlySteps services which will ensure that EPSDT providers continue participating in the Medicaid Program.

**FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET**

**I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED**

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

<b>COSTS</b>	<b>FY 23</b>	<b>FY 24</b>	<b>FY 25</b>
Personal Services	\$648	\$0	\$0
Operating Expenses			
Professional Services			
Other Charges	\$6,325,652	\$6,553,376	\$6,789,297
Equipment			
Major Repairs & Constr.			
<b>TOTAL</b>	<b>\$6,326,300</b>	<b>\$6,553,376</b>	<b>\$6,789,297</b>
<b>POSITIONS (#)</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 22-23, \$648 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 23</b>	<b>FY 24</b>	<b>FY 25</b>
State General Fund	\$4,173,484	\$4,323,394	\$4,479,036
Agency Self-Generated			
Dedicated			
Federal Funds	\$2,152,816	\$2,229,982	\$2,310,261
Other (Specify)			
<b>TOTAL</b>	<b>\$6,326,300</b>	<b>\$6,553,376</b>	<b>\$6,789,297</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 THE ACTION PROPOSED.**

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments 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.

2. Indicate the sources of funding of the local governmental unit, which will be affected by these costs or savings.

There is no known impact on the sources of local governmental unit funding.

**FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET**

**II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS**

A. What increase (decrease) in revenues can be anticipated from the proposed action?

REVENUE INCREASE/DECREASE	FY 23	FY 24	FY 25
State General Fund			
Agency Self-Generated			
Dedicated Funds*			
Federal Funds	\$2,152,816	\$2,229,982	\$2,310,261
Local Funds			
<b>TOTAL</b>	<b>\$2,152,816</b>	<b>\$2,229,982</b>	<b>\$2,310,261</b>

\*Specify the particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues 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 revenue collections. In FY 22-23, \$324 will be collected for the federal share of the administrative expense for promulgation of this proposed rule and the final rule.

**FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET**

**III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS**

- A. What persons, small businesses, or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

In compliance with Act 199 of the 2022 Regular Session of the Louisiana Legislature, this proposed rule continues the provisions of the July 31, 2022 Emergency Rule, which increased reimbursement rates for certain Early and Periodic Screening, Diagnosis and Treatment (EPSDT) services rendered to infants and toddlers in the EarlySteps Program. The increased reimbursement resulting from this proposed rule will ensure that EPSDT providers continue rendering services to EarlySteps beneficiaries in the Medicaid Program.

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

Implementation of this proposed rule is anticipated to increase payments for EarlySteps services by approximately \$6,325,652 for FY 22-23, \$6,553,376 for FY 23-24, and \$6,789,297 for FY 24-25.

**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.