

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Targeted Case Management
Reimbursement Methodology
Workforce Retention Bonus Payments
(LAC 50:XV.10704)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:XV.10704 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 bonus payments for agencies providing case management services for the early and periodic screening, diagnosis and treatment targeted population and for participants in the New Opportunities Waiver under section 9817 of the American Rescue Plan.

The Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which adopted provisions governing targeted case management services in order to establish workforce retention bonus payments along with audit procedures and sanctions (*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 7. Targeted Case Management

Chapter 101. General Provisions

§10704. Targeted Case Management Workforce Retention Bonus Payments

A. Establishment of Targeted Case Management Workforce Retention Bonus Payments

1. Case management agencies for the early and periodic screening, diagnosis, and treatment targeted population and for participants in the New Opportunities Waiver providing services on or after April 1, 2021 shall receive bonus payments of \$150 per month for the case manager that worked with participants for that month. These payments will remain in effect for each month thereafter that the case manager works with participants and is still employed with that agency.

2. The case manager that worked with participants on or after April 1, 2021 must receive at least \$125 of this \$150 bonus payment paid to the agency. This bonus payment is effective for all affected case managers of any working status, whether full-time or part-time.

3. Bonus payments will end March 31, 2025 or when the state's funding authorized under section 9817 of the American Rescue Plan Act of 2021 (Pub. L. No. 117-002) is exhausted.

4. LDH reserves the right to adjust the amount of the bonus payments paid to the case manager as needed through appropriate rulemaking promulgation consistent with the Administrative Procedure Act.

B. Audit Procedures for Targeted Case Management Workforce Retention Bonus Payments

1. The bonus payments reimbursed to case management agencies shall be subject to audit by LDH.

2. Case management agencies shall provide to LDH or its representative all requested documentation to verify that they are in compliance with the targeted case management bonus payments.

3. This documentation may include, but is not limited to, payroll records, wage and salary sheets, check stubs, etc.

4. Case management agencies shall produce the requested documentation upon request and within the time frame provided by LDH.

5. Non-compliance or failure to demonstrate that the bonus payments were paid directly to case managers may result in the following:

- a. sanctions; or
- b. disenrollment from the Medicaid Program.

C. Sanctions for Targeted Case Management Workforce Retention Bonus Payments

1. The case management agency will be subject to sanctions or penalties for failure to comply with this Rule. The severity of such action will depend upon the following:

- a. failure to pay case managers the \$125 monthly bonus payments;
- b. the number of employees identified as having been paid less than the \$125 monthly bonus payments;
- c. the persistent failure to pay the \$125 monthly bonus payments; or
- d. failure to provide LDH with any requested documentation or information related to or for the purpose of verifying compliance with this 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, 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 and 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 no 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: P.O. Box 91030 Rule
Title: Targeted Case Management

Baton Rouge, LA Reimbursement Methodology

Workforce Retention Bonus Payments

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 have state programmatic fiscal costs of approximately \$252,896 for FY 22-23 and \$103,392 for FY 23-24. It is anticipated that \$756 (\$378 SGF and \$378 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 implementation of this proposed Rule will increase federal revenue collections by approximately \$562,960 for FY 22-23 and \$210,108 for FY 23-24. It is anticipated that \$378 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)

This proposed rule continues the provisions of the July 31, 2022 Emergency Rule which established workforce retention bonus payments for targeted case management (TCM) provided to the early and periodic screening, diagnosis and treatment (EPSDT) population and New Opportunities Waiver (NOW) participants, along with audit procedures and sanctions. The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) approved the use of bonus payments under Section 9817 of the American Rescue Plan Act of 2021. These increased payments will ensure that TCM providers continue rendering services to EPSDT beneficiaries and NOW participants in the Medicaid Program. Implementation of this proposed rule is anticipated to increase expenditures for TCM services by approximately \$815,100 for FY 22-23 and \$313,500 for FY 23-24.

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).

This proposed rule continues the provisions of the July 31, 2022 Emergency Rule which established workforce retention bonus payments for targeted case management (TCM) provided to the early and periodic screening, diagnosis and treatment (EPSDT) population and New Opportunities Waiver (NOW) participants, along with audit procedures and sanctions.

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

The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) approved the use of bonus payments for agencies providing case management services for the early and periodic screening, diagnosis and treatment targeted population and for participants in the New Opportunities Waiver under section 9817 of the American Rescue Plan.

The Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which adopted provisions governing targeted case management services in order to establish workforce retention bonus payments, along with audit procedures and sanctions (*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 programmatic costs to the Medicaid program of approximately \$815,856 in FY 22-23 and \$313,500 in FY 23-24. In FY 22-23, \$756 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) _____ Yes. If yes, attach documentation.

(b) X 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 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. Implementation of this proposed rule will increase payments for TCM services rendered to EPSDT beneficiaries and NOW participants and ensure 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?

| COSTS | FY 23 | FY 24 | FY 25 |
|-------------------------|------------------|------------------|--------------|
| Personal Services | | | |
| Operating Expenses | \$756 | \$0 | \$0 |
| Professional Services | | | |
| Other Charges | \$815,100 | \$313,500 | \$0 |
| Equipment | | | |
| Major Repairs & Constr. | | | |
| TOTAL | \$815,856 | \$313,500 | \$0 |
| POSITIONS (#) | | | |

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 programmatic expenditures in the Medicaid program. In FY 22-23, \$756 will be spent for the state's administrative expense for promulgation of this proposed rule and final rule.

3. Sources of funding for implementing the proposed rule or rule change.

| SOURCE | FY 23 | FY 24 | FY 25 |
|-----------------------|------------------|------------------|--------------|
| State General Fund | \$252,896 | \$103,392 | \$0 |
| Agency Self-Generated | | | |
| Dedicated | | | |
| Federal Funds | \$562,960 | \$210,108 | \$0 |
| Other (Specify) | | | |
| TOTAL | \$815,856 | \$313,500 | \$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. The American Rescue Plan Act provided a 10% enhanced FMAP on all home and community based services for the period of 4/1/21 through 3/31/22.

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 government 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 | \$562,960 | \$210,108 | \$0 |
| Local Funds | | | |
| TOTAL | \$562,960 | \$210,108 | \$0 |

*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 the federal share of programmatic expenditures for the Medicaid Program. In FY 22-23, \$378 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.

This proposed rule continues the provisions of the July 31, 2022 Emergency Rule which established workforce retention bonus payments for targeted case management (TCM) provided to the early and periodic screening, diagnosis and treatment (EPSDT) population and New Opportunities Waiver (NOW) participants, along with audit procedures and sanctions. The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) approved the use of bonus payments under Section 9817 of the American Rescue Plan Act of 2021. These increased payments will ensure that TCM providers continue rendering services to EPSDT beneficiaries and NOW participants 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 expenditures for TCM services by approximately \$815,100 for FY 22-23 and \$313,500 for FY 23-24.

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.